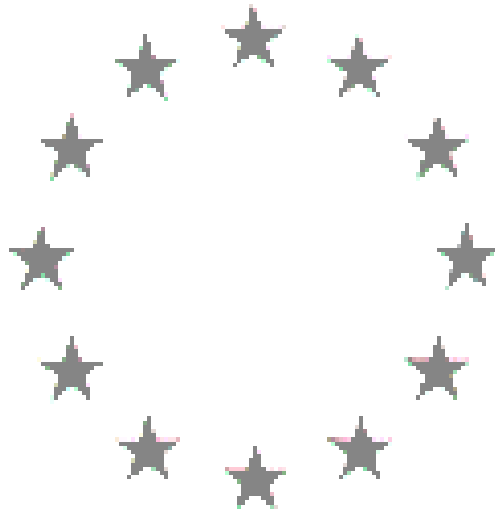


The Law of the EUROPEAN UNION

Teaching Material



J.H.H. Weiler

*European Union Jean Monnet Professor
NYU School of Law*

AND

Martina Kocjan

*Graduate Member of the Faculty of Law
University of Oxford*

Copyright J.H.H. Weiler & M. Kocjan • 2004/05

These materials are offered as a public service by the Academy of European Law at the EUI in Florence and the Jean Monnet Center at NYU School of Law. They may be used for educational purposes only and cannot be commercialized in any manner. Their origin should be acknowledged in any use made of them.

P
R
I
M
A
R
Y

S
O
U
R
C
E
S

NYU
School of Law
2004/05

TABLE OF CONTENTS

I. Introduction

1. Overview	iv
2. The First Treaties	v
3. Developments up to the Single European Act	vii
4. The Maastricht and Amsterdam Treaties	xi
5. The Treaty of Nice	xviii

II. Amsterdam Treaty renumbering - Tables of equivalences for the Treaty on European Union and Treaty establishing the European Community (Annex to the Treaty of Amsterdam)

III. Table of equivalences on the Treaty establishing a Constitution for Europe (by www.euabc.com)

IV. Consolidated text of the Treaty on European Union

V. Consolidated text of the Treaty establishing the European Community

VI. Treaty establishing a Constitution for Europe

** Due to their number and length we decided not to include the Protocols and other annexes to the Treaty establishing a Constitution for Europe in this Primary Sources. Where relevant they have been reproduced in the various Units of these Teaching Materials. All annexes are also available for download from http://europa.eu.int/constitution/index_en.htm.

1. OVERVIEW

The European integration is based on four founding treaties:

- I. **The Treaty establishing the European Coal and Steel Community (ECSC)**, which was signed on 18 April 1951 in Paris, entered into force on 23 July 1952 and expired on 23 July 2002;
- II. **The Treaty establishing the European Economic Community (EEC)**;
- III. **The Treaty establishing the European Atomic Energy Community (Euratom)**, which was signed (along with the EEC Treaty) in Rome on 25 March 1957, and entered into force on 1 January 1958. These Treaties are often referred to as the "Treaties of Rome". When the term "Treaty of Rome" is used, only the EEC Treaty is meant;
- IV. **The Treaty on European Union**, which was signed in Maastricht on 7 February 1992, entered into force on 1 November 1993. The Maastricht Treaty changed the name of the European Economic Community to simply "the European Community". It also introduced new forms of co-operation between the Member State governments - for example on defence, and in the area of "justice and home affairs". By adding this inter-governmental co-operation to the existing "Community" system, the Maastricht Treaty created a new structure with three "pillars" which is political as well economic. This is the European Union (EU).

Moreover, the founding treaties have been amended on several occasions, in particular when new Member States acceded in 1973 (Denmark, Ireland, United Kingdom), 1981 (Greece), 1986 (Spain, Portugal) and 1995 (Austria, Finland, Sweden). There have also been more far-reaching reforms bringing major institutional changes and introducing new areas of responsibility for the European institutions:

- **The Merger Treaty**, signed in Brussels on 8 April 1965 and in force since 1 July 1967, provided for a Single Commission and a Single Council of the then three European Communities;
- **The Single European Act (SEA)**, signed in Luxembourg and the Hague, and entered into force on 1 July 1987, provided for the adaptations required for the achievement of the Internal Market;
- **The Treaty of Amsterdam**, signed on 2 October 1997, entered into force on 1 May 1999: it amended and renumbered the EU and EC Treaties. Consolidated versions of the EU and EC Treaties are attached to it. The Treaty of Amsterdam changed the articles of the Treaty on European Union, identified by letters A to S, into numerical form;
- **The Treaty of Nice**, signed on 26 February 2001, entered into force on 1 February 2003. The Treaty of Nice, the former Treaty of the EU and the Treaty of the EC have been merged into one consolidated version.

The main changes it brings relate to limiting the size and composition of the Commission, extending qualified majority voting, a new weighting of votes within the Council and making the strengthened cooperation arrangements more flexible. In addition to discussions on these four key issues, other institutional questions were tackled: simplification of the treaties, the definition of powers, the integration of the Charter of Fundamental Rights and the role of the national parliaments. The Declaration on the Future of the Union, annexed to the Treaty, set out the next steps to be taken to deepen the institutional reforms and to make sure that the Treaty of Nice is just one stage in this process.

The Treaty of Nice has been ratified by all the Member States, in accordance with their respective constitutional rules, and came into force on 1 February 2003.

- Further changes will be made to the Treaties as a result of the **Convention on the Future of Europe** and of the **Treaty on the Accession** of 10 new Member States, which was signed on 16 April 2003 to enter into force on 1 May 2004.

2. THE FIRST TREATIES

(full text see http://www.europarl.eu.int/factsheets/default_en.htm)

2.1 LEGAL BASIS

- The Treaty of the European Coal and Steel Community (ECSC), or Treaty of Paris, was signed on 18 April 1951 and came into force on 25 July 1952. For the first time, a group of states agreed to work towards integration. The Treaty made it possible to lay the foundations of the Community by setting up a 'High Authority', a Parliamentary Assembly, a Council of Ministers, a Court of Justice and a Consultative Committee.
- The Treaties of the European Economic Community (EEC) and the European Atomic Energy Community (EAEC, otherwise known as 'Euratom'), or the Treaties of Rome, were signed on 25 March 1957 and came into force on 1 January 1958. Although the EAEC Treaty was concluded for 50 years (Art. 97), the Treaties of Rome were concluded 'for an unlimited period' (Art. 240 of the EEC Treaty and Art. 208 of the EAEC Treaty), which gives them almost a constitutional character.
- The six founding countries were Belgium, France, Germany, Italy, Luxembourg and the Netherlands.

2.2 OBJECTIVES

- The avowed intentions of the founders of the ECSC were that it should be merely a first stage towards a 'European Federation'. The common market in coal and steel was to be an experiment which could gradually be extended to other economic spheres, culminating in a 'political' Europe.
- The aim of the European Economic Community was to establish a common market based on the four freedoms of movement of goods, persons, capital and services and the gradual convergence of economic policies.
- The aim of Euratom was to coordinate the research programmes on the peaceful use of nuclear energy, already under way or being prepared in the Member States.
- The preambles of the three Treaties reveal a unity of purpose behind the creation of the Communities, namely, the conviction that the states of Europe must work together to build a common future as this alone will enable them to control their destiny.

2.3 MAIN PRINCIPLES - THE EEC TREATY TAKES THE LEAD

The European Communities (the ECSC, EEC and Euratom) were born of a gradual process of thinking about Europe, an idea that was closely bound up with the events that had shattered the continent. In the wake of the Second World War the major industries, in particular the steel industry, needed reorganising. The future of Europe, threatened by East-West confrontation, lay in Franco-German reconciliation.

1. The appeal made by Robert Schuman, the French Foreign Minister, on 9 May 1950 may be considered as the starting point for the Community. At that time, the choice of coal and steel was highly symbolic: in the early 1950s coal and steel were still seen as vital industries, the basis of a country's power. In addition to the clear economic benefits to be gained, the pooling of French and German resources was to mark the end of antagonism between the two countries. On 9 May 1950 Robert Schuman declared: 'Europe will not be built in a day nor as part of some overall design; it will be built through practical achievements that first create a sense of common purpose'. It was on the basis of that principle that France, Italy, Germany and the Benelux countries signed the **Treaty of Paris**, of which the main points were:

- the free movement of products and free access to sources of production;
- permanent monitoring of the market to avoid distortions which could lead to the introduction of production quotas;
- respect for the rules of competition and price transparency;
- support for modernisation and conversion of the coal and steel sectors.

2. Following the signing of the treaty, although France was opposed to the reconstitution of a German national military force, René Pleven envisaged the formation of a European army. The **European Defence Community (EDC)** negotiated in 1952 was to have been accompanied by a political Community (EPC). Both plans were shelved following the French National Assembly's refusal to ratify the treaty on 30 August 1954.

3. Efforts to get the process of European integration under way again following the failure of the EDC took the form of specific proposals at the Messina Conference (in June 1955) on a customs union and atomic energy. They culminated in the signing of the **EEC and EAEC Treaties**.

a. The **EEC Treaty's** provisions included:

- the elimination of customs duties between Member States;
- the establishment of an external Common Customs Tariff;
- the introduction of a common policy for agriculture and transport;
- the creation of a European Social Fund;
- establishment of a European Investment Bank;
- the development of closer relations between the Member States.

To achieve these objectives the EEC Treaty laid down guiding principles and defined the framework for the legislative activities of the Community institutions. These involved common policies: the common agricultural policy (Articles 38 to 43), transport policy (Articles 74 to 75) and a common commercial policy (Articles 110 to 113).

The common market was to allow the free movement of goods and the mobility of factors of production (free movement of workers and enterprises, the freedom to provide services and the free movement of capital).

b. The **Euratom Treaty** laid down highly ambitious objectives, including the 'speedy establishment and growth of nuclear industries'. However, owing to the complex and delicate nature of the nuclear sector, which touched on the vital interests of the Member States (defence and national independence), the Euratom Treaty had to scale down its ambitions.

4. The Agreement on certain **joint institutions**, which was signed and entered into force at the same time as the Treaties of Rome, stipulated that the Parliamentary Assembly and Court of Justice would be common institutions. It only remained to merge the 'executives', and the agreement of 9 April 1965 thereby completed the unification of the institutions.

From that time onwards, the EEC became more prominent than the ECSC and the EAEC (the sectoral Communities). It represented a triumph for the general purpose and institutions of the EEC over the two coexisting sectoral organisations.

3. DEVELOPMENTS UP TO THE SINGLE EUROPEAN ACT

3.1 Main achievements in the first stage

Article 8 of the Treaty of Rome provided for completion of a common market over a transitional period of 12 years, in three stages ending on 31 December 1969. Its first aim, the customs union, was completed more quickly than expected. The transitional period for enlarging quotas and phasing out internal customs ended as early as 1 July 1968. By the same date Europe had adopted a common external tariff for trade with third countries. 'Green Europe' was the second major project for European integration. The first regulations on the CAP were adopted and the European Agricultural Guidance and Guarantee Fund (EAGGF), was set up in 1962. Meanwhile the Court of Justice interpreted the regulations on the transitional period in such a way that, when it ended, a number of Treaty provisions took direct effect, such as Articles 13, 30, 48, 52 and 59 (* [3.2.3](#)). Even so, at the end of the transitional period there were still major obstacles to freedom of movement; the single market was not complete.

3.2 First amendment of the Treaties

The history of the Communities has been a twofold process, with improvements to the Institutions and several rounds of enlargement.

The first institutional change came about with the Merger Treaty of 8 April 1965. This took effect in 1967, setting up a single Council and Commission of the European Communities (the ECSC, EEC and EAEC) and introducing the principle of a single budget. The Council Decision of 21 April 1970 set up a system of the Community's own resources, replacing financial contributions by the Member States.

At the same time, the Treaty of Luxembourg of 22 April 1970 granted Parliament certain budgetary powers. Eventually, by the Treaty of Brussels of 22 July 1975, Parliament obtained the right to reject the budget and to grant the Commission a discharge for implementing the budget. The same Treaty set up the Court of Auditors, a body responsible for scrutinising the Community's accounts and financial management, which began work on 25 October 1977. In the ensuing period Parliament systematically used its budgetary powers to develop the Community's action. The Act of 20 September 1976 had given it a new legitimacy and authority by introducing its direct election by Community citizens. The first election took place in June 1979.

Meanwhile the Community was getting larger. The UK joined on 1 January 1973, together with Denmark and Ireland; the Norwegian people had voted against accession in a referendum. Greece became a member in 1981; Portugal and Spain joined in 1986.

After this first round of enlargement there were calls for greater budgetary rigour and reform of the CAP. The 1979 European Council reached agreement on a series of complementary measures. The Fontainebleau agreements of 1984 obtained a sustainable solution, based on the principle that adjustments could be made to assist any Member State with a financial burden that was excessive in terms of its relative prosperity.

3.3 *Events of institutional importance*

Encouraged by the initial successes of the economic community, the aim of also creating political unity for the Member States resurfaced in the early 1960s.

a. a. At the 1961 Bonn summit the Heads of State and Government of the six founding Member States of the European Community asked an intergovernmental committee, chaired by the French ambassador Christian Fouchet, to put forward proposals on the political status of a union of European peoples. This research committee tried vainly, on two occasions between 1960 and 1962, to present the Member States with a draft treaty that was acceptable to all. Fouchet based his plan on strict respect for the identity of the Member States, thus rejecting the federal option. The negotiations failed on three objections: uncertainty as to the place of the United Kingdom, disagreement on the issue of a European defence system aiming to be independent of the Atlantic Alliance, and the excessively intergovernmental nature of the institutions proposed, which was likely to undermine the supranational aspect of the existing Community Institutions. After the failure of the Fouchet proposals there were no further attempts at a fundamental review of the Community Treaties until the Spinelli initiative in 1984. The debate on the form a future political union might take continued at a more pragmatic level in a number of reports and resolutions, such as the Tindemans report, the report of the Three Wise Men, the Genscher-Colombo initiative and the Solemn Declaration, see below. In the absence of a political community, its substitute took the form of European Political Cooperation, or EPC. At the summit conference in The Hague in December 1969 the Heads of State and Government decided to look into the best way of making progress in the field of political unification. The Davignon report, adopted by the foreign ministers in October 1970 and subsequently amplified by further reports, formed the basis of EPC until the Single Act entered into force.

b. b. A serious crisis arose when the tricky issue of moving on to the third stage of the transition period (due on 1 January 1966) began to emerge. At this stage voting procedures in the Council were to change, with a move from unanimous to qualified majority voting in certain areas. The change of voting method reflected greater emphasis on a supranational approach in the Community. France opposed a range of Commission proposals, which included measures for financing the common agricultural policy, and stopped attending the main Community meetings (its 'empty chair' policy). In exchange for its return it demanded a political agreement on the role of the Commission and majority voting, which would involve a complete review of the treaty system. Eventually, on 30 January 1966, agreement was reached on the celebrated Luxembourg Compromise, which stated that when vital interests of one or more countries were at stake members of the Council would endeavour to reach solutions that could be adopted by all while respecting their mutual interests.

c. c. Meanwhile, although they were outside the Community institutional context, the conferences of Heads of State and Government of the Member States were induced to provide some political impetus and settle the problems that the normal Council could not handle. After early meetings in 1961 and 1967 the conferences took on increasing significance with the Hague Summit of 1 and 2 December 1969, which allowed negotiations to begin on enlarging the Community and agreed on the Community finance system. The October 1972 Paris summit declarations went on to announce an intention to use the Treaty provisions, including Article 235, as widely as possible in the fields of environmental, regional, social and industrial policy; while the Fontainebleau summit declarations in December 1974 covered major political decisions on direct elections, the European Regional Fund and the Council's decision-making procedure. At that point it also decided to meet three times a year as the 'European Council' to discuss Community affairs and political cooperation. To revive the process of European integration the Belgian Prime Minister Leo Tindemans was given the task of drawing up a report on European union. Presented on 29 December 1975, his report put forward a series of proposals on external relations, economic and monetary policy and the citizens' Europe. But it did not result in any specific reforms.

d. Towards the end of the 1970s there were various reactions in the Member States to the worsening economic crisis, and this affected efforts to bring their economic and fiscal policies into line. The Heads of Government decided in 1978 to set up a committee of three 'Wise Men', Barend Biesheuvel, Edmond Dell and Robert Marjolin, to consider 'adjustments to the machinery and procedures' of the Institutions, so as to provide for the harmonious operation of the Communities and further progress on the road to European union. That progress was confined to practical suggestions on organising Council business and relations with the Commission and Parliament, but only some of them were taken up. To solve the problem of monetary instability and its adverse effects on the CAP and cohesion between Member States, the Bremen and Brussels European Councils in 1978 set up the European Monetary System (EMS). Established on a voluntary and differentiated basis (the UK decided not to participate in the exchange-rate mechanism) the EMS depended on the existence of a common accounting unit, the ECU.

At the London European Council in 1981 the foreign ministers of Germany and Italy, Mr Genscher and Mr Colombo, put forward a proposal for a 'European Act' covering a range of subjects: political cooperation, culture, fundamental rights, harmonisation of the law outside the fields covered by the Community Treaties, and ways of dealing with violence, terrorism and crime. It was not adopted in its original form, but some parts of it resurfaced in the 'Solemn declaration on European Union' adopted in Stuttgart on 19 June 1983. This text forms an important part of the backcloth to the Single European Act.

e. A few months after its first direct election in 1979 Parliament ran into a serious crisis in its relations with the Council, over the budget for 1980. At the instigation of Altiero Spinelli MEP, founder of the European Federalist Movement and a former Commissioner, a group of nine MEPs met at the 'Crocodile' restaurant in Strasbourg in July 1980 to discuss ways of relaunching the operation of the Institutions. In July 1981 Parliament set up an institutional affairs committee, with Spinelli as its coordinating rapporteur, to draw up a plan for amendment of the existing Treaties. The Spinelli group and the subsequent committee rapidly decided to formulate plans for what was to become the European Union. The draft Treaty was adopted by a large majority on 14 February 1984. It was a major leap forward, providing for the transfer of new responsibilities in essential fields. Legislative power would come under a twin-chamber system akin to that of a federal State. The system aimed to strike a balance between Parliament and the Council. This was how the process leading to the Single European Act got off the ground.

3.4 *Developments up to the Single European Act*

Having settled the Community budget dispute of the early 1980s the European Council decided at its Fontainebleau meeting in June 1984 to set up an ad hoc committee of the personal representatives of the Heads of State and Government, known as the Dooge committee after its chairman. The committee was asked to make proposals for improving the functioning of the Community system and of political cooperation. It drew up an interim report for the European Council meeting in Dublin in December 1984. The report proposed a major step forward in qualitative terms, particularly in the institutional sphere. The Dublin European Council said the committee should continue to work towards a consensus, as three of the ten representatives had expressed serious reservations about the text of the report. But the European Council in Milan in June 1985 decided by a majority vote (of 7 to 3, an exceptional procedure in that body) to convene an intergovernmental conference to consider the powers of the Institutions, the extension of Community activities to new areas and the establishment of a 'genuine' internal market.

The Intergovernmental Conference met during the summer and autumn of 1985, and as a result of a number of disagreements submitted a set of somewhat disparate texts to the European Council meeting in Luxembourg on 2 and 3 December 1985. With some difficulty, the Council adopted conclusions and the Foreign Ministers knocked them into shape on 27 January 1986.

3.5 The Single European Act (SEA): an important stage

On 17 February 1986 nine Member States signed the SEA, followed later by Denmark (after a referendum voted in favour), Italy and Greece, on 28 February 1986. The Act was ratified by Member States' parliaments during 1986, but because a private citizen had appealed to the Irish courts its entry into force was delayed for six months, until 1 July 1987.

The SEA was the first substantial change to the Treaty of Rome. Its main objectives were:

- creating a large internal market by 1 January 1993;
- increasing the role of Parliament in order to rectify the democratic deficit in the Community's decision-making process;
- improving the decision-making capacity of the Council of Ministers.

The SEA's provisions for creating the internal market strongly boosted an objective that was already set out in the original Treaties. Decision-making was streamlined by more frequent use of qualified majority voting, which

- replaced unanimity in four of the Community's existing responsibilities:

- amendment of the common customs tariff,
- freedom to provide services,
- the free movement of capital,
- the common sea and air transport policy;

- was introduced for several new responsibilities:

- the internal market,
- social policy,
- economic and social cohesion,
- research and technological development,
- the environment;

- formed the subject of an amendment to the Council's internal rules of procedure, so as to comply with the Presidency's declaration on Article 149(2) of the EEC Treaty in the Final Act of the SEA. This states that in future a vote may be called in the Council not only on the initiative of its President, but also at the request of the Commission or a Member State if a simple majority of the Council's members are in favour. They must receive two weeks' notice of such a request.

The SEA strengthened the Community's powers by creating new responsibilities: a monetary capability, social policy, economic and social cohesion, research, technological development and the environment. It also introduced cooperation on foreign policy at Treaty level.

The SEA strengthened Parliament's powers by making Community agreements on enlargement and association agreements subject to Parliament's assent. For the legislative process it introduced a procedure for cooperation between Parliament and the Council which gave Parliament real, if limited, legislative powers. It applied to about a dozen legal bases at the time and marked a crucial point in the transformation of Parliament as co-legislator, on an equal footing with the Council.

4. THE MAASTRICHT AND AMSTERDAM TREATIES

The Maastricht Treaty

4.1 Legal Basis

Treaty on European Union, signed in Maastricht on 7 February 1992; it came into force on 1 November 1993.

4.2 The Union's Structure

By instituting a European Union, the Maastricht Treaty marks a new step in the process of creating an ever-closer union among the peoples of Europe. The Union is based on the European Communities ([*1.1.1.](#) and [1.1.2.](#)) and supported by policies and forms of cooperation provided for in the Treaty on European Union. It has a single institutional structure, consisting of the European Council, the European Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors. The European Council's task is to define general political guidelines. The Parliament, Council, Commission, Court of Justice and Court of Auditors (the Community Institutions) exercise their powers in accordance with the Treaties. The Council, Commission and Parliament are assisted by an Economic and Social Committee and a Committee of the Regions, which both have advisory powers. A European System of Central Banks, a European Central Bank and a European Investment Bank have been set up under the provisions of the Treaty. The Union's present structure is commonly described as being based on three pillars.

- The first pillar consists of the European Communities, providing a framework within which the Member States, through the Community Institutions, can jointly exercise their sovereignty in the areas covered by the Treaties.
- The second pillar is the common foreign and security policy laid down in Title V of the Treaty on European Union.
- The third pillar is cooperation in the fields of justice and home affairs laid down in Title VI of the Treaty on European Union.

Titles V and VI provide for intergovernmental cooperation using the common institutions, with certain supranational features such as associating the Commission and consulting Parliament.

4.3 Objectives

The European Community (first pillar)

The Community's task is to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of environmental protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity among Member States. The Community pursues these objectives, acting within the limits of its powers, by establishing a common market and related measures set out in Article 3 of the EC Treaty and by initiating the economic and single monetary policy referred to in Article 4 (3a). Community activities must respect the principle of proportionality and, in areas that do not fall within its exclusive competence, the principle of subsidiarity (Article 5 (3b) EC).

The common foreign and security policy (CFSP) (second pillar)

The Union has the task of defining and implementing, by intergovernmental methods, a common foreign and security policy (* [6.1.1](#)). The Member States must support this policy actively and unreservedly in a spirit of loyalty and mutual solidarity. Its objectives are:

- to safeguard the common values, fundamental interests, independence and integrity of the Union, in accordance with the principles of the United Nations Charter;
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including principles relating to external borders;
- to promote international cooperation;
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

Cooperation in the fields of justice and home affairs (third pillar)

The Union's objective is to develop common action in these areas by intergovernmental methods (* [4.11.1](#)) to provide citizens with a high level of safety within an area of freedom, security and justice. It covers the following areas:

- rules and the exercise of controls on crossing the Community's external borders;
- combating terrorism, crime, drug trafficking and international fraud;
- judicial cooperation in criminal and civil matters;
- creation of a European Police Office (Europol) with a system for exchanging information between national police forces;
- combating unauthorised immigration;
- common asylum policy.

The Amsterdam Treaty

4.4 Legal Basis

Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed in Amsterdam on 2 October 1997; it came into force on 1 May 1999.

4.5 Objectives

The Treaty of Amsterdam amends and amplifies the content of the Maastricht Treaty in five main areas:

- freedom, security and justice;
- citizenship of the Union;
- external policy;
- EU Institutions;
- closer cooperation.

It also contains provisions aiming to simplify and codify the Treaties.

4.6 Background

Article N.2 of the Maastricht Treaty laid down that a conference of representatives of the Member States' Governments (IGC) was to be convened in 1996, to examine the Treaty provisions for which revision was provided. At its meetings in Brussels and Corfu, the European Council widened the mandate of this IGC to include institutional issues thrown up by the enlargement process.

A reflection group was set up, and on 5 December 1995 it approved a report which in its first part set out a strategy for Europe and in its second part proposed an annotated agenda for the IGC.

At its meeting of 15 and 16 December 1995 in Madrid, the European Council considered that the guidelines set out by the reflection group constituted a good basis for the IGC's work, and decided that Parliament should be closely involved in this work. On the basis of a first draft put forward by the Irish Presidency and further versions of these texts proposed by the Netherlands Presidency, the Amsterdam European Council at its meeting of 16 and 17 June 1997 formally brought the IGC to a conclusion in the morning of 18 June and, after legal and linguistic editing, the new Treaty was signed on 2 October 1997 in Amsterdam.

4.7 Substance

The Amsterdam Treaty represents substantial progress on the 'constitutional' bases of EU and Community policies and the process of democratisation. However, it does not include all the institutional reforms which enlargement will render necessary. While removing the much-criticised social policy opt-out, the new Treaty lays the foundation for closer cooperation between some Member States within the framework of EU Institutions. It has also simplified the Treaties to a certain extent, in particular by renumbering the articles.

Increase in EU powers

a. European Community

- With regard to objectives, special prominence has been given to balanced and sustainable development and a high level of employment.
- A mechanism has been set up to coordinate Member States' policies on employment, and there is a possibility of some Community measures in this area..
- The Agreement on Social Policy has been incorporated into the EC treaty with some improvements.
- The Community method now applies to some major areas which hitherto came under the 'third pillar' such as asylum, immigration, crossing external borders, combating fraud, customs cooperation and some of the cooperation under the Schengen Agreement, which the EU and Communities have endorsed in full.

b. European Union

- Intergovernmental cooperation in the areas of police and judicial cooperation has been strengthened by defining objectives and precise tasks and creating a new legal instrument similar to a directive.
- There are changes in the policy areas of the environment, public health and consumer protection.
- There are new provisions with regard to specific problems such as general interest services, cultural diversity and the use of languages and measures applicable to very remote and island regions and overseas countries and territories.

- The instruments of the common foreign and security policy were developed later, in particular by creating a new instrument, the common strategy, which should normally be implemented by a majority decision, a new office, the Secretary-General of the Council responsible for the CFSP, and a new structure, the Policy Planning and Early Warning Unit. With regard to security, a reference to 'Petersberg' missions defines the scope of any future joint action.
- In the area of external economic policy, the Council has been empowered to extend the field of application to services and intellectual property rights.

A stronger position for Parliament

a. Legislative power

- The codecision procedure now applies to most areas of legislation; the Amsterdam Treaty extends it to 15 legal bases which were already in the EC Treaty:
 - Article 12(6) prohibition of discrimination,
 - Article 18 (8a) free movement of EU citizens,
 - Article 42 (51) free movement of workers,
 - Article 47(1) (57(1)) recognition of qualifications,
 - Article 67 (73o, 100c) visa procedures,
 - Article 71 (75) transport policy, including air transport,
 - Article 141(3) (119(3)) implementation of equal pay for equal work,
 - Article 148 (125) implementation of the Social Fund,
 - Article 150(4) (127(4)) vocational training measures,
 - Article 153(4) (129a(4)) consumer protection,
 - Article 156 (129d) trans-European networks ('other measures'),
 - Article 162 (130e) implementation of the Regional Development Fund,
 - Article 172 (130o) implementation of framework research programmes,
 - Article 175(3) (130s (3)) environment protection measures,
 - Article 179 (130w) development cooperation;
 - and to eight new legal bases:
 - Article 129 (109r) measures to promote employment,
 - Article 135 (116) customs cooperation,
 - Article 137(1) (118(1)) social policy,
 - Article 152(4) 129(4) health protection, veterinary and plant health measures,
 - Article 255 (191a) principles governing access to documents,
 - Article 280 (209a) combating fraud,
 - Article 285 (213a) Community statistics,
 - Article 286 (213b) establishment of a body to monitor protection of individuals with regard to data processing.
- Excepting only agriculture and competition policy, the codecision procedure applies to all the areas of legislation where the Council may decide by qualified majority. In four cases (Articles 18 (8a), 42 (51) and 47 (57) and Article 151 (128) on cultural policy, which remains unchanged) the codecision procedure is still combined with a requirement for a unanimous decision in the Council. The other legislative areas where unanimity is required are not subject to codecision (qualified majority decisions are now required under Article 166 (130i) on framework research programmes, which was previously subject to unanimity).
- Under the simplified codecision procedure (Article 251 (189b)), Parliament and the Council have become co-legislators on a practically equal footing, in particular because it is now possible to adopt an act at first reading if there is agreement between the two branches of the legislative authority, and because the power of the Council unilaterally to

impose its decision at third reading has been removed. However, there is still no satisfactory solution to the problems raised by delegating implementing acts; Declaration 31 confines itself to calling on the Commission to submit a new proposal on commitology.

b. Power of control

- As well as its vote to approve the Commission as a body, Parliament also has a vote to approve in advance the person nominated as President of the future Commission (Article 214(158)).
- The Amsterdam Treaty expressly confirms the protection of fundamental rights through the application of Community law, which until then had been a matter for Court of Justice case-law. The Treaty adds a system of political sanctions which may be decided on in the event of serious and persistent violation by a Member State of the founding principles of the EU (freedom, democracy, human rights and the rule of law).

c. Election and Statute of Members

With regard to the procedure for elections to Parliament by direct universal suffrage (Article 190 (138)), the Community's power to adopt common principles has been added to the existing power to adopt a uniform procedure. A legal basis making it possible to adopt a single statute for Members of the European Parliament has been included in the same article. However, there is still no provision allowing measures to develop political parties at European level (cf. Article 191 (138a)).

Closer cooperation

For the first time, the founding Treaties contain general provisions allowing some Member States under certain conditions to take advantage of common institutions to organise closer cooperation between themselves. This option is in addition to the closer cooperation covered by specific provisions, such as economic and monetary union, creation of the area of freedom, security and justice and incorporating the Schengen provisions. The areas where there may be closer cooperation are the third pillar and, under particularly restrictive conditions, matters subject to non-exclusive Community competence. The conditions which any closer cooperation must fulfil and the planned decision-making procedures have been drawn up in such a way as to ensure that this new factor in the process of integration will remain exceptional and, at all events, can only be used to move further towards integration and not to take retrograde steps.

Simplification

The Amsterdam Treaty removes from the European Treaties all provisions which the passage of time has rendered void or obsolete, while ensuring that this does not affect the legal effects which derived from them in the past. It also renumbers the Treaty articles. For legal and political reasons the Treaty was signed and submitted for ratification in the form of amendments to the existing Treaties. In order to make it more comprehensible and facilitate practical work, the Council Secretariat, responding to a request from the IGC, has published a consolidated version of the EU Treaty and the Treaty establishing the European Community, incorporating all the changes made by the Amsterdam Treaty.

Institutional reforms with a view to enlargement

The Amsterdam Treaty has set the maximum number of Members of the European Parliament, in line with Parliament's request, at 700 (Article 189 (137)).

Composition of the Commission and the question of weighted votes is covered by a 'Protocol on the Institutions' attached to the Treaty. This provides that, in a Union of up to 20 Member States, the Commission will comprise one national of each Member State, provided that by that date, weighting of the votes in the Council has been modified. At all events, at least a year before the 21st Member State joins, a new IGC must comprehensively review the Treaties' provisions on the Institutions.

There is certainly provision for the Council to use qualified majority voting in a number of the legal bases newly established by the Amsterdam Treaty (see above and the decisions on employment guidelines (Article 128(2) (109a(2)) and on very remote regions (Article 229(2) (227(2))). However, of the existing Community policies, only research policy has new provisions on qualified majority voting, at Articles 166(130i) and 172 (130o). In the EC Treaty alone, 44 articles still require unanimity, of which 20 concern legislative areas such as tax harmonisation (Article 93 (99)), approximation of laws (Article 94 (100)), culture (Article 151 (128)), industrial policy (Article 157 (130)), the Structural Funds (Article 161 (130d)) and some aspects of environmental policy (Article 175 (130s(2))).

Other matters

- A protocol covers Community procedures for implementing the principle of subsidiarity.
- New provisions on access to documents (Article 255 (191a)) and greater openness in the Council's legislative work (Article 207(3) (151(3))) have improved transparency.

4.8 Role of the European Parliament

Parliament was involved in negotiations leading to the Maastricht Treaty through the Interinstitutional Conference. Before conclusion of the Amsterdam Treaty, Parliament was for the first time in the history of European integration directly involved in the procedure to amend the Treaties.

The principle of Parliament's involvement in the preparatory work was agreed at the meeting of Foreign Affairs Ministers at Ioannina on 29 March 1994, a few weeks before Parliament voted on the accession treaties with Austria, Finland, Norway and Sweden, which took place on 4 May 1994 under the assent procedure. On 17 May 1995, Parliament adopted its resolution on the functioning of the EU Treaty with a view to the 1996 IGC - implementation and development of the Union.

In its resolution of 13 March 1996, Parliament gave its opinion on the convening of the IGC, together with an evaluation of the work of the reflection group and a list of political priorities for the IGC. It confirmed Mrs Guigou and Mr Brok as its representatives to the IGC work. The Turin European Council at the opening of the IGC on 29 March 1996 approved the arrangements for Parliament's involvement with the IGC's work. In addition to the usual exchanges of views with Parliament's President at meetings of the European Council, ministerial sessions at the IGC were preceded by an exchange of views with Parliament's President and representatives. Every month

during the IGC, representatives of the Ministers met representatives of Parliament, at least for an in-depth exchange of views; in addition, there were numerous informal meetings and bilateral contacts with the Presidency.

In its resolution of 19 November 1997 on the Amsterdam Treaty, Parliament recommended that the Member States ratify it and added a critical evaluation to this recommendation. Parliament endorsed a declaration that the Governments of Belgium, Italy and France had made when the Treaty was signed, and insisted in particular that before any enlargement:

- weighting of votes in the Council and the number of members of the Commission should be adjusted, maintaining parity between the Member States;
- qualified majority voting in the Council should become the general rule;
- unanimity should be confined to decisions of a constitutional nature (amendments to Treaties, accessions, decisions on own resources, electoral procedure and application of Article 308 (former Article 235) of the EC Treaty);
- all the other reforms required for enlargement should be adopted.

4.9 Prospects

The Amsterdam Treaty has only partially satisfied expectations and makes provision for further institutional adjustments as the enlargement process proceeds. For this reason the Intergovernmental Conference convened in February 2000 was mostly concerned with points which had not been resolved in Amsterdam (extension of qualified majority voting, re-weighting of votes in the Council and composition of the Commission).

In the 'Protocol on the Institutions', the Amsterdam Treaty provides that in the event of up to five new Member States joining, the Commission should comprise one national of each of the Member States, provided that weighting of votes in the Council has been adjusted by then. The European Council meeting in Cardiff on 16 and 17 June 1998 recognised in principle the need for new reforms before enlargement.

The European Council meeting in Cologne on 3 and 4 June 1999 decided that a further intergovernmental conference should be convened at the beginning of 2000 and be wound up by the end of that year. The mandate of the conference should cover institutional issues which had not been resolved in Amsterdam and further amendments to the Treaty which would be deemed necessary in that context.

Accordingly, Parliament hoped that the negotiating brief for the Conference would cover as wide an area as possible. With regard to substance, it called for:

1. qualified majority voting in the Council and codecision to become the normal method of decision-making in the EU;
2. codecision to be extended to legislative areas and to the 'third pillar';
3. a larger role for Parliament with regard to international agreements and common trade policy;
4. greater powers with regard to economic and monetary union;
5. the future Treaty to incorporate the Charter of Fundamental Rights, which was being drawn up, and for the Treaty to distinguish between constitutional principles and implementing legislation.

5. THE TREATY OF NICE

The Intergovernmental Conference (ICG) concluded its work on 11 December 2000 in Nice with an agreement on the institutional issues which had not been settled at Amsterdam and which had to be resolved before enlargement, and on a series of other points not directly connected with enlargement.

5.1 The Institutions

A. Changes within the institutions during the enlargement process

First of all, as it is not yet known exactly when and in what order the applicant countries will join the Union, the new distribution of seats in the European Parliament, the new composition of the Commission and the new definition of qualified majority within the Council are determined by the Treaty of Nice for a Union of 15 Member States. The Treaty restricts itself to setting out the principles and methods for changing this system as the Union grows. These principles and methods are listed in the protocol on enlargement (doc. SN 533/1, p.71) and attached declarations. particularly the declaration on the enlargement of the European Union (doc. SN 533/1, p.78) which establishes the “common position” to be adopted by the current Member States during the accession negotiations with the applicant countries. The number of seats in the European Parliament for the new Member States, the number of votes allocated to them within the Council, and particularly the qualified majority threshold applicable in the future, will thus be legally determined in the accession treaties.

This protocol on enlargement and the relevant declarations take account only of the (twelve) applicant countries with which accession negotiations have actually begun. The changes brought by the Treaty of Nice to the composition of the Commission and the weighting of votes will be applicable only as from 2005 and the new composition of the European Parliament will apply as from the elections in 2004. For the applicant countries joining before these dates, the accession treaties must therefore also establish the number of MEPs, commissioners, votes within the Council which will be allocated to them, and the qualified majority threshold, up until the entry into force of the new rules. These temporary provisions will be based on the principles which have applied up until now in the accession negotiations, i.e. the transposal of the current system, ensuring equal treatment with the Member States of equivalent size.

B. European Parliament

– Composition

The ICG has introduced a new distribution of seats in the European Parliament looking ahead to a Union of 27 Member States (cf. the table in Doc. SN 533/1, p.78), which will be applicable as from the next European elections in 2004. The maximum number of European Members of Parliament (currently set at 700) will rise to 732.

The number of seats allocated to the current Member States has been brought down by 91 (from the current 626 to 535). Only Germany and Luxembourg retain the same number of MEPs. However, this reduction will be applicable in full only for the assembly elected in 2009.

As the Union will undoubtedly not yet have 27 Member States in 2004, it has been decided for the 2004 European elections to increase on a pro rata basis the number of MEPs to be elected (in the current Member States and in the new Member States with which accession treaties will have been signed by 1 January 2004) to reach the total of 732 (although the number of MEPs to be elected in each Member State cannot be higher than the current number).

As the likelihood is that new Member States will enter the Union during the 2004-2009 term of office — and that as a result additional MEPs will be elected in these countries — it is anticipated that the maximum number of 732 seats in the European Parliament may be temporarily exceeded

in order to accommodate MEPs from the countries which will have signed accession treaties after the 2004 European elections.

– Other changes

Article 191 of the EC Treaty has been supplemented by a legal base which allows the adoption via the codecision procedure of a statute of European level political parties and particularly of rules concerning their funding.

The regulations and general conditions governing the performance of the duties of members of the European Parliament will be approved by the Council by qualified majority, with the exception of the provisions relating to taxation (Article 190 of the EC Treaty).

The European Parliament will henceforth be able, in the same way as the Council, the Commission and the Member States, to institute proceedings to have acts of the institutions to be declared void without having to demonstrate specific concern (Article 230 of the EC Treaty) and to seek a prior opinion from the Court of Justice on the compatibility of an international agreement with the Treaty (Article 300 (6) of the EC Treaty).

As will be described in greater detail hereafter, the responsibilities of the European Parliament have been extended by expanding the scope of the codecision (cf. *infra* point II.A) and by the assent required to establish enhanced cooperation in an area covered by the Codecision process (cf. *infra* point II.B). The European Parliament will also be called upon to state its opinion when the Council intends to declare that a clear danger exists of a serious breach of fundamental rights occurring (cf. *infra* point III.A).

C. The Council

– Definition of qualified majority

The decision-making system by qualified majority will be changed as from 1 January 2005. In future, a qualified majority will be obtained if :

- the decision receives at least a specified number of votes (the qualified majority threshold) and
- the decision is approved by a majority of Member States.

The number of votes allocated to each Member State has been changed (see the table in Doc. SN 533/1, p.79). While the number of votes has been increased for all Member States, the increase is higher for the most populated Member States. The five biggest Member States' population-wise will in the 15-strong European Union have 60% of votes compared with 55% at present.

The qualified majority threshold was at the centre of debates during the closing stages of the ICG. The final compromise is complex². This notwithstanding, the qualified majority threshold will be fixed in the successive accession treaties on the basis of principles determined by the Treaty of Nice, particularly by the declaration on the qualified majority threshold, cf. Doc. SN 533/1, p.82) The Treaty also provides for the possibility for a member of the Council to request verification that the qualified majority represents at least 62% of the total population of the European Union. If this condition is not met, the decision will not be adopted. However, this condition applies only if verification is requested.

D. Commission

– Composition

The ICG has decided to defer imposing a ceiling on the number of members of the Commission. With effect from 2005, the Commission will comprise one national per Member State. The biggest Member States thus lose at that time the opportunity of proposing a second member of the Commission, irrespective of how many Member States the European Union has at that date.

As from the first Commission which will be appointed once the Union reaches 27 Member States, there will be fewer Commissioners than there are Member States. The Commissioners will be selected by a system of rotation that will be fair to all countries.

In concrete terms, once the accession treaty for the twenty-seventh Member State has been signed, the Council will have to take a unanimous decision:

- on the exact number of Commissioners;
- on the arrangements for a fair system of rotation, bearing in mind that all Member States will be treated on an equal footing and that each Commission must satisfactorily reflect the different demographic and geographic characteristics of the Member States.

– Appointment

The ICG has decided to change the procedure for nominating the Commission (Art. 214 of the EC Treaty).

Henceforth, the nomination of the President is a matter for the European Council acting by qualified majority. This appointment must be approved by the European Parliament. Thereafter, the Council, acting by qualified majority and in agreement with the appointed president, will adopt the list of the other persons it intends to appoint as members of the Commission, drawn up in accordance with the proposals made by each Member State. The purpose of this is solely to ensure that the Council cannot designate as a member of the Commission a person not proposed by the government of the Member State of which he/she is a national. It has no effect on the procedure whereby the president appointed, before he gives his agreement to this list, undertakes political contacts with each government to ensure that the new Commission is composed in a harmonious and balanced manner.

Lastly, the president and the members of the Commission will be appointed by the Council acting by qualified majority after approval of the body of Commissioners by the European Parliament.

– Increased powers for the president

The new wording of Article 217 of the EC Treaty increases the president's powers. He will decide as to the internal organisation of the Commission; will allocate portfolios to the Commissioners and if necessary reassign responsibilities during his term of office; will appoint, after the collective approval of the body, the vice-presidents, whose number is no longer established in the Treaty; may demand a commissioner's resignation, subject to the Commission's approval.

E. The Union's legal system

The ICG has made major reforms to the Union's legal system.

The main provisions concerning the Court of First Instance, and particularly its responsibilities, are henceforth to be found in the Treaty. In addition, the Treaty provides for the possibility to set up internal chambers to deal at first instance with certain proceedings relating to specific issues.

The Treaty has introduced greater flexibility in order to prepare the legal system for the future, settling certain issues in the Court's statute, which can henceforth be amended by the Council acting unanimously at the request of the Court or of the Commission. The approval of the rules of procedure of the Court of Justice and of the Court of First Instance will henceforth be by qualified majority.

– Composition

While the Court of Justice will, as before, be composed of one judge from each Member State, steps have been taken to maintain the effectiveness of the jurisdiction and coherence of its jurisprudence. The "grand chamber", comprising eleven judges (including the president of the Court and the presidents of the five-judge chambers), will generally deal with cases today

handled by plenary session. The presidents of the five-judge chambers will be elected for a three-year term of office which will be renewable once.

The Court of First Instance will have at least one judge from each Member State (the number is determined in the statute, which currently makes provision for fifteen judges). As before, the number of judges in the Court of First Instance (stipulated up to now in the Decision establishing the CFI) can be changed. It should be noted that in response to a request submitted by the Court outside the framework of the ICG, the COREPER agreed to an increase of six judges for the CFI. The arrangements regarding the system of rotation for appointments has still to be decided.

– Distribution of responsibilities between the Court of Justice and the Court of First Instance

The Treaty sets out the distribution of responsibilities between the Court of Justice and the Court of First Instance but it will be possible to make adjustments through the statute.

The Court of First Instance becomes the common law judge for all direct actions (particularly proceedings against a decision (Article 230 of the EC Treaty), action for failure to act (Article 232 of the EC Treaty), action for damages (Article 235 of the EC Treaty), with the exception of those which will be attributed to a specialised chamber and those the statute reserves for the Court itself.

The Court of Justice retains responsibility for other proceedings (particularly action for failure to fulfil obligations, Art. 226 of the EC Treaty), but the statute can entrust to the Court of First Instance categories of proceedings other than those listed in Art. 225 of the EC Treaty.

The idea is to maintain within the Court, as the jurisdictional supreme body of the European Union, disputes concerning essential Community issues. The ICG has accordingly asked the Court and the Commission to review the distribution of responsibilities as soon as possible so that appropriate proposals can be examined as soon as the Treaty of Nice comes into force.

The Court of Justice, which is responsible for ensuring uniform application of Community law within the European Union, in principle retains competence for investigating questions referred for a preliminary ruling; however, pursuant to Art. 225 of the EC Treaty, the statute may entrust to the Court of First Instance the responsibility for preliminary rulings in certain specific matters.

– Specialised chambers

The Council can set up specialised chambers to examine at first instance certain categories of actions in specific matters (e.g. in the area of intellectual property). The ICG through a declaration asks that a draft decision be prepared to set up such chambers in order to settle disputes between the Community and its servants (Article 236 of the EC Treaty).

An appeal in cassation can be made before the Court of First Instance against a decision by the specialised chambers.

– Community patent

Lastly, the new Article 229a of the EC Treaty will allow the Council, acting unanimously, to attribute to the Court of Justice the responsibility for settling disputes related to Community intellectual property rights. This provision is aimed essentially at disputes between private parties in which the future European patent is involved. This Council decision will enter into force only after it has been adopted by the Member States (i.e. after ratification).

F. Court of Auditors

The Treaty henceforth stipulates explicitly that the Court of Auditors will consist of one national from each Member State. The Court of Auditors may establish internal chambers to adopt certain categories of reports or opinions.

G. European Central Bank and European Investment Bank

The Treaty of Nice does not change the composition of the Governing Council of the European Central Bank (comprising the members of the executive board and the governors of the national central banks) but allows for changes to the rules on decision-making (at present, decisions are generally adopted by simple majority of the members, each having one vote — Article 10 of the statute of the European Central Bank). This change requires a unanimous European Council decision which must then be ratified by the Member States. The ICG has stated that it expects the Governing Council to submit as quickly as possible a recommendation for amending the voting rules.

As far as the EIB is concerned, the Treaty of Nice allows for the possibility of altering the composition of the board of directors and the rules on decision-making by a unanimous Council decision.

H. Economic and Social Committee and Committee of the Regions

The ICG has not altered the number and distribution per Member State of the seats of the ECS and the COR. The Treaty henceforth stipulates that the number of members of these committees cannot exceed 350 (Art. 258 and 263 of the EC Treaty), but this ceiling is not reached with the seats envisaged for the new Member States (see table in Doc. SN 533/1, pp.80-81).

The description of the members of the ECS has been changed and the Treaty states that the Committee is to consist of “representatives of the various economic and social components of organised civil society” (Article 257 of the EC Treaty). For the COR, the Treaty of Nice henceforth explicitly stipulates that the members must hold a regional or local electoral mandate or be politically accountable to an elected assembly.

5.2 The Decision-Making Process

A. Extension of the qualified majority vote

The Treaty of Nice to some extent widens the scope of decision-making by qualified majority.

The most important provisions which do so as soon as the Treaty of Nice enters into force are:

- measures to facilitate freedom of movement for the citizens of the Union (Article 18 of the EC Treaty);
- judicial cooperation in civil matters (Article 65 of the EC Treaty);
- the conclusion of international agreements in the area of trade in services and the commercial aspects of intellectual property (Article 133 of the EC Treaty), with exceptions (see below);
- industrial policy (Article 157 of the EC Treaty);
- economic, financial and technical cooperation with third countries (Article 181a of the EC Treaty, new provision to adopt measures hitherto based on Article 388 of the EC Treaty);
- approval of the regulations and general conditions governing the performance of the duties of members of the European Parliament (Article 190 of the EC Treaty), with the exception of matters relating to the fiscal regime;
- the statute of the political parties at European level (Article 191 of the EC Treaty, new provision);
- the approval of the rules of procedure of the Court of Justice and the Court of First Instance (Articles 223 and 224 of the EC Treaty).

It should be noted that the appointment of members of certain institutions or bodies will henceforth be done by qualified majority (members of the Commission, of the Court of Auditors, of the Economic and Social Committee and of the Committee of the Regions; the High

Representative/Secretary General and the Deputy Secretary General of the Council; the Pesc special envoys.

The changeover to qualified majority voting has been deferred until 2007 for the Structural Funds and the Cohesion Funds (Article 161 of the EC Treaty), and for the adoption of the financial regulations (Article 279 of the EC Treaty).

Lastly, for the provisions of Title IV of the EC Treaty (visas, asylum, immigration and other policies linked to the free movement of persons), the ICG has agreed on a partial and deferred switch to qualified majority voting by means of different instruments (amendment of Article 67 of the EC Treaty, protocol or political declaration) and subject to different conditions (either from 1 May 2004, or after the adoption of Community legislation setting out the common rules and essential principles, see annex, points 23 and 24).

The picture is somewhat mixed for the five areas the Commission had identified as key areas:

- **taxation** (Articles 93, 94 and 175 of the EC Treaty): maintenance of unanimity for all measures;
- **social policy** (Articles 42 and 137 of the EC Treaty): maintenance of the status quo. However, the Council, acting in unanimity, can make the codecision procedure applicable to those areas of social policy which are currently still subject to the rule of unanimity. This “bridge” cannot, however, be used for social security;
- **cohesion policy** (Article 161 of the EC Treaty): it has been decided to switch to qualified majority voting but this will not apply until after the adoption of the multi-annual financial perspectives applicable as from 1 January 2007;
- **policy on asylum and immigration** (Articles 62 and 63 of the EC Treaty): application of the qualified majority rule has been postponed (2004) and will not concern the central elements of these policies, e.g. the “sharing of the burden” (Article 63(2)(b) or the conditions for entry and residence of nationals from third countries (Article 63(3)a);
- **common commercial policy** (Article 133 of the EC Treaty): this henceforth includes the negotiation and conclusion of international agreements in the area of trade in services and the commercial aspects of intellectual property. These agreements are concluded by qualified majority, except when the agreement includes provisions for which unanimity is required for the adoption of internal rules or when the agreement concerns an area on which the Community has not yet exercised its responsibilities. In addition, the agreements concerning the harmonisation of cultural and audiovisual services, education services, social services and health services continue to be the subject of responsibility shared with the Member States.

The Treaty of Nice has extended the scope of codecision. This procedure will be applicable for seven provisions which change over from unanimity to qualified majority voting (Articles 13, 62, 63, 65, 157, 159 and 191 of the EC Treaty; for Article 161 of the EC Treaty, the Treaty stipulates assent). Accordingly, most of the legislative measures which, after the Treaty of Nice, require a decision from the Council acting by qualified majority will be decided via the codecision procedure. The ICG has not, however, extended the Codecision procedure to legislative measures which already come under the qualified majority rule (e.g. in agricultural policy or trade policy).

B. Enhanced cooperation

The ICG has comprehensively overhauled the provisions on enhanced cooperation, particularly by listing in a single provision the ten conditions necessary to establish enhanced cooperation (“clause A”, Doc. SN 533/1, p. 12). While the essential characteristics of this instrument are largely unchanged (such as the principles whereby enhanced cooperation can be undertaken only as a last resort and must be open to all Member States), substantial changes have nevertheless been agreed.

The minimum number of Member States required to establish enhanced cooperation is now set at eight, whereas the Treaty currently stipulates that the majority of Member States is needed. Thus the minimum number of States needed to establish enhanced cooperation will fall, with the successive enlargements, to under one-third of the members of the Union (as had been proposed by the Commission).

In the Treaty establishing the European Community (first pillar) the possibility of opposing enhanced cooperation (the “veto”) has been removed. It has been replaced by the possibility for a Member State to take the matter up with the European Council. In such an event, the Council may nevertheless act by qualified majority on any proposal for enhanced cooperation.

Furthermore, when enhanced cooperation concerns an area which comes under the Codecision process, the assent of the European Parliament is required.

The Treaty of Nice has introduced the possibility of establishing enhanced cooperation in the area of common foreign and security policy (second pillar), for the implementation of joint action or a common position. Enhanced cooperation of this kind cannot be used for issues which have military implications or which affect defence matters. The authorisation for enhanced cooperation is given by the Council after receiving the opinion of the Commission, particularly on the consistency of this enhanced cooperation with the Union’s policies. The Council will decide by qualified majority but each Member State may ask that the matter be referred to the European Council for the purposes of a unanimous decision (“emergency brake”).

For police and judicial cooperation in criminal matters (third pillar), the possibility of the “veto” has been removed in line with what is envisaged for enhanced cooperation for the first pillar.

5.3 Other Changes

The Treaty of Nice brings other changes to the treaties. The most significant are:

A. Fundamental rights

Pursuant to Article 7 of the Treaty on European Union, the European Council can declare the existence of a serious and persistent breach of fundamental rights. If this occurs, the Council may suspend certain of the rights of the country concerned. The Treaty of Nice has supplemented this procedure with a preventive instrument. Upon a proposal of one-third of the Member States, the Parliament or the Commission, the Council, acting by a four-fifths majority of its members and with the assent of the European Parliament, can declare that a clear danger exists of a Member State committing a serious breach of fundamental rights and address to that Member State appropriate recommendations. The Court of Justice will be competent (Article 46 of the Treaty on European Union) only for disputes concerning procedural provisions under Article 7, and not for the appreciation of the justification or the appropriateness of the decisions taken pursuant to this provision.

B. Security and defence

The Nice European Council adopted the Presidency’s report on the European security and defence policy which *inter alia* provides for the development of the Union’s military capacity, the creation of permanent political and military structures and the incorporation into the Union of the crisis management functions of the WEU.

While this is not a precondition for making the security and defence policy quickly operational on the basis of the current provisions of the Treaty, the Nice Treaty amends Article 17 of the Treaty on European Union by removing the provisions defining the relations between the Union and the WEU.

In addition, the political and security committee (“PSC”, a new designation of the political committee in the Treaty) may be authorised by the Council, in order to manage a crisis and for the duration of that crisis, to itself take the appropriate decisions under the second pillar in order to ensure the political control and strategic leadership of the crisis management operation.

C. Judicial cooperation in criminal matters

The ICG has not added, as the Commission proposed, a provision which would have made it possible to create a European prosecutor to protect the financial interests of the Community.

However, the Nice Treaty does supplement Article 31 of the Treaty on European Union with reference to and the description of the tasks of “Eurojust”, a unit of seconded magistrates whose task it will be, within the framework of judicial cooperation in criminal matters, to contribute to proper coordination of the national authorities responsible for criminal proceedings.

D. Interinstitutional agreements

The ICG adopted a declaration attached to the Treaty of Nice on interinstitutional agreements. This declaration states that relations between the Community institutions are governed by the duty to cooperate sincerely and that when necessary to facilitate the application of the provisions of the Treaty, the Parliament, the Council and the Commission can conclude interinstitutional agreements. These agreements can neither change nor supplement the provisions of the Treaty and can be concluded only with the agreement of these three institutions.

E. Social Protection Committee

Through a new Article 144 of the EC Treaty, the Treaty of Nice incorporates within the Treaty the Social Protection Committee which had been established by the Council pursuant to the conclusions of the Lisbon European Council.

F. Name of the Official Journal

The name of the Official Journal of the European Communities will be changed to “Official Journal of the European Union” (Article 254 of the EC Treaty).

G. Venue for European Council meetings

The ICG adopted a declaration annexed to the Treaty of Nice stipulating that “as from 2002, one European Council meeting per presidency will be held in Brussels. When the Union comprises 18 members, all European Council meetings will be held in Brussels”. It should be noted that this declaration relates only to the formal European Council meetings, and the presidencies are free to organise the informal European Council meetings wherever they like (or even not to organise any), in line with the informal Council meetings which can be organised in places other than those stipulated in the protocol on the seat of the institutions.

H. Financial consequences of the expiry of the ECSC Treaty

The ECSC Treaty will expire on 23 July 2002. At the request of the Council, Commission in September 2000 put forward a draft decision on the transfer of ECSC funds to the European Community to be used for research in sectors related to the coal and steel industry. For reasons of legal certainty, it has been deemed preferable to settle this matter through a protocol annexed to the Treaty of Nice.

5.4 Declaration on the Future of the Union

The Intergovernmental Conference adopted a declaration concerning the future of the Union whereby it calls for a deeper and wider debate about the future of the European Union. In 2001, the Swedish and Belgian Presidencies, in cooperation with the Commission, will encourage wide-ranging discussions with all interested parties. The candidate countries will be associated in this process. Following a report for the Göteborg European Council, the Laeken European Council

(December 2001) will adopt a declaration containing appropriate initiatives for pursuing this process.

The subjects to be considered include the demarcation of responsibilities between the Union and the Member States, the status of the Charter of Fundamental Rights of the European Union, simplification of the treaties, and the role of the national parliaments in the institutional architecture of the European Union.

The ICG agreed that once this preparatory work has been completed another Intergovernmental Conference will be convened in 2004 to deal with these matters, but the conference will in no way impede or be a pre-condition to the enlargement process.

	Treaty Name		Main Features
Rome	Treaty Establishing the European Economic Community*	<p>Original treaty setting up a common market, itself amended by:</p> <p>1) Merger Treaty (1967) to give it and the other two treaties a common set of institutions, and</p> <p>2) Single European Act (SEA) for European Political Cooperation in foreign policy</p>	<p>Council with direct member representation;</p> <p>Commission which initiates and executes Council decisions;</p> <p>A Court of Justice and Assembly or European Parliament (EP).</p> <p>SEA introduces a co-operation procedure, enlarging role of EP in legislative process</p>
Maastricht	Treaty on European Union, 1993	Treaty Establishing the European Communities	<p>Brought into being the European Union, *founded on the European Communities, supplemented by intergovernmental co-operation formalized as</p> <ul style="list-style-type: none"> • a common foreign and security policy and • a common justice and home affairs (crime) policy • subsidiarity principle
Amsterdam	Treaty of Amsterdam, 1999	Treaty on European Union	<ul style="list-style-type: none"> • Free movement of workers since 1993 enhanced with closer cooperation on security and crime, drug control, corruption, and terrorism • Common borders (passport control) under incorporated Schengen Agreement • Co-decision for parliament and Council • More areas where Council of Ministers may decide using qualified majority voting instead of unanimity • New title on employment; inserts Social Chapter into main body of the treaty

Nice	Treaty of Nice, 2002	Treaty on European Union (as amended by Amsterdam)	Major changes: <ul style="list-style-type: none"> • Qualified majority voting • Commission, Court of Justice and First Instance, European Parliament • Weighting of votes • Closer cooperation • Democratic values (Art 7 TEU) • Codecision procedure • European political parties
-------------	----------------------	--	---

*"Treaties" of Rome, plural, may refer to all three founding treaties: The Treaty Establishing the European Coal and Steel Community, which ended 23 July 2002, and the Treaty Establishing the European Atomic Energy Community (Euratom). Also called the European Communities, plural, until the Amsterdam treaty mandated the name "Treaty Establishing the European Community," singular.

ANNEX

TABLES OF EQUIVALENCES REFERRED TO IN ARTICLE 12 OF THE
TREATY OF AMSTERDAM

A. Treaty on European Union

Previous numbering	New numbering	Previous numbering	New numbering
TITLE I	TITLE I	TITLE VI (***)	TITLE VI
Article A	Article 1	Article K.1	Article 29
Article B	Article 2	Article K.2	Article 30
Article C	Article 3	Article K.3	Article 31
Article D	Article 4	Article K.4	Article 32
Article E	Article 5	Article K.5	Article 33
Article F	Article 6	Article K.6	Article 34
Article F.1 (*)	Article 7	Article K.7	Article 35
TITLE II	TITLE II	Article K.8	Article 36
Article G	Article 8	Article K.9	Article 37
TITLE III	TITLE III	Article K.10	Article 38
Article H	Article 9	Article K.11	Article 39
TITLE IV	TITLE IV	Article K.12	Article 40
Article I	Article 10	Article K.13	Article 41
TITLE V (***)	TITLE V	Article K.14	Article 42
Article J.1	Article 11	TITLE VIa (**)	TITLE VII
Article J.2	Article 12	Article K.15 (*)	Article 43
Article J.3	Article 13	Article K.16 (*)	Article 44
Article J.4	Article 14	Article K.17 (*)	Article 45
Article J.5	Article 15	TITLE VII	TITLE VIII
Article J.6	Article 16	Article L	Article 46
Article J.7	Article 17	Article M	Article 47
Article J.8	Article 18	Article N	Article 48
Article J.9	Article 19	Article O	Article 49
Article J.10	Article 20	Article P	Article 50
Article J.11	Article 21	Article Q	Article 51
Article J.12	Article 22	Article R	Article 52
Article J.13	Article 23	Article S	Article 53
Article J.14	Article 24		
Article J.15	Article 25		
Article J.16	Article 26		
Article J.17	Article 27		
Article J.18	Article 28		

(*) New Article introduced by the Treaty of Amsterdam.

(**) New Title introduced by the Treaty of Amsterdam.

(***) Title restructured by the Treaty of Amsterdam.

B. Treaty establishing the European Community

Previous numbering	New numbering	Previous numbering	New numbering
PART ONE	PART ONE	Article 15 (repealed)	—
Article 1	Article 1	Article 16 (repealed)	—
Article 2	Article 2	Article 17 (repealed)	—
Article 3	Article 3	Section 2 (deleted)	—
Article 3a	Article 4	Article 18 (repealed)	—
Article 3b	Article 5	Article 19 (repealed)	—
Article 3c (*)	Article 6	Article 20 (repealed)	—
Article 4	Article 7	Article 21 (repealed)	—
Article 4a	Article 8	Article 22 (repealed)	—
Article 4b	Article 9	Article 23 (repealed)	—
Article 5	Article 10	Article 24 (repealed)	—
Article 5a (*)	Article 11	Article 25 (repealed)	—
Article 6	Article 12	Article 26 (repealed)	—
Article 6a (*)	Article 13	Article 27 (repealed)	—
Article 7 (repealed)	—	Article 28	Article 26
Article 7a	Article 14	Article 29	Article 27
Article 7b (repealed)	—		
Article 7c	Article 15		
Article 7d (*)	Article 16		
PART TWO	PART TWO		
Article 8	Article 17	CHAPTER 2	CHAPTER 2
Article 8a	Article 18	Article 30	Article 28
Article 8b	Article 19	Article 31 (repealed)	—
Article 8c	Article 20	Article 32 (repealed)	—
Article 8d	Article 21	Article 33 (repealed)	—
Article 8e	Article 22	Article 34	Article 29
PART THREE	PART THREE	Article 35 (repealed)	—
TITLE I	TITLE I	Article 36	Article 30
Article 9	Article 23	Article 37	Article 31
Article 10	Article 24		
Article 11 (repealed)	—		
CHAPTER 1	CHAPTER 1		
Section 1 (deleted)	—		
Article 12	Article 25		
Article 13 (repealed)	—		
Article 14 (repealed)	—		

(*) New Article introduced by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
TITLE II	TITLE II	Article 69 (repealed)	—
Article 38	Article 32	Article 70 (repealed)	—
Article 39	Article 33	Article 71 (repealed)	—
Article 40	Article 34	Article 72 (repealed)	—
Article 41	Article 35	Article 73 (repealed)	—
Article 42	Article 36	Article 73a (repealed)	—
Article 43	Article 37	Article 73b	Article 56
Article 44 (repealed)	—	Article 73c	Article 57
Article 45 (repealed)	—	Article 73d	Article 58
Article 46	Article 38	Article 73e (repealed)	—
Article 47 (repealed)	—	Article 73f	Article 59
TITLE III	TITLE III	Article 73g	Article 60
CHAPTER 1	CHAPTER 1	Article 73h (repealed)	—
Article 48	Article 39	TITLE IIIa (**)	TITLE IV
Article 49	Article 40	Article 73i (*)	Article 61
Article 50	Article 41	Article 73j (*)	Article 62
Article 51	Article 42	Article 73k (*)	Article 63
CHAPTER 2	CHAPTER 2	Article 73l (*)	Article 64
Article 52	Article 43	Article 73m (*)	Article 65
Article 53 (repealed)	—	Article 73n (*)	Article 66
Article 54	Article 44	Article 73o (*)	Article 67
Article 55	Article 45	Article 73p (*)	Article 68
Article 56	Article 46	Article 73q (*)	Article 69
Article 57	Article 47	TITLE IV	TITLE V
Article 58	Article 48	Article 74	Article 70
CHAPTER 3	CHAPTER 3	Article 75	Article 71
Article 59	Article 49	Article 76	Article 72
Article 60	Article 50	Article 77	Article 73
Article 61	Article 51	Article 78	Article 74
Article 62 (repealed)	—	Article 79	Article 75
Article 63	Article 52	Article 80	Article 76
Article 64	Article 53	Article 81	Article 77
Article 65	Article 54	Article 82	Article 78
Article 66	Article 55	Article 83	Article 79
CHAPTER 4	CHAPTER 4	Article 84	Article 80
Article 67 (repealed)	—		
Article 68 (repealed)	—		

(*) New Article introduced by the Treaty of Amsterdam.

(**) New Title introduced by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
TITLE V	TITLE VI	Article 104	Article 101
CHAPTER 1	CHAPTER 1	Article 104a	Article 102
SECTION 1	SECTION 1	Article 104b	Article 103
Article 85	Article 81	Article 104c	Article 104
Article 86	Article 82	CHAPTER 2	CHAPTER 2
Article 87	Article 83	Article 105	Article 105
Article 88	Article 84	Article 105a	Article 106
Article 89	Article 85	Article 106	Article 107
Article 90	Article 86	Article 107	Article 108
Section 2 (deleted)	—	Article 108	Article 109
Article 91 (repealed)	—	Article 108a	Article 110
SECTION 3	SECTION 2	Article 109	Article 111
Article 92	Article 87	CHAPTER 3	CHAPTER 3
Article 93	Article 88	Article 109a	Article 112
Article 94	Article 89	Article 109b	Article 113
CHAPTER 2	CHAPTER 2	Article 109c	Article 114
Article 95	Article 90	Article 109d	Article 115
Article 96	Article 91	CHAPTER 4	CHAPTER 4
Article 97 (repealed)	—	Article 109e	Article 116
Article 98	Article 92	Article 109f	Article 117
Article 99	Article 93	Article 109g	Article 118
CHAPTER 3	CHAPTER 3	Article 109h	Article 119
Article 100	Article 94	Article 109i	Article 120
Article 100a	Article 95	Article 109j	Article 121
Article 100b (repealed)	—	Article 109k	Article 122
Article 100c (repealed)	—	Article 109l	Article 123
Article 100d (repealed)	—	Article 109m	Article 124
Article 101	Article 96	TITLE VIa (**)	TITLE VIII
Article 102	Article 97	Article 109n (*)	Article 125
TITLE VI	TITLE VII	Article 109o (*)	Article 126
CHAPTER 1	CHAPTER 1	Article 109p (*)	Article 127
Article 102a	Article 98	Article 109q (*)	Article 128
Article 103	Article 99	Article 109r (*)	Article 129
Article 103a	Article 100	Article 109s (*)	Article 130
		TITLE VII	TITLE IX
		Article 110	Article 131
		Article 111 (repealed)	—
		Article 112	Article 132
		Article 113	Article 133

(*) New Article introduced by the Treaty of Amsterdam.

(**) New Title introduced by the Treaty of Amsterdam.

Previous numbering	New numbering
Article 114 (repealed)	—
Article 115	Article 134
TITLE VIIa (**)	TITLE X
Article 116 (*)	Article 135
TITLE VIII	TITLE XI
CHAPTER 1 (***)	CHAPTER 1
Article 117	Article 136
Article 118	Article 137
Article 118a	Article 138
Article 118b	Article 139
Article 118c	Article 140
Article 119	Article 141
Article 119a	Article 142
Article 120	Article 143
Article 121	Article 144
Article 122	Article 145
CHAPTER 2	CHAPTER 2
Article 123	Article 146
Article 124	Article 147
Article 125	Article 148
CHAPTER 3	CHAPTER 3
Article 126	Article 149
Article 127	Article 150
TITLE IX	TITLE XII
Article 128	Article 151
TITLE X	TITLE XIII
Article 129	Article 152
TITLE XI	TITLE XIV
Article 129a	Article 153
TITLE XII	TITLE XV
Article 129b	Article 154
Article 129c	Article 155
Article 129d	Article 156
TITLE XIII	TITLE XVI
Article 130	Article 157

Previous numbering	New numbering
TITLE XIV	TITLE XVII
Article 130a	Article 158
Article 130b	Article 159
Article 130c	Article 160
Article 130d	Article 161
Article 130e	Article 162
TITLE XV	TITLE XVIII
Article 130f	Article 163
Article 130g	Article 164
Article 130h	Article 165
Article 130i	Article 166
Article 130j	Article 167
Article 130k	Article 168
Article 130l	Article 169
Article 130m	Article 170
Article 130n	Article 171
Article 130o	Article 172
Article 130p	Article 173
Article 130q (repealed)	—
TITLE XVI	TITLE XIX
Article 130r	Article 174
Article 130s	Article 175
Article 130t	Article 176
TITLE XVII	TITLE XX
Article 130u	Article 177
Article 130v	Article 178
Article 130w	Article 179
Article 130x	Article 180
Article 130y	Article 181
PART FOUR	PART FOUR
Article 131	Article 182
Article 132	Article 183
Article 133	Article 184
Article 134	Article 185
Article 135	Article 186
Article 136	Article 187
Article 136a	Article 188

(*) New Article introduced by the Treaty of Amsterdam.

(**) New Title introduced by the Treaty of Amsterdam.

(***) Chapter 1 restructured by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
PART FIVE	PART FIVE	Article 166	Article 222
TITLE I	TITLE I	Article 167	Article 223
CHAPTER 1	CHAPTER 1	Article 168	Article 224
SECTION 1	SECTION 1	Article 168 a	Article 225
Article 137	Article 189	Article 169	Article 226
Article 138	Article 190	Article 170	Article 227
Article 138a	Article 191	Article 171	Article 228
Article 138b	Article 192	Article 172	Article 229
Article 138c	Article 193	Article 173	Article 230
Article 138d	Article 194	Article 174	Article 231
Article 138e	Article 195	Article 175	Article 232
Article 139	Article 196	Article 176	Article 233
Article 140	Article 197	Article 177	Article 234
Article 141	Article 198	Article 178	Article 235
Article 142	Article 199	Article 179	Article 236
Article 143	Article 200	Article 180	Article 237
Article 144	Article 201	Article 181	Article 238
		Article 182	Article 239
		Article 183	Article 240
SECTION 2	SECTION 2	Article 184	Article 241
Article 145	Article 202	Article 185	Article 242
Article 146	Article 203	Article 186	Article 243
Article 147	Article 204	Article 187	Article 244
Article 148	Article 205	Article 188	Article 245
Article 149 (repealed)	—	SECTION 5	SECTION 5
Article 150	Article 206	Article 188a	Article 246
Article 151	Article 207	Article 188b	Article 247
Article 152	Article 208	Article 188c	Article 248
Article 153	Article 209		
Article 154	Article 210	CHAPTER 2	CHAPTER 2
SECTION 3	SECTION 3	Article 189	Article 249
Article 155	Article 211	Article 189a	Article 250
Article 156	Article 212	Article 189b	Article 251
Article 157	Article 213	Article 189c	Article 252
Article 158	Article 214	Article 190	Article 253
Article 159	Article 215	Article 191	Article 254
Article 160	Article 216	Article 191a (*)	Article 255
Article 161	Article 217	Article 192	Article 256
Article 162	Article 218		
Article 163	Article 219	CHAPTER 3	CHAPTER 3
SECTION 4	SECTION 4	Article 193	Article 257
Article 164	Article 220	Article 194	Article 258
Article 165	Article 221	Article 195	Article 259
		Article 196	Article 260
		Article 197	Article 261
		Article 198	Article 262

(*) New Article introduced by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
CHAPTER 4	CHAPTER 4	Article 216	Article 289
Article 198a	Article 263	Article 217	Article 290
Article 198b	Article 264	Article 218 (*)	Article 291
Article 198c	Article 265	Article 219	Article 292
		Article 220	Article 293
CHAPTER 5	CHAPTER 5	Article 221	Article 294
Article 198d	Article 266	Article 222	Article 295
Article 198e	Article 267	Article 223	Article 296
		Article 224	Article 297
TITLE II	TITLE II	Article 225	Article 298
Article 199	Article 268	Article 226 (repealed)	—
Article 200 (repealed)	—	Article 227	Article 299
Article 201	Article 269	Article 228	Article 300
Article 201a	Article 270	Article 228a	Article 301
Article 202	Article 271	Article 229	Article 302
Article 203	Article 272	Article 230	Article 303
Article 204	Article 273	Article 231	Article 304
Article 205	Article 274	Article 232	Article 305
Article 205a	Article 275	Article 233	Article 306
Article 206	Article 276	Article 234	Article 307
Article 206a (repealed)	—	Article 235	Article 308
Article 207	Article 277	Article 236 (*)	Article 309
Article 208	Article 278	Article 237 (repealed)	—
Article 209	Article 279	Article 238	Article 310
Article 209a	Article 280	Article 239	Article 311
		Article 240	Article 312
PART SIX	PART SIX	Article 241 (repealed)	—
Article 210	Article 281	Article 242 (repealed)	—
Article 211	Article 282	Article 243 (repealed)	—
Article 212 (*)	Article 283	Article 244 (repealed)	—
Article 213	Article 284	Article 245 (repealed)	—
Article 213a (*)	Article 285	Article 246 (repealed)	—
Article 213b (*)	Article 286		
Article 214	Article 287	FINAL PROVISIONS	FINAL PROVISIONS
Article 215	Article 288	Article 247	Article 313
		Article 248	Article 314

(*) New Article introduced by the Treaty of Amsterdam.

TABLE OF EQUIVALENCES

- On the EU Constitution

* New Articles introduced by the Treaty Establishing a Constitution for Europe.

The EU Constitution	Nice Treaty - TEU/TEC	Maastricht Treaty - TEU/TEC
Part I		
Title I		
Art. I-1	Art. 1, 49 TEU	Art. A, O TEU
Art. I-2	Art. 6(1) TEU	Art. F(1) TEU
Art. I-3	Art. 2 TEU, 2 TEC	Art. B TEU, 2 TEC
Art. I-4	Art. 14(2), 12 TEC	Art. 7a, 6 TEC
Art. I-5	Art. 6(3), 33 TEU, 10 TEC	Art. F(1), K.5 TEU, 5 TEC
Art. I-6*		
Art. I-7(*)	Art. 281 TEC	Art. 210 TEC
Art. I-8*		
Title II		
Art. I-9(*)	Art. 6(2) TEU	Art. F(2) TEU
Art. I-10	Art. 17 - 21 TEC	Art. 8, 8a, 8b, 8c, 8d TEC
Title III		
Art. I-11	Art. 5 TEC, 2 (last sentence) TEU	Art. 3b TEC, B TEU
Art. I-12*		
Art. I-13*		
Art. I-14*		
Art. I-15	Art. 4(1) TEC Art. 99(1), 3(1)(i) TEC Art. 125 TEC Art. 128 TEC Art. 140 TEC	Art. 3a TEC Art. 103 TEC Art. 109n TEC Art. 109q TEC Art. 118c TEC
Art. I-16	Art. 17, 11(2) TEU	Art. J.7, J.1 TEU
Art. I-17*		
Art. I-18	Art. 308 TEC	Art. 235 TEC
Title IV		
Art. I-19	Art. 3(1) TEU, 7(1) TEC, 5 TEU	Art. C TEU, 4(1) TEC, E TEU
Art. I-20	Art. 189 TEC Art. 190 TEC Art. 192 TEC Art. 197 TEC	Art. 137 TEC Art. 138 TEC Art. 138b TEC Art. 140 TEC
Art. I-21	Art. 4 TEU	Art. D TEU
Art. I-22*		
Art. I-23	Art. 202 TEC Art. 203 TEC Art. 205(1) TEC	Art. 145 TEC Art. 146 TEC Art. 148 TEC
Art. I-24	Art. 203 TEC Art. 207(1) TEC	Art. 146 TEC Art. 151 TEC
Art. I-25	Art. 205(2) TEC	Art. 148 TEC

Art. I-26	Art. 201 TEC Art. 211 TEC Art. 213(2) TEC Art. 214(1) TEC Art. 274 TEC	Art. 144 TEC Art. 155 TEC Art. 157 TEC Art. 158(1) TEC Art. 205 TEC
Art. I-27	Art. 214(2) TEC Art. 217 TEC	Art. 158 TEC Art. 161 TEC
Art. I-28*		
Art. I-29(*)	Art. 220 - 224 TEC	Art. 164 - 168 TEC
Art. I-30	Art. 8, 107, 105(1), 106, 108, 105(4), 212 TEC	Art. 4a, 106, 105, 105a, 107, 156 TEC
Art. I-31	Art. 7, 246 - 248 TEC	Art. 4, 188a, 188b, 188c TEC
Art. I-32	Art. 7(2), 257, 258, 263 TEC	Art. 4(1), 193, 194, 198a TEC
Title V		
Art. I-33	Art. 249 TEC, 13, 34 TEU	Art. 198 TEC, J.3, K.6 TEU
Art. I-34*		
Art. I-35*		
Art. I-36*		
Art. I-37	Art. 10 TEC Art. 202 TEC	Art. 5 TEC Art. 145 TEC
Art. I-38	Art. 253 TEC	Art. 190 TEC
Art. I-39	Art. 254 TEC	Art. 191
Art. I-40(*)	Art. 13, 16, 21, 23 TEU	Art. J.3, J.6, J.11, J.13 TEU
Art. I-41	Art. 17, 21 TEU	Art. J.7, J.11 TEU
Art. I-42	Art. 29 TEU, 61 TEC	Art K.1 TEU, 73i TEC
Art. I-43*		
Art. I-44	Art. 27, 43 TEU Art. 11 TEC	Art. J.17, K.15 TEU Art. 5a TEC
Title VI		
Art. I-45*		
Art. I-46	Art. 1(1) TEU Art. 6(1) TEU Art. 191 TEC	Art. A TEU Art. F TEU Art. 138a TEC
Art. I-47*		
Art. I-48	Art. 138 TEC Art. 211, 212 TEC	Art. 118a TEC Art. 155, 156 TEC
Art. I-49	Art. 195 TEC	Art. 138e TEC
Art. I-50	Art. 1 TEU Art. 255 TEC	Art. A TEC Art. 191a TEC
Art. I-51	Art. 286 TEC	Art. 213b TEC
Art. I-52*		
Title VII		
Art. I-53	Art. 268, 270, 271, 280 TEC	Art. 199, 201a, 202, 209a TEC
Art. I-54	Art. 269 TEC	Art. 201 TEC
Art. I-55*		
Art. I-56*		
Title VIII		

Art. I-57*		
Title IX		
Art. I-58	Art. 49 TEU	Art. O TEU
Art. I-59	Art. 7 TEU, 309 TEC	Art. F.1 TEU, 236 TEC
Art. I-60*		
Part II		
Title I		
Art. II-61*		
Art. II-62*		
Art. II-63*		
Art. II-64*		
Art. II-65*		
Title II		
Art. II-66*		
Art. II-67*		
Art. II-68*		
Art. II-69*		
Art. II-70*		
Art. II-71*		
Art. II-72*		
Art. II-73*		
Art. II-74*		
Art. II-75*		
Art. II-76*		
Art. II-77*		
Art. II-78*		
Art. II-79*		
Title III		
Art. II-80*		
Art. II-81*		
Art. II-82*		
Art. II-83*		
Art. II-84*		
Art. II-86*		
Title IV		
Art. II-87*		
Art. II-88*		
Art. II-89*		
Art. II-90*		
Art. II-91*		
Art. II-92*		
Art. II-93*		
Art. II-94*		
Art. II-95*		
Art. II-96*		
Art. II-97*		
Art. II-98*		

Title V		
Art. II-99*		
Art. II-100*		
Art. II-101*		
Art. II-102*		
Art. II-103*		
Art. II-104*		
Art. II-105*		
Art. II-106*		
Title VI		
Art. II-107*		
Art. II-108*		
Art. II-109*		
Art. II-110*		
Title VII		
Art. II-111*		
Art. II-112*		
Art. II-113*		
Art. II-114*		
Part III		
Title I		
Art. III-115	Art. 3 TEU	Art. C TEU
Art. III-116	Art. 3(2) TEC	Art. 3 TEC
Art. III-117*		
Art. III-118*		
Art. III-119	Art. 6 TEC	Art. 12 TEC
Art. III-120	Art. 153(2) TEC	Art. 129a TEC
Art. III-121	Protocol on protection and welfare of animals	Protocol on protection and welfare of animals
Art. III-122	Art. 16 TEC	Art. 7d TEC
Title II		
Art. III-123	Art. 12 TEC	Art. 6 TEC
Art. III-124	Art. 13 TEC	Art. 6a TEC
Art. III-125	Art. 18 (2-3) TEC	Art. 8a TEC
Art. III-126	Art. 19 TEC	Art. 8b TEC
Art. III-127	Art. 20 TEC	Art. 8c TEC
Art. III-128	Art. 21 TEC	Art. 8d TEC
Art. III-129	Art. 22 TEC	Art. 8e TEC
Title III		
Art. III-130	Art. 14, 15 TEC	Art. 7a, 7c TEC
Art. III-131	Art. 297 TEC	Art. 224 TEC
Art. III-132	Art. 298 TEC	Art. 225 TEC
Art. III-133	Art. 39 TEC	Art. 48 TEC
Art. III-134	Art. 40 TEC	Art. 49 TEC
Art. III-135	Art. 41 TEC	Art. 50 TEC
Art. III-136	Art. 42 TEC	Art. 51 TEC
Art. III-137	Art. 43 TEC	Art. 52 TEC
Art. III-138	Art. 44 TEC	Art. 54 TEC

Art. III-139	Art. 45 TEC	Art. 55 TEC
Art. III-140	Art. 46 TEC	Art. 56 TEC
Art. III-141	Art. 47 TEC	Art. 57 TEC
Art. III-142	Art. 48 TEC	Art. 58 TEC
Art. III-143	Art. 294 TEC	Art. 221 TEC
Art. III-144	Art. 49 TEC	Art. 59 TEC
Art. III-145	Art. 50 TEC	Art. 60 TEC
Art. III-146	Art. 51 TEC	Art. 61 TEC
Art. III-147	Art. 52 TEC	Art. 63 TEC
Art. III-148	Art. 53 TEC	Art. 64 TEC
Art. III-149	Art. 54 TEC	Art. 65 TEC
Art. III-150	Art. 55 TEC	Art. 66 TEC
Art. III-151	Art. 23 TEC Art. 24 TEC Art. 25 TEC Art. 26 TEC Art. 27 TEC	Art. 9 TEC Art. 10 TEC Art. 12 TEC Art. 28 TEC Art. 29 TEC
Art. III-152	Art. 135 TEC	Art. 116 TEC
Art. III-153	Art. 28, 29 TEC	Art. 30, 34 TEC
Art. III-154	Art. 30 TEC	Art. 36 TEC
Art. III-155	Art. 31 TEC	Art. 37 TEC
Art. III-156	Art. 56 TEC	Art. 73b TEC
Art. III-157	Art. 57 TEC	Art. 73c TEC
Art. III-158	Art. 58 TEC	Art. 73d TEC
Art. III-159	Art. 59 TEC	Art. 73f TEC
Art. III-160(*)	Art. 60 TEC	Art. 73g TEC
Art. III-161	Art. 81 TEC	Art. 85 TEC
Art. III-162	Art. 82 TEC	Art. 86 TEC
Art. III-163	Art. 83 TEC	Art. 87 TEC
Art. III-164	Art. 84 TEC	Art. 88 TEC
Art. III-165	Art. 85 TEC	Art. 89 TEC
Art. III-166	Art. 86 TEC	Art. 90 TEC
Art. III-167	Art. 87 TEC	Art. 92 TEC
Art. III-168	Art. 88 TEC	Art. 93 TEC
Art. III-169	Art. 89 TEC	Art. 94 TEC
Art. III-170	Art. 90 - 92 TEC	Art. 95, 96, 98 TEC
Art. III-171	Art. 93 TEC	Art. 99 TEC
Art. III-172	Art. 95 TEC	Art. 100a TEC
Art. III-173	Art. 94 TEC	Art. 100 TEC
Art. III-174	Art. 96 TEC	Art. 101 TEC
Art. III-175	Art. 97 TEC	Art. 102 TEC
Art. III-176*		
Art. III-177	Art. 4 TEC	Art. 3a TEC
Art. III-178	Art. 98 TEC	Art. 102a TEC
Art. III-179	Art. 99 TEC	Art. 103 TEC
Art. III-180	Art. 100 TEC	Art. 103a TEC
Art. III-181	Art. 101 TEC	Art. 104 TEC
Art. III-182	Art. 102 TEC	Art. 104a TEC

Art. III-183	Art. 103 TEC	Art. 104b TEC
Art. III-184	Art. 104 TEC	Art. 104c TEC
Art. III-185	Art. 105 TEC	Art. 105 TEC
Art. III-186	Art. 106 TEC	Art. 105a TEC
Art. III-187	Art. 107 TEC	Art. 106 TEC
Art. III-188	Art. 108 TEC	Art. 107 TEC
Art. III-189	Art. 109 TEC	Art. 108 TEC
Art. III-190	Art. 110 TEC	Art. 108a TEC
Art. III-191	Art. 123(4) TEC	Art. 109(l) TEC
Art. III-192	Art. 114(2-4) TEC	Art. 109c (2-4) TEC
Art. III-193	Art. 115 TEC	Art. 109d TEC
Art. III-194*		
Art. III-195*		
Art. III-196*		
Art. III-197	Art. 122(1), (3-5) TEC	Art 109k (1), (3-5) TEC
Art. III-198	Art. 121(1-2), 122(2), 123(5) TEC	Art. 109j (1), 109k(2), 109 l (5) TEC
Art. III-199	Art. 123(3), 117(2) TEC	Art. 109f (2), 109 l (3) TEC
Art. III-200	Art. 124(1) TEC	Art. 109m(1) TEC
Art. III-201	Art. 119 TEC	Art 109h TEC
Art. III-202	Art. 120 TEC	Art. 109i TEC
Art. III-203	Art. 125 TEC	Art. 109n TEC
Art. III-204	Art. 126 TEC	Art. 109o TEC
Art. III-205	Art. 127 TEC	Art. 109p TEC
Art. III-206	Art. 128 TEC	Art. 109q TEC
Art. III-207	Art. 129 TEC	Art. 109r TEC
Art. III-208	Art. 130 TEC	Art. 109s TEC
Art. III-209	Art. 136 TEC	Art. 117 TEC
Art. III-210	Art. 137 TEC	Art. 118 TEC
Art. III-211	Art. 138 TEC	Art. 118a TEC
Art. III-212	Art. 139 TEC	Art. 118b TEC
Art. III-213	Art. 140 TEC	Art. 118c TEC
Art. III-214	Art. 141 TEC	Art. 119 TEC
Art. III-215	Art. 142 TEC	Art. 119a TEC
Art. III-216	Art. 143 TEC	Art. 120 TEC
Art. III-217	Art. 144 TEC	Art. 121 TEC
Art. III-218	Art. 145 TEC	Art. 122 TEC
Art. III-219	Art. 146 - 148 TEC	Art. 123 - 125 TEC
Art. III-220	Art. 158 TEC	Art. 130a TEC
Art. III-221	Art. 159 TEC	Art. 130b TEC
Art. III-222	Art. 160 TEC	Art. 130c TEC
Art. III-223	Art. 161 TEC	Art. 130d TEC
Art. III-224	Art. 162 TEC	Art. 130e TEC
Art. III-225	Art. 32(1, 2.sentence) TEC	Art. 38 TEC
Art. III-226	Art. 32 TEC	Art. K.4 TEC
Art. III-227	Art. 33 TEC	Art. K.5 TEC
Art. III-228	Art. 34 TEC	Art. K.6 TEC
Art. III-229	Art. 35 TEC	Art. K.7 TEC

Art. III-230	Art. 36 TEC	Art. K.8 TEC
Art. III-231	Art. 37 TEC	Art. K.9 TEC
Art. III-232	Art. 38 TEC	Art. K.10 TEC
Art. III-233	Art. 174 TEC	Art. 130r TEC
Art. III-234	Art. 175, 176 TEC	Art. 130s, 130t TEC
Art. III-235	Art. 153(1, 3-5) TEC	Art. 129a TEC
Art. III-236	Art. 70, 71 TEC	Art. 74, 75 TEC
Art. III-237	Art. 72 TEC	Art. 76 TEC
Art. III-238	Art. 73 TEC	Art. 77 TEC
Art. III-239	Art. 74 TEC	Art. 78 TEC
Art. III-240	Art. 75 TEC	Art. 79 TEC
Art. III-241	Art. 76 TEC	Art. 80 TEC
Art. III-242	Art. 77 TEC	Art. 81 TEC
Art. III-243	Art. 78 TEC	Art. 82 TEC
Art. III-244	Art. 79 TEC	Art. 83 TEC
Art. III-245	Art. 80 TEC	Art. 84 TEC
Art. III-246	Art. 154 TEC	Art. 129b TEC
Art. III-247	Art. 155, 156 TEC	Art. 129c, 129d TEC
Art. III-248	Art. 163 TEC	Art. 130f TEC
Art. III-249	Art. 164 TEC	Art. 130g TEC
Art. III-250	Art. 165 TEC	Art. 130h TEC
Art. III-251	Art. 166 TEC	Art. 130i TEC
Art. III-252	Art. 167 - 170, 172 (2.sentence) TEC	Art. 130j, 130k, 130l, 130m, 130o 2. TEC
Art. III-253	Art. 171, 172 (1.sentence) TEC	Art. 130n, 130o TEC
Art. III-254*		
Art. III-255	Art. 173 TEC	Art. 173 TEC
Art. III-256(*)		
Art. III-257	Art. 29 TEU, 61 TEC	Art. K.1 TEU, 73i TEC
Art. III-258*		
Art. III-259*		
Art. III-260*		
Art. III-261	Art. 36 TEU	Art. K.8 TEU
Art. III-262	Art. 33 TEU, 64(1) TEC	Art. K.5 TEU, 73 l(1) TEC
Art. III-263	Art. 66 TEC	Art. 73n TEC
Art. III-264*		
Art. III-265	Art. 62 TEC	Art. 73j TEC
Art. III-266	Art. 63 (points 1-2), 64(2) TEC	Art. 73k (1-2), 73 l TEC
Art. III-267	Art. 63 (points 3-4) TEC	Art. 73k (3-4) TEC
Art. III-268*		
Art. III-269	Art. 65 TEC	Art. 73m TEC
Art. III-270	Art. 31(1) (a - d) TEU	Art. K.3 TEU
Art. III-271(*)	Art. 31(1) (e) TEU	Art. K.3 TEU
Art. III-272*		
Art. III-273	Art. 31(2) TEU	Art. K.3 TEU
Art. III-274*		
Art. III-275	Art. 30(1) TEU	Art. K.2 TEU

Art. III-276	Art. 30(2) TEU	Art. K.2 TEU
Art. III-277	Art. 32 TEU	Art. K.4 TEU
Art. III-278	Art. 152 TEC	Art. 129 TEC
Art. III-279	Art. 157 TEC	Art. 130 TEC
Art. III-280	Art. 151 TEC	Art. 128 TEC
Art. III-281*		
Art. III-282	Art. 149 TEC	Art. 126 TEC
Art. III-283	Art. 150 TEC	Art. 127 TEC
Art. III-284*		
Art. III-285*		
Title IV		
Art. III-286	Art. 182, 188 TEC	Art. 131, 136a TEC
Art. III-287	Art. 183 TEC	Art. 132 TEC
Art. III-288	Art. 184 TEC	Art. 133 TEC
Art. III-289	Art. 185 TEC	Art. 134 TEC
Art. III-290	Art. 186 TEC	Art. 135 TEC
Art. III-291	Art. 187 TEC	Art. 136 TEC
Title V		
Art. III-292	Art. 3, (2. sentence), 11 TEU	Art. C, J (1) TEU
Art. III-293	Art. 13 (2) TEU	Art. J.3 (1) TEU
Art. III-294	Art. 11, 12 TEU	Art. J.1, J.2 TEU
Art. III-295	Art. 13 TEU	Art. J.3 TEU
Art. III-296	Art. 18(1-2), 26 TEU	Art. J.8, J.16 TEU
Art. III-297	Art. 14 TEU	Art. J.4 TEU
Art. III-298	Art. 15 TEU	Art. J.5 TEU
Art. III-299	Art. 22 TEU	Art. J.12 TEU
Art. III-300	Art. 23 TUE	Art. J.13 TEU
Art. III-301*		
Art. III-302	Art. 18(5) TEU	Art. J.8 TEU
Art. III-303	Art. 24 TEU	Art. J.14 TEU
Art. III-304	Art. 21 TEU	Art. J.11 TEU
Art. III-305	Art. 19 TEU	Art. J.9 TEU
Art. III-306	Art. 20 TEU	Art. J.20 TEU
Art. III-307	Art. 25 TEU	Art. J.15 TEU
Art. III-308	Art. 47 TEU	Art. M TEU
Art. III-309	Art. 17(2) TEU	Art. J.7 TEU
Art. III-310*		
Art. III-311*		
Art. III-312*		
Art. III-313	Art. 28(2, 5) TEU	Art. J.18 TEU
Art. III-314	Art. 131 TEC	Art. 110 TEC
Art. III-315	Art. 133 TEC	Art. 113 TEC
Art. III-316	Art. 177 TEC	Art. 130u TEC
Art. III-317	Art. 179, 181 TEC	Art. 130w, 130y TEC
Art. III-318	Art. 180, 181 TEC	Art. 130x, 130 y TEC
Art. III-319	Art. 181a TEC	Art. 130y TEC
Art. III-320*		
Art. III-321*		

Art. III-322	Art. 301 TEC	Art. 228a TEC
Art. III-323	Art. 24 TEU Art. 300(7) TEC	Art. J.14 TEU Art. 228 TEC
Art. III-324	Art. 310 TEC	Art. 238 TEC
Art. III-325(*)	Art. 300 TEC, 24 TEU	Art. 228 TEC, J.14 TEU
Art. III-326	Art. 111(1-3, 5) TEC	Art. 109 (1-3, 5) TEC
Art. III-327	Art. 302 - 304 TEC	Art. 229 – 231 TEC
Art. III-328*		
Art. III-329*		
Title VI		
Art. III-330	Art. 190(4-5) TEC	Art. 253 TEC
Art. III-331	Art. 191 (point 2) TEC	Art. 138a TEC
Art. III-332	Art. 192 TEC	Art. 138b TEC
Art. III-333	Art. 193 TEC	Art. 138c TEC
Art. III-334	Art. 194 TEC	Art. 138d TEC
Art. III-335	Art. 195 TEC	Art. 138e TEC
Art. III-336	Art. 196 TEC	Art. 139 TEC
Art. III-337	Art. 197, 200 TEC	Art. 140, 143 TEC
Art. III-338	Art. 198 TEC	Art. 141 TEC
Art. III-339	Art. 199 TEC	Art. 142 TEC
Art. III-340	Art. 201 TEC	Art. 144 TEC
Art. III-341*		
Art. III-342	Art. 204 TEC	Art. 147 TEC
Art. III-343	Art. 205(1, 3), 206 TEC	Art. 148, 150 TEC
Art. III-344	Art. 207 TEC	Art. 151 TEC
Art. III-345	Art. 208 TEC	Art. 152 TEC
Art. III-346	Art. 209 TEC	Art. 153 TEC
Art. III-347	Art. 213(2) TEC	Art. 157 (2) TEC
Art. III-348	Art. 215 TEC	Art. 159 TEC
Art. III-349	Art. 216 TEC	Art. 160 TEC
Art. III-350	Art. 217 TEC	Art. 161 TEC
Art. III-351	Art. 219 TEC	Art. 163 TEC
Art. III-352	Art. 218(2), 212 TEC	Art. 156, 162 (2) TEC
Art. III-353	Art. 221 TEC	Art. 165 TEC
Art. III-354	Art. 222 TEC	Art. 222 TEC
Art. III-355	Art. 223 TEC	Art. 167 TEC
Art. III-356	Art. 224 TEC	Art. 168 TEC
Art. III-357*		
Art. III-358	Art. 225 TEC	Art. 168a TEC
Art. III-359	Art. 220 (2. sentence), 225a TEC	Art. 164 TEC
Art. III-360	Art. 226 TEC	Art. 169 TEC
Art. III-361	Art. 227 TEC	Art. 170 TEC
Art. III-362	Art. 228 TEC	Art. 171 TEC
Art. III-363	Art. 229 TEC	Art. 172 TEC
Art. III-364	Art. 229a TEC	
Art. III-365	Art. 230 TEC	Art. 173 TEC
Art. III-366	Art. 231 TEC	Art. 174 TEC

Art. III-367	Art. 232 TEC	Art. 175 TEC
Art. III-368	Art. 233 TEC	Art. 176 TEC
Art. III-369	Art. 234 TEC	Art. 177 TEC
Art. III-370	Art. 235 TEC	Art. 178 TEC
Art. III-371	Art. 46 <i>e</i> TEU	Art. L TEU
Art. III-372	Art. 236 TEC	Art. 179 TEC
Art. III-373	Art. 237 TEC	Art. 180 TEC
Art. III-374	Art. 238 TEC	Art. 181 TEC
Art. III-375	Art. 240, 292, 239 TEC	Art. 182, 183, 219 TEC
Art. III-376	Art. 46 TEU	Art. L, M TEU
Art. III-377	Art. 35(5) TEU	Art. K.7 TEU
Art. III-378	Art. 241 TEC	Art. 184 TEC
Art. III-379	Art. 242, 243 TEC	Art. 185, 186 TEC
Art. III-380	Art. 244 TEC	Art. 244 TEC
Art. III-381	Art. 245 TEC	Art. 245 TEC
Art. III-382	Art. 112 TEC	Art. 109a TEC
Art. III-383	Art. 113 TEC	Art. 109b TEC
Art. III-384	Art. 248 TEC	Art. 188c TEC
Art. III-385	Art. 247(2-7) TEC	Art. 188b (2-7) TEC
Art. III-386	Art. 263 TEC	Art. 198a TEC
Art. III-387	Art. 264 TEC	Art. 198b TEC
Art. III-388	Art. 265 TEC	Art. 198c TEC
Art. III-389	Art. 258 (1-2) TEC	Art. 194 TEC
Art. III-390	Art. 259 TEC	Art. 195 TEC
Art. III-391	Art. 260 TEC	Art. 196 TEC
Art. III-392	Art. 262 TEC	Art. 198 TEC
Art. III-393	Art. 266 TEC	Art. 198d TEC
Art. III-394	Art. 267 TEC	Art. 198e TEC
Art. III-395	Art. 250 TEC	Art. 189a TEC
Art. III-396	Art. 251 TEC	Art. 189b TEC
Art. III-397 (*)	Art. 218(1) TEC	Art. 162(1) TEC
Art. III-398*		
Art. III-399	Art. 255 TEC	Art. 191a TEC
Art. III-400	Art. 210, 247(8), 258 (4. sentence) TEC	Art. 154, 188b (8), 194 TEC
Art. III-401	Art. 256 TEC	Art. 192 TEC
Art. III-402*		
Art. III-403	Art. 272(1) TEC	Art. 203 TEC
Art. III-404	Art. 272 TEC	Art. 203 TEC
Art. III-405	Art. 273 TEC	Art. 204 TEC
Art. III-406	Art. 271 TEC	Art. 202 TEC
Art. III-407	Art. 274 TEC	Art. 205 TEC
Art. III-408	Art. 275 TEC	Art. 205a TEC
Art. III-409	Art. 276 TEC	Art. 206 TEC
Art. III-410	Art. 277 TEC	Art. 207 TEC
Art. III-411	Art. 278 TEC	Art. 208 TEC
Art. III-412	Art. 279 TEC	Art. 209 TEC
Art. III-413*		

Art. III-414*		
Art. III-415	Art. 280 TEC	Art. 209a TEC
Art. III-416	Art. 43 b, c, e, f TEU, 11(3) TEC	Art. K.15, J.1 TEU
Art. III-417	Art. 43 h, 44(2, last sentence) TEU	Art. K.15, K.16 TEU
Art. III-418(*)	Art. 43 b TEU	Art. K.15 TEU
Art. III-419	Art. 40a, 27 c TEU, 11(1-2) TEC	** 5a TEC
Art. III-420	Art. 40b, 27e TEU, 11a TEC	
Art. III-421	Art. 44a TEU	
Art. III-422*		
Art. III-423	Art. 45 TEU	Art. K.17 TEU
Title VII		
Art. III-424	Art. 299(2), (2. sentence, 3) TEC	Art. 227 TEC
Art. III-425	Art. 295 TEC	Art. 222 TEC
Art. III-426	Art. 282 TEC	Art. 211 TEC
Art. III-427	Art. 283 TEC	Art. 212 TEC
Art. III-428	Art. 284 TEC	Art. 213 TEC
Art. III-429	Art. 285 TEC	Art. 213a TEC
Art. III-430	Art. 287 TEC	Art. 214 TEC
Art. III-431	Art. 288 TEC	Art. 215 TEC
Art. III-432	Art. 289 TEC	Art. 216 TEC
Art. III-433	Art. 290 TEC	Art. 217 TEC
Art. III-434	Art. 291 TEC	Art. 218 TEC
Art. III-435	Art. 307 TEC	Art. 234 TEC
Art. III-436	Art. 296 TEC	Art. 223 TEC
Part IV		
Art. IV-437*		
Art. IV-438*		
Art. IV-439*		
Art. IV-440	Art. 299(1, 3-6) TEC	Art. 227 TEC
Art. IV-441	Art. 306 TEC	Art. 233 TEC
Art. IV-442	Art. 311 TEC	Art. 239 TEC
Art. IV-443	Art. 48 TEU	Art. 39 TEC
Art. IV-444*		
Art. IV-445*		
Art. IV-446	Art. 51 TEU, 312 TEC	Art. Q TEU, 240 TEC
Art. IV-447	Art. 52 TEU, 313 TEC	Art. R TEU, 247 TEC
Art. IV-448	Art. 53 TEU, 314 TEC	Art. S TEU, 248 TEC

**CONSOLIDATED VERSION
OF THE TREATY
ON EUROPEAN UNION**

CONTENTS

I. TEXT OF THE TREATY

	<i>Page</i>
Preamble	9
TITLE I — Common provisions	10
TITLE II — Provisions amending the Treaty establishing the European Economic Community with a view to establishing the European Community	13
TITLE III — Provisions amending the Treaty establishing the European Coal and Steel Community	13
TITLE IV — Provisions amending the Treaty establishing the European Atomic Energy Community	13
TITLE V — Provisions on a common foreign and security policy	13
TITLE VI — Provisions on police and judicial cooperation in criminal matters.....	21
TITLE VII — Provisions on enhanced cooperation	28
TITLE VIII — Final provisions	30

II. PROTOCOLS (text not reproduced, with the exception of the four Protocols adopted by the Nice Intergovernmental Conference (see the end of this publication)) (*)

Protocol annexed to the Treaty on European Union

— Protocol (1) on Article 17 of the Treaty on European Union (1997)

Protocols annexed to the Treaty on European Union and to the Treaty establishing the European Community

— Protocol (2) integrating the Schengen *acquis* into the framework of the European Union (1997)

— Protocol (3) on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland (1997)

— Protocol (4) on the position of the United Kingdom and Ireland (1997)

— Protocol (5) on the position of Denmark (1997)

Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community

— Protocol (6) on the Statute of the Court of Justice (2001) (text reproduced hereafter)

— Protocol (7) annexed to the Treaty on European Union and to the Treaties establishing the European Communities (1992)

— Protocol (8) on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol (1997)

— Protocol (9) on the role of national parliaments in the European Union (1997)

— Protocol (10) on the enlargement of the European Union (2001) (text reproduced hereafter)

(*) For the text of the Protocols adopted at Intergovernmental Conferences prior to Nice, the reader is requested to refer to pages 355 et seq. of the *Selected Instruments taken from the Treaties*, book I, volume I, 1999 edition, published by the Office for Official Publications of the European Communities, ISBN 92-824-1661-5.

HIS MAJESTY THE KING OF THE BELGIANS, HER MAJESTY THE QUEEN OF DENMARK, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MAJESTY THE KING OF SPAIN, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF IRELAND, THE PRESIDENT OF THE ITALIAN REPUBLIC, HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE PRESIDENT OF THE PORTUGUESE REPUBLIC, HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

RESOLVED to mark a new stage in the process of European integration undertaken with the establishment of the European Communities,

RECALLING the historic importance of the ending of the division of the European continent and the need to create firm bases for the construction of the future Europe,

CONFIRMING their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law,

CONFIRMING their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers,

DESIRING to deepen the solidarity between their peoples while respecting their history, their culture and their traditions,

DESIRING to enhance further the democratic and efficient functioning of the institutions so as to enable them better to carry out, within a single institutional framework, the tasks entrusted to them,

RESOLVED to achieve the strengthening and the convergence of their economies and to establish an economic and monetary union including, in accordance with the provisions of this Treaty, a single and stable currency,

DETERMINED to promote economic and social progress for their peoples, taking into account the principle of sustainable development and within the context of the accomplishment of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields,

RESOLVED to establish a citizenship common to nationals of their countries,

RESOLVED to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 17, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world,

RESOLVED to facilitate the free movement of persons, while ensuring the safety and security of their peoples, by establishing an area of freedom, security and justice, in accordance with the provisions of this Treaty,

RESOLVED to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity,

IN VIEW of further steps to be taken in order to advance European integration,

HAVE DECIDED to establish a European Union and to this end have designated as their Plenipotentiaries:

(List of plenipotentiaries not reproduced)

WHO, having exchanged their full powers, found in good and due form, have agreed as follows.

TITLE I

COMMON PROVISIONS

Article 1

By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN UNION, hereinafter called 'the Union'.

This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

The Union shall be founded on the European Communities, supplemented by the policies and forms of cooperation established by this Treaty. Its task shall be to organise, in a manner demonstrating consistency and solidarity, relations between the Member States and between their peoples.

Article 2

The Union shall set itself the following objectives:

- to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of this Treaty,
- to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence, in accordance with the provisions of Article 17,
- to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union,

- to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime,
- to maintain in full the *acquis communautaire* and build on it with a view to considering to what extent the policies and forms of cooperation introduced by this Treaty may need to be revised with the aim of ensuring the effectiveness of the mechanisms and the institutions of the Community.

The objectives of the Union shall be achieved as provided in this Treaty and in accordance with the conditions and the timetable set out therein while respecting the principle of subsidiarity as defined in Article 5 of the Treaty establishing the European Community.

Article 3

The Union shall be served by a single institutional framework which shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives while respecting and building upon the *acquis communautaire*.

The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies. The Council and the Commission shall be responsible for ensuring such consistency and shall cooperate to this end. They shall ensure the implementation of these policies, each in accordance with its respective powers.

Article 4

The European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof.

The European Council shall bring together the Heads of State or Government of the Member States and the President of the Commission. They shall be assisted by the Ministers for Foreign Affairs of the Member States and by a Member of the Commission. The European Council shall meet at least twice a year, under the chairmanship of the Head of State or Government of the Member State which holds the Presidency of the Council.

The European Council shall submit to the European Parliament a report after each of its meetings and a yearly written report on the progress achieved by the Union.

Article 5

The European Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors shall exercise their powers under the conditions and for the purposes provided for, on the one hand, by the provisions of the Treaties establishing the European Communities and of the subsequent Treaties and Acts modifying and supplementing them and, on the other hand, by the other provisions of this Treaty.

Article 6

1. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.

3. The Union shall respect the national identities of its Member States.

4. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

Article 7 ()*

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of principles mentioned in Article 6(1), and address appropriate recommendations to that State. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The Council, meeting in the composition of the Heads of State or Government and acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1), after inviting the government of the Member State in question to submit its observations.

3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under this Treaty shall in any case continue to be binding on that State.

4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.

5. For the purposes of this Article, the Council shall act without taking into account the vote of the representative of the government of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2. A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community.

(*) Article amended by the Treaty of Nice.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.

6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.

TITLE II

PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY WITH A VIEW TO ESTABLISHING THE EUROPEAN COMMUNITY

Article 8

(not reproduced)

TITLE III

PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN COAL AND STEEL COMMUNITY

Article 9

(not reproduced)

TITLE IV

PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY

Article 10

(not reproduced)

TITLE V

PROVISIONS ON A COMMON FOREIGN AND SECURITY POLICY

Article 11

1. The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be:

- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter,
- to strengthen the security of the Union in all ways,

- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders,
- to promote international cooperation,
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

2. The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity.

The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.

The Council shall ensure that these principles are complied with.

Article 12

The Union shall pursue the objectives set out in Article 11 by:

- defining the principles of and general guidelines for the common foreign and security policy,
- deciding on common strategies,
- adopting joint actions,
- adopting common positions,
- strengthening systematic cooperation between Member States in the conduct of policy.

Article 13

1. The European Council shall define the principles of and general guidelines for the common foreign and security policy, including for matters with defence implications.

2. The European Council shall decide on common strategies to be implemented by the Union in areas where the Member States have important interests in common.

Common strategies shall set out their objectives, duration and the means to be made available by the Union and the Member States.

3. The Council shall take the decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines defined by the European Council.

The Council shall recommend common strategies to the European Council and shall implement them, in particular by adopting joint actions and common positions.

The Council shall ensure the unity, consistency and effectiveness of action by the Union.

Article 14

1. The Council shall adopt joint actions. Joint actions shall address specific situations where operational action by the Union is deemed to be required. They shall lay down their objectives, scope, the means to be made available to the Union, if necessary their duration, and the conditions for their implementation.
2. If there is a change in circumstances having a substantial effect on a question subject to joint action, the Council shall review the principles and objectives of that action and take the necessary decisions. As long as the Council has not acted, the joint action shall stand.
3. Joint actions shall commit the Member States in the positions they adopt and in the conduct of their activity.
4. The Council may request the Commission to submit to it any appropriate proposals relating to the common foreign and security policy to ensure the implementation of a joint action.
5. Whenever there is any plan to adopt a national position or take national action pursuant to a joint action, information shall be provided in time to allow, if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of Council decisions.
6. In cases of imperative need arising from changes in the situation and failing a Council decision, Member States may take the necessary measures as a matter of urgency having regard to the general objectives of the joint action. The Member State concerned shall inform the Council immediately of any such measures.
7. Should there be any major difficulties in implementing a joint action, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the joint action or impair its effectiveness.

Article 15

The Council shall adopt common positions. Common positions shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the common positions.

Article 16

Member States shall inform and consult one another within the Council on any matter of foreign and security policy of general interest in order to ensure that the Union's influence is exerted as effectively as possible by means of concerted and convergent action.

Article 17 ()*

1. The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.

The progressive framing of a common defence policy will be supported, as Member States consider appropriate, by cooperation between them in the field of armaments.

2. Questions referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking.

3. Decisions having defence implications dealt with under this Article shall be taken without prejudice to the policies and obligations referred to in paragraph 1, second subparagraph.

4. The provisions of this Article shall not prevent the development of closer cooperation between two or more Member States on a bilateral level, in the framework of the Western European Union (WEU) and NATO, provided such cooperation does not run counter to or impede that provided for in this title.

5. With a view to furthering the objectives of this Article, the provisions of this Article will be reviewed in accordance with Article 48.

Article 18

1. The Presidency shall represent the Union in matters coming within the common foreign and security policy.

2. The Presidency shall be responsible for the implementation of decisions taken under this title; in that capacity it shall in principle express the position of the Union in international organisations and international conferences.

3. The Presidency shall be assisted by the Secretary-General of the Council who shall exercise the function of High Representative for the common foreign and security policy.

4. The Commission shall be fully associated in the tasks referred to in paragraphs 1 and 2. The Presidency shall be assisted in those tasks if need be by the next Member State to hold the Presidency.

(*) Article amended by the Treaty of Nice.

5. The Council may, whenever it deems it necessary, appoint a special representative with a mandate in relation to particular policy issues.

Article 19

1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the common positions in such forums.

In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the common positions.

2. Without prejudice to paragraph 1 and Article 14(3), Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter informed of any matter of common interest.

Member States which are also members of the United Nations Security Council will concert and keep the other Member States fully informed. Member States which are permanent members of the Security Council will, in the execution of their functions, ensure the defence of the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.

Article 20

The diplomatic and consular missions of the Member States and the Commission delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that the common positions and joint actions adopted by the Council are complied with and implemented.

They shall step up cooperation by exchanging information, carrying out joint assessments and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community.

Article 21

The Presidency shall consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and shall ensure that the views of the European Parliament are duly taken into consideration. The European Parliament shall be kept regularly informed by the Presidency and the Commission of the development of the Union's foreign and security policy.

The European Parliament may ask questions of the Council or make recommendations to it. It shall hold an annual debate on progress in implementing the common foreign and security policy.

Article 22

1. Any Member State or the Commission may refer to the Council any question relating to the common foreign and security policy and may submit proposals to the Council.

2. In cases requiring a rapid decision, the Presidency, of its own motion, or at the request of the Commission or a Member State, shall convene an extraordinary Council meeting within 48 hours or, in an emergency, within a shorter period.

Article 23 ()*

1. Decisions under this title shall be taken by the Council acting unanimously. Abstentions by members present in person or represented shall not prevent the adoption of such decisions.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent more than one third of the votes weighted in accordance with Article 205(2) of the Treaty establishing the European Community, the decision shall not be adopted.

2. By derogation from the provisions of paragraph 1, the Council shall act by qualified majority:

- when adopting joint actions, common positions or taking any other decision on the basis of a common strategy,
- when adopting any decision implementing a joint action or a common position,
- when appointing a special representative in accordance with Article 18(5).

If a member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. The Council may, acting by a qualified majority, request that the matter be referred to the European Council for decision by unanimity.

The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community. For their adoption, decisions shall require at least 62 votes in favour, cast by at least 10 members (**).

This paragraph shall not apply to decisions having military or defence implications.

3. For procedural questions, the Council shall act by a majority of its members.

Article 24 ()*

1. When it is necessary to conclude an agreement with one or more States or international organisations in implementation of this title, the Council may authorise the Presidency, assisted by the Commission as appropriate, to open negotiations to that effect. Such agreements shall be concluded by the Council on a recommendation from the Presidency.

(*) Article amended by the Treaty of Nice.

(**) This subparagraph will be amended on 1 January 2005 in accordance with the Protocol on the enlargement of the European Union (see Annex).

2. The Council shall act unanimously when the agreement covers an issue for which unanimity is required for the adoption of internal decisions.
3. When the agreement is envisaged in order to implement a joint action or common position, the Council shall act by a qualified majority in accordance with Article 23(2).
4. The provisions of this Article shall also apply to matters falling under Title VI. When the agreement covers an issue for which a qualified majority is required for the adoption of internal decisions or measures, the Council shall act by a qualified majority in accordance with Article 34(3).
5. No agreement shall be binding on a Member State whose representative in the Council states that it has to comply with the requirements of its own constitutional procedure; the other members of the Council may agree that the agreement shall nevertheless apply provisionally.
6. Agreements concluded under the conditions set out by this Article shall be binding on the institutions of the Union.

Article 25 ()*

Without prejudice to Article 207 of the Treaty establishing the European Community, a Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the responsibility of the Presidency and the Commission.

Within the scope of this title, this Committee shall exercise, under the responsibility of the Council, political control and strategic direction of crisis management operations.

The Council may authorise the Committee, for the purpose and for the duration of a crisis management operation, as determined by the Council, to take the relevant decisions concerning the political control and strategic direction of the operation, without prejudice to Article 47.

Article 26

The Secretary-General of the Council, High Representative for the common foreign and security policy, shall assist the Council in matters coming within the scope of the common foreign and security policy, in particular through contributing to the formulation, preparation and implementation of policy decisions, and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting political dialogue with third parties.

Article 27

The Commission shall be fully associated with the work carried out in the common foreign and security policy field.

(*) Article amended by the Treaty of Nice.

Article 27a ()*

1. Enhanced cooperation in any of the areas referred to in this title shall be aimed at safeguarding the values and serving the interests of the Union as a whole by asserting its identity as a coherent force on the international scene. It shall respect:

- the principles, objectives, general guidelines and consistency of the common foreign and security policy and the decisions taken within the framework of that policy,
- the powers of the European Community, and
- consistency between all the Union's policies and its external activities.

2. Articles 11 to 27 and Articles 27b to 28 shall apply to the enhanced cooperation provided for in this article, save as otherwise provided in Article 27c and Articles 43 to 45.

Article 27b ()*

Enhanced cooperation pursuant to this title shall relate to implementation of a joint action or a common position. It shall not relate to matters having military or defence implications.

Article 27c ()*

Member States which intend to establish enhanced cooperation between themselves under Article 27b shall address a request to the Council to that effect.

The request shall be forwarded to the Commission and, for information, to the European Parliament. The Commission shall give its opinion particularly on whether the enhanced cooperation proposed is consistent with Union policies. Authorisation shall be granted by the Council, acting in accordance with the second and third subparagraphs of Article 23(2) and in compliance with Articles 43 to 45.

Article 27d ()*

Without prejudice to the powers of the Presidency and of the Commission, the Secretary-General of the Council, High Representative for the common foreign and security policy, shall in particular ensure that the European Parliament and all members of the Council are kept fully informed of the implementation of enhanced cooperation in the field of the common foreign and security policy.

Article 27e ()*

Any Member State which wishes to participate in enhanced cooperation established in accordance with Article 27c shall notify its intention to the Council and inform the Commission. The Commission shall give an opinion to the Council within three months of the date of receipt of that notification. Within four months of the date of receipt of that notification, the Council shall take a decision on the request and on such specific arrangements as it may deem necessary. The decision shall be deemed to be taken unless the Council, acting by a qualified majority within the same period, decides to hold it in abeyance; in that case, the Council shall state the reasons for its decision and set a deadline for re-examining it.

(*) Article inserted by the Treaty of Nice.

For the purposes of this Article, the Council shall act by a qualified majority. The qualified majority shall be defined as the same proportion of the weighted votes and the same proportion of the number of the members of the Council concerned as those laid down in the third subparagraph of Article 23(2).

Article 28

1. Articles 189, 190, 196 to 199, 203, 204, 206 to 209, 213 to 219, 255 and 290 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this title.

2. Administrative expenditure which the provisions relating to the areas referred to in this title entail for the institutions shall be charged to the budget of the European Communities.

3. Operating expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.

In cases where expenditure is not charged to the budget of the European Communities, it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article 23(1), second subparagraph, shall not be obliged to contribute to the financing thereof.

4. The budgetary procedure laid down in the Treaty establishing the European Community shall apply to the expenditure charged to the budget of the European Communities.

TITLE VI

PROVISIONS ON POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article 29 ()*

Without prejudice to the powers of the European Community, the Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters and by preventing and combating racism and xenophobia.

That objective shall be achieved by preventing and combating crime, organised or otherwise, in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud, through:

- closer cooperation between police forces, customs authorities and other competent authorities in the Member States, both directly and through the European Police Office (Europol), in accordance with the provisions of Articles 30 and 32,

(*) Article amended by the Treaty of Nice.

- closer cooperation between judicial and other competent authorities of the Member States including cooperation through the European Judicial Cooperation Unit ('Eurojust'), in accordance with the provisions of Articles 31 and 32,
- approximation, where necessary, of rules on criminal matters in the Member States, in accordance with the provisions of Article 31(e).

Article 30

1. Common action in the field of police cooperation shall include:
 - (a) operational cooperation between the competent authorities, including the police, customs and other specialised law enforcement services of the Member States in relation to the prevention, detection and investigation of criminal offences;
 - (b) the collection, storage, processing, analysis and exchange of relevant information, including information held by law enforcement services on reports on suspicious financial transactions, in particular through Europol, subject to appropriate provisions on the protection of personal data;
 - (c) cooperation and joint initiatives in training, the exchange of liaison officers, secondments, the use of equipment, and forensic research;
 - (d) the common evaluation of particular investigative techniques in relation to the detection of serious forms of organised crime.
2. The Council shall promote cooperation through Europol and shall in particular, within a period of five years after the date of entry into force of the Treaty of Amsterdam:
 - (a) enable Europol to facilitate and support the preparation, and to encourage the coordination and carrying out, of specific investigative actions by the competent authorities of the Member States, including operational actions of joint teams comprising representatives of Europol in a support capacity;
 - (b) adopt measures allowing Europol to ask the competent authorities of the Member States to conduct and coordinate their investigations in specific cases and to develop specific expertise which may be put at the disposal of Member States to assist them in investigating cases of organised crime;
 - (c) promote liaison arrangements between prosecuting/investigating officials specialising in the fight against organised crime in close cooperation with Europol;
 - (d) establish a research, documentation and statistical network on cross-border crime.

Article 31 ()*

1. Common action on judicial cooperation in criminal matters shall include:
 - (a) facilitating and accelerating cooperation between competent ministries and judicial or equivalent authorities of the Member States, including, where appropriate, cooperation through Eurojust, in relation to proceedings and the enforcement of decisions;
 - (b) facilitating extradition between Member States;
 - (c) ensuring compatibility in rules applicable in the Member States, as may be necessary to improve such cooperation;
 - (d) preventing conflicts of jurisdiction between Member States;
 - (e) progressively adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the fields of organised crime, terrorism and illicit drug trafficking.
2. The Council shall encourage cooperation through Eurojust by:
 - (a) enabling Eurojust to facilitate proper coordination between Member States' national prosecuting authorities;
 - (b) promoting support by Eurojust for criminal investigations in cases of serious cross-border crime, particularly in the case of organised crime, taking account, in particular, of analyses carried out by Europol;
 - (c) facilitating close cooperation between Eurojust and the European Judicial Network, particularly, in order to facilitate the execution of letters rogatory and the implementation of extradition requests.

Article 32

The Council shall lay down the conditions and limitations under which the competent authorities referred to in Articles 30 and 31 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State.

Article 33

This title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

(*) Article amended by the Treaty of Nice.

Article 34

1. In the areas referred to in this title, Member States shall inform and consult one another within the Council with a view to coordinating their action. To that end, they shall establish collaboration between the relevant departments of their administrations.

2. The Council shall take measures and promote cooperation, using the appropriate form and procedures as set out in this title, contributing to the pursuit of the objectives of the Union. To that end, acting unanimously on the initiative of any Member State or of the Commission, the Council may:

- (a) adopt common positions defining the approach of the Union to a particular matter;
- (b) adopt framework decisions for the purpose of approximation of the laws and regulations of the Member States. Framework decisions shall be binding upon the Member States as to the result to be achieved but shall leave to the national authorities the choice of form and methods. They shall not entail direct effect;
- (c) adopt decisions for any other purpose consistent with the objectives of this title, excluding any approximation of the laws and regulations of the Member States. These decisions shall be binding and shall not entail direct effect; the Council, acting by a qualified majority, shall adopt measures necessary to implement those decisions at the level of the Union;
- (d) establish conventions which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements. Member States shall begin the procedures applicable within a time limit to be set by the Council.

Unless they provide otherwise, conventions shall, once adopted by at least half of the Member States, enter into force for those Member States. Measures implementing conventions shall be adopted within the Council by a majority of two thirds of the Contracting Parties.

3. (*) Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 205(2) of the Treaty establishing the European Community, and for their adoption acts of the Council shall require at least 62 votes in favour, cast by at least 10 members.

4. For procedural questions, the Council shall act by a majority of its members.

Article 35

1. The Court of Justice of the European Communities shall have jurisdiction, subject to the conditions laid down in this article, to give preliminary rulings on the validity and interpretation of framework decisions and decisions, on the interpretation of conventions established under this title and on the validity and interpretation of the measures implementing them.

(*) This paragraph will be amended on 1 January 2005, in accordance with the Protocol on the enlargement of the European Union (see Annex).

2. By a declaration made at the time of signature of the Treaty of Amsterdam or at any time thereafter, any Member State shall be able to accept the jurisdiction of the Court of Justice to give preliminary rulings as specified in paragraph 1.

3. A Member State making a declaration pursuant to paragraph 2 shall specify that either:

- (a) any court or tribunal of that State against whose decisions there is no judicial remedy under national law may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment; or
- (b) any court or tribunal of that State may request the Court of Justice to give a preliminary ruling on a question raised in a case pending before it and concerning the validity or interpretation of an act referred to in paragraph 1 if that court or tribunal considers that a decision on the question is necessary to enable it to give judgment.

4. Any Member State, whether or not it has made a declaration pursuant to paragraph 2, shall be entitled to submit statements of case or written observations to the Court in cases which arise under paragraph 1.

5. The Court of Justice shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

6. The Court of Justice shall have jurisdiction to review the legality of framework decisions and decisions in actions brought by a Member State or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The proceedings provided for in this paragraph shall be instituted within two months of the publication of the measure.

7. The Court of Justice shall have jurisdiction to rule on any dispute between Member States regarding the interpretation or the application of acts adopted under Article 34(2) whenever such dispute cannot be settled by the Council within six months of its being referred to the Council by one of its members. The Court shall also have jurisdiction to rule on any dispute between Member States and the Commission regarding the interpretation or the application of conventions established under Article 34(2)(d).

Article 36

1. A Coordinating Committee shall be set up consisting of senior officials. In addition to its coordinating role, it shall be the task of the Committee to:

- give opinions for the attention of the Council, either at the Council's request or on its own initiative,

— contribute, without prejudice to Article 207 of the Treaty establishing the European Community, to the preparation of the Council's discussions in the areas referred to in Article 29.

2. The Commission shall be fully associated with the work in the areas referred to in this title.

Article 37

Within international organisations and at international conferences in which they take part, Member States shall defend the common positions adopted under the provisions of this title.

Articles 18 and 19 shall apply as appropriate to matters falling under this title.

Article 38

Agreements referred to in Article 24 may cover matters falling under this title.

Article 39

1. The Council shall consult the European Parliament before adopting any measure referred to in Article 34(2)(b), (c) and (d). The European Parliament shall deliver its opinion within a time limit which the Council may lay down, which shall not be less than three months. In the absence of an opinion within that time limit, the Council may act.

2. The Presidency and the Commission shall regularly inform the European Parliament of discussions in the areas covered by this title.

3. The European Parliament may ask questions of the Council or make recommendations to it. Each year, it shall hold a debate on the progress made in the areas referred to in this title.

Article 40 ()*

1. Enhanced cooperation in any of the areas referred to in this title shall have the aim of enabling the Union to develop more rapidly into an area of freedom, security and justice, while respecting the powers of the European Community and the objectives laid down in this title.

2. Articles 29 to 39 and Articles 40a to 41 shall apply to the enhanced cooperation provided for by this article, save as otherwise provided in Article 40a and in Articles 43 to 45.

3. The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice and the exercise of those powers shall apply to this article and to Articles 40a and 40b.

(*) Article amended by the Treaty of Nice.

Article 40a ()*

1. Member States which intend to establish enhanced cooperation between themselves under Article 40 shall address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so. Those Member States may then submit an initiative to the Council designed to obtain authorisation for the enhanced cooperation concerned.

2. The authorisation referred to in paragraph 1 shall be granted, in compliance with Articles 43 to 45, by the Council, acting by a qualified majority, on a proposal from the Commission or on the initiative of at least eight Member States, and after consulting the European Parliament. The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community.

A member of the Council may request that the matter be referred to the European Council. After that matter has been raised before the European Council, the Council may act in accordance with the first subparagraph of this paragraph.

Article 40b ()*

Any Member State which wishes to participate in enhanced cooperation established in accordance with Article 40a shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of the date of receipt of that notification, possibly accompanied by a recommendation for such specific arrangements as it may deem necessary for that Member State to become a party to the cooperation in question. The Council shall take a decision on the request within four months of the date of receipt of that notification. The decision shall be deemed to be taken unless the Council, acting by a qualified majority within the same period, decides to hold it in abeyance; in that case, the Council shall state the reasons for its decision and set a deadline for re-examining it.

For the purposes of this Article, the Council shall act under the conditions set out in Article 44(1).

Article 41

1. Articles 189, 190, 195, 196 to 199, 203, 204, 205(3), 206 to 209, 213 to 219, 255 and 290 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this title.

2. Administrative expenditure which the provisions relating to the areas referred to in this title entail for the institutions shall be charged to the budget of the European Communities.

3. Operating expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except where the Council acting unanimously decides otherwise. In cases where expenditure is not charged to the budget of the European Communities, it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise.

4. The budgetary procedure laid down in the Treaty establishing the European Community shall apply to the expenditure charged to the budget of the European Communities.

(*) Article inserted by the Treaty of Nice.

Article 42

The Council, acting unanimously on the initiative of the Commission or a Member State, and after consulting the European Parliament, may decide that action in areas referred to in Article 29 shall fall under Title IV of the Treaty establishing the European Community, and at the same time determine the relevant voting conditions relating to it. It shall recommend the Member States to adopt that decision in accordance with their respective constitutional requirements.

TITLE VII

PROVISIONS ON ENHANCED COOPERATION

Article 43 (*)

Member States which intend to establish enhanced cooperation between themselves may make use of the institutions, procedures and mechanisms laid down by this Treaty and by the Treaty establishing the European Community provided that the proposed cooperation:

- (a) is aimed at furthering the objectives of the Union and of the Community, at protecting and serving their interests and at reinforcing their process of integration;
- (b) respects the said Treaties and the single institutional framework of the Union;
- (c) respects the *acquis communautaire* and the measures adopted under the other provisions of the said Treaties;
- (d) remains within the limits of the powers of the Union or of the Community and does not concern the areas which fall within the exclusive competence of the Community;
- (e) does not undermine the internal market as defined in Article 14(2) of the Treaty establishing the European Community, or the economic and social cohesion established in accordance with Title XVII of that Treaty;
- (f) does not constitute a barrier to or discrimination in trade between the Member States and does not distort competition between them;
- (g) involves a minimum of eight Member States;
- (h) respects the competences, rights and obligations of those Member States which do not participate therein;
- (i) does not affect the provisions of the Protocol integrating the Schengen *acquis* into the framework of the European Union;
- (j) is open to all the Member States, in accordance with Article 43b.

(*) Article amended by the Treaty of Nice.

Article 43a ()*

Enhanced cooperation may be undertaken only as a last resort, when it has been established within the Council that the objectives of such cooperation cannot be attained within a reasonable period by applying the relevant provisions of the Treaties.

Article 43b ()*

When enhanced cooperation is being established, it shall be open to all Member States. It shall also be open to them at any time, in accordance with Articles 27e and 40b of this Treaty and with Article 11a of the Treaty establishing the European Community, subject to compliance with the basic decision and with the decisions taken within that framework. The Commission and the Member States participating in enhanced cooperation shall ensure that as many Member States as possible are encouraged to take part.

*Article 44 (**)*

1. For the purposes of the adoption of the acts and decisions necessary for the implementation of enhanced cooperation referred to in Article 43, the relevant institutional provisions of this Treaty and of the Treaty establishing the European Community shall apply. However, while all members of the Council shall be able to take part in the deliberations, only those representing Member States participating in enhanced cooperation shall take part in the adoption of decisions. The qualified majority shall be defined as the same proportion of the weighted votes and the same proportion of the number of the Council members concerned as laid down in Article 205(2) of the Treaty establishing the European Community, and in the second and third subparagraphs of Article 23(2) of this Treaty as regards enhanced cooperation established on the basis of Article 27c. Unanimity shall be constituted by only those Council members concerned.

Such acts and decisions shall not form part of the Union *acquis*.

2. Member States shall apply, as far as they are concerned, the acts and decisions adopted for the implementation of the enhanced cooperation in which they participate. Such acts and decisions shall be binding only on those Member States which participate in such cooperation and, as appropriate, shall be directly applicable only in those States. Member States which do not participate in such cooperation shall not impede the implementation thereof by the participating Member States.

*Article 44a (***)*

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

(*) Article inserted by the Treaty of Nice.

(**) Article amended by the Treaty of Nice.

(***) Article inserted by the Treaty of Nice (former Article 44(2)).

Article 45 ()*

The Council and the Commission shall ensure the consistency of activities undertaken on the basis of this title and the consistency of such activities with the policies of the Union and the Community, and shall cooperate to that end.

TITLE VIII

FINAL PROVISIONS*Article 46 (*)*

The provisions of the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community concerning the powers of the Court of Justice of the European Communities and the exercise of those powers shall apply only to the following provisions of this Treaty:

- (a) provisions amending the Treaty establishing the European Economic Community with a view to establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community;
- (b) provisions of Title VI, under the conditions provided for by Article 35;
- (c) provisions of Title VII, under the conditions provided for by Articles 11 and 11a of the Treaty establishing the European Community and Article 40 of this Treaty;
- (d) Article 6(2) with regard to action of the institutions, in so far as the Court has jurisdiction under the Treaties establishing the European Communities and under this Treaty;
- (e) the purely procedural stipulations in Article 7, with the Court acting at the request of the Member State concerned within one month from the date of the determination by the Council provided for in that Article;
- (f) Articles 46 to 53.

Article 47

Subject to the provisions amending the Treaty establishing the European Economic Community with a view to establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, and to these final provisions, nothing in this Treaty shall affect the Treaties establishing the European Communities or the subsequent Treaties and Acts modifying or supplementing them.

(*) Article amended by the Treaty of Nice.

Article 48

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Treaties on which the Union is founded.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to those Treaties. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

Article 49

Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

Article 50

1. Articles 2 to 7 and 10 to 19 of the Treaty establishing a Single Council and a Single Commission of the European Communities, signed in Brussels on 8 April 1965, are hereby repealed.
2. Article 2, Article 3(2) and Title III of the Single European Act signed in Luxembourg on 17 February 1986 and in The Hague on 28 February 1986 are hereby repealed.

Article 51

This Treaty is concluded for an unlimited period.

Article 52

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. This Treaty shall enter into force on 1 January 1993, provided that all the Instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the Instrument of ratification by the last signatory State to take this step.

Article 53

This Treaty, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese and Spanish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

Pursuant to the Accession Treaty of 1994, the Finnish and Swedish versions of this Treaty shall also be authentic.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

Done at Maastricht on the seventh day of February in the year one thousand nine hundred and ninety-two.

(List of signatories not reproduced)

**CONSOLIDATED VERSION
OF THE TREATY
ESTABLISHING THE EUROPEAN COMMUNITY**

CONTENTS

I — TEXT OF THE TREATY

	<i>Page</i>
Preamble	39
Part one — Principles	40
Part two — Citizenship of the Union	44
Part three — Community policies	46
TITLE I — Free movement of goods	46
Chapter 1 — The Customs Union	46
Chapter 2 — Prohibition of quantitative restrictions between Member States	47
TITLE II — Agriculture	48
TITLE III — Free movement of persons, services and capital	51
Chapter 1 — Workers	51
Chapter 2 — Right of establishment	52
Chapter 3 — Services	54
Chapter 4 — Capital and payments	56
TITLE IV — Visas, asylum, immigration and other policies related to free movement of persons	57
TITLE V — Transport	61
TITLE VI — Common rules on competition, taxation and approximation of laws	64
Chapter 1 — Rules on competition	64
Section 1 — Rules applying to undertakings	64
Section 2 — Aids granted by States	67
Chapter 2 — Tax provisions	68
Chapter 3 — Approximation of laws	69
TITLE VII — Economic and monetary policy	71
Chapter 1 — Economic policy	71
Chapter 2 — Monetary policy	75
Chapter 3 — Institutional provisions	78
Chapter 4 — Transitional provisions	81
TITLE VIII — Employment	88
TITLE IX — Common commercial policy	90
TITLE X — Customs cooperation	92

TITLE XI — Social policy, education, vocational training and youth	92
Chapter 1 — Social provisions	92
Chapter 2 — The European Social Fund	97
Chapter 3 — Education, vocational training and youth	98
TITLE XII — Culture	99
TITLE XIII — Public health	100
TITLE XIV — Consumer protection	101
TITLE XV — Trans-European networks	101
TITLE XVI — Industry	103
TITLE XVII — Economic and social cohesion	103
TITLE XVIII — Research and technological development	105
TITLE XIX — Environment	107
TITLE XX — Development cooperation	109
TITLE XXI (*) — Economic, financial and technical cooperation with third countries	111
Part four — Association of the overseas countries and territories	111
Part five — Institutions of the Community	113
TITLE I — Provisions governing the institutions	113
Chapter 1 — The institutions	113
Section 1 — The European Parliament	113
Section 2 — The Council	117
Section 3 — The Commission	119
Section 4 — The Court of Justice	122
Section 5 — The Court of Auditors	129
Chapter 2 — Provisions common to several institutions	132
Chapter 3 — The Economic and Social Committee	136
Chapter 4 — The Committee of the Regions	138
Chapter 5 — The European Investment Bank	139
TITLE II — Financial provisions	140
Part six — General and final provisions	146
Final provisions	154

(*) Title inserted by the Treaty of Nice.

Annex I — List referred to in Article 32 of the Treaty	157
Annex II — Overseas countries and territories to which the provisions of part four of the Treaty apply	159
II — PROTOCOLS (text not reproduced with the exception of the four Protocols adopted by the Nice Intergovernmental Conference (see the end of this publication)) (*)	
Protocols annexed to the Treaty on European Union and to the Treaty establishing the European Community:	
— Protocol (2) integrating the Schengen <i>acquis</i> into the framework of the European Union (1997)	
— Protocol (3) on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland (1997)	
— Protocol (4) on the position of the United Kingdom and Ireland (1997)	
— Protocol (5) on the position of Denmark (1997)	
Protocols annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community:	
— Protocol (6) on the Statute of the Court of Justice (2001) (text reproduced hereafter)	
— Protocol (7) annexed to the Treaty on European Union and to the Treaties establishing the European Communities (1992)	
— Protocol (8) on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol (1997)	
— Protocol (9) on the role of national parliaments in the European Union (1997)	
— Protocol (10) on the enlargement of the European Union (2001) (text reproduced hereafter)	
Protocols annexed to the Treaty establishing the European Community:	
— Protocol (11) on the Statute of the European Investment Bank (1957)	
— Protocol (12) on Italy (1957)	
— Protocol (13) on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State (1957)	
— Protocol (14) concerning imports into the European Community of petroleum products refined in the Netherlands Antilles (1962)	
— Protocol (15) on special arrangements for Greenland (1985)	
— Protocol (16) on the acquisition of property in Denmark (1992)	
— Protocol (17) concerning Article 141 of the Treaty establishing the European Community (1992)	

(*) For the text of the Protocols adopted at Intergovernmental Conferences prior to Nice, the reader is requested to refer to pages 355 et seq. of the *Selected Instruments taken from the Treaties*, book I, volume I, 1999 edition, published by the Office for Official Publications of the European Communities, ISBN 92-824-1661-5.

For the text of Protocols 12, 13, 14 and 15, the reader is requested to refer to pages 213 et seq. of the *Selected Instruments taken from the Treaties*, book I, volume II, 1995 edition, published by the Office for Official Publications of the European Communities, ISBN 92-824-1180-x.

- Protocol (18) on the Statute of the European System of Central Banks and of the European Central Bank (1992)
- Protocol (19) on the Statute of the European Monetary Institute (1992)
- Protocol (20) on the excessive deficit procedure (1992)
- Protocol (21) on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community (1992)
- Protocol (22) on Denmark (1992)
- Protocol (23) on Portugal (1992)
- Protocol (24) on the transition to the third stage of economic and monetary union (1992)
- Protocol (25) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland (1992)
- Protocol (26) on certain provisions relating to Denmark (1992)
- Protocol (27) on France (1992)
- Protocol (28) on economic and social cohesion (1992)
- Protocol (29) on asylum for nationals of Member States of the European Union (1997)
- Protocol (30) on the application of the principles of subsidiarity and proportionality (1997)
- Protocol (31) on external relations of the Member States with regard to the crossing of external borders (1997)
- Protocol (32) on the system of public broadcasting in the Member States (1997)
- Protocol (33) on protection and welfare of animals (1997)
- Protocol (34) on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel (2001) (text reproduced hereafter)
- Protocol (35) on Article 67 of the Treaty establishing the European Community (2001) (text reproduced hereafter)

Protocol annexed to the Treaties establishing the European Community and the European Atomic Energy Community:

- Protocol (36) on the privileges and immunities of the European Communities (1965)

HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF THE ITALIAN REPUBLIC, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS ⁽¹⁾,

DETERMINED to lay the foundations of an ever closer union among the peoples of Europe,

RESOLVED to ensure the economic and social progress of their countries by common action to eliminate the barriers which divide Europe,

AFFIRMING as the essential objective of their efforts the constant improvements of the living and working conditions of their peoples,

RECOGNISING that the removal of existing obstacles calls for concerted action in order to guarantee steady expansion, balanced trade and fair competition,

ANXIOUS to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions,

DESIRING to contribute, by means of a common commercial policy, to the progressive abolition of restrictions on international trade,

INTENDING to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations,

RESOLVED by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of Europe who share their ideal to join in their efforts,

DETERMINED to promote the development of the highest possible level of knowledge for their peoples through a wide access to education and through its continuous updating,

HAVE DECIDED to create a EUROPEAN COMMUNITY and to this end have designated as their Plenipotentiaries:

(List of plenipotentiaries not reproduced)

WHO, having exchanged their full powers, found in good and due form, have agreed as follows.

⁽¹⁾ The Kingdom of Denmark, the Hellenic Republic, the Kingdom of Spain, Ireland, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland have since become members of the European Community.

PART ONE

PRINCIPLES

Article 1

By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN COMMUNITY.

Article 2

The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

Article 3

1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:

- (a) the prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;
- (b) a common commercial policy;
- (c) an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;
- (d) measures concerning the entry and movement of persons as provided for in Title IV;
- (e) a common policy in the sphere of agriculture and fisheries;
- (f) a common policy in the sphere of transport;
- (g) a system ensuring that competition in the internal market is not distorted;
- (h) the approximation of the laws of Member States to the extent required for the functioning of the common market;
- (i) the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- (j) a policy in the social sphere comprising a European Social Fund;
- (k) the strengthening of economic and social cohesion;

- (l) a policy in the sphere of the environment;
- (m) the strengthening of the competitiveness of Community industry;
- (n) the promotion of research and technological development;
- (o) encouragement for the establishment and development of trans-European networks;
- (p) a contribution to the attainment of a high level of health protection;
- (q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (r) a policy in the sphere of development cooperation;
- (s) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- (t) a contribution to the strengthening of consumer protection;
- (u) measures in the spheres of energy, civil protection and tourism.

2. In all the activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women.

Article 4

1. For the purposes set out in Article 2, the activities of the Member States and the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.

2. Concurrently with the foregoing, and as provided in this Treaty and in accordance with the timetable and the procedures set out therein, these activities shall include the irrevocable fixing of exchange rates leading to the introduction of a single currency, the ecu, and the definition and conduct of a single monetary policy and exchange-rate policy the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support the general economic policies in the Community, in accordance with the principle of an open market economy with free competition.

3. These activities of the Member States and the Community shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

Article 5

The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty.

Article 6

Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development.

Article 7

1. The tasks entrusted to the Community shall be carried out by the following institutions:

- a EUROPEAN PARLIAMENT,
- a COUNCIL,
- a COMMISSION,
- a COURT OF JUSTICE,
- a COURT OF AUDITORS.

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

2. The Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

Article 8

A European system of central banks (hereinafter referred to as 'ESCB') and a European Central Bank (hereinafter referred to as 'ECB') shall be established in accordance with the procedures laid down in this Treaty; they shall act within the limits of the powers conferred upon them by this Treaty and by the Statute of the ESCB and of the ECB (hereinafter referred to as 'Statute of the ESCB') annexed thereto.

Article 9

A European Investment Bank is hereby established, which shall act within the limits of the powers conferred upon it by this Treaty and the Statute annexed thereto.

Article 10

Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks.

They shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.

Article 11 ()*

1. Member States which intend to establish enhanced cooperation between themselves in one of the areas referred to in this Treaty shall address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

2. Authorisation to establish enhanced cooperation as referred to in paragraph 1 shall be granted, in compliance with Articles 43 to 45 of the Treaty on European Union, by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament. When enhanced cooperation relates to an area covered by the procedure referred to in Article 251 of this Treaty, the assent of the European Parliament shall be required.

A member of the Council may request that the matter be referred to the European Council. After that matter has been raised before the European Council, the Council may act in accordance with the first subparagraph of this paragraph.

3. The acts and decisions necessary for the implementation of enhanced cooperation activities shall be subject to all the relevant provisions of this Treaty, save as otherwise provided in this Article and in Articles 43 to 45 of the Treaty on European Union.

*Article 11a (**)*

Any Member State which wishes to participate in enhanced cooperation established in accordance with Article 11 shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of the date of receipt of that notification. Within four months of the date of receipt of that notification, the Commission shall take a decision on it, and on such specific arrangements as it may deem necessary.

Article 12

Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

The Council, acting in accordance with the procedure referred to in Article 251, may adopt rules designed to prohibit such discrimination.

Article 13 ()*

1. Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

2. By way of derogation from paragraph 1, when the Council adopts Community incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, it shall act in accordance with the procedure referred to in Article 251.

(*) Article amended by the Treaty of Nice.

(**) Article inserted by the Treaty of Nice (former Article 11(3)).

Article 14

1. The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992, in accordance with the provisions of this Article and of Articles 15, 26, 47(2), 49, 80, 93 and 95 and without prejudice to the other provisions of this Treaty.
2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.
3. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

Article 15

When drawing up its proposals with a view to achieving the objectives set out in Article 14, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market and it may propose appropriate provisions.

If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the common market.

Article 16

Without prejudice to Articles 73, 86 and 87, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Community and the Member States, each within their respective powers and within the scope of application of this Treaty, shall take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions.

PART TWO

CITIZENSHIP OF THE UNION

Article 17

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship.
2. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.

Article 18 ()*

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.
2. If action by the Community should prove necessary to attain this objective and this Treaty has not provided the necessary powers, the Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1. The Council shall act in accordance with the procedure referred to in Article 251.
3. Paragraph 2 shall not apply to provisions on passports, identity cards, residence permits or any other such document or to provisions on social security or social protection.

Article 19

1. Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.
2. Without prejudice to Article 190(4) and to the provisions adopted for its implementation, every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

Article 20

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State. Member States shall establish the necessary rules among themselves and start the international negotiations required to secure this protection.

Article 21

Every citizen of the Union shall have the right to petition the European Parliament in accordance with Article 194.

Every citizen of the Union may apply to the Ombudsman established in accordance with Article 195.

Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 7 in one of the languages mentioned in Article 314 and have an answer in the same language.

(*) Article amended by the Treaty of Nice.

Article 22

The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of the provisions of this part. This report shall take account of the development of the Union.

On this basis, and without prejudice to the other provisions of this Treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may adopt provisions to strengthen or to add to the rights laid down in this part, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

PART THREE**COMMUNITY POLICIES****TITLE I****FREE MOVEMENT OF GOODS***Article 23*

1. The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

2. The provisions of Article 25 and of Chapter 2 of this title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

Article 24

Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

CHAPTER 1**THE CUSTOMS UNION***Article 25*

Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.

Article 26

Common Customs Tariff duties shall be fixed by the Council acting by a qualified majority on a proposal from the Commission.

Article 27

In carrying out the tasks entrusted to it under this chapter the Commission shall be guided by:

- (a) the need to promote trade between Member States and third countries;
- (b) developments in conditions of competition within the Community in so far as they lead to an improvement in the competitive capacity of undertakings;
- (c) the requirements of the Community as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;
- (d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Community.

*CHAPTER 2**PROHIBITION OF QUANTITATIVE RESTRICTIONS BETWEEN MEMBER STATES**Article 28*

Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States.

Article 29

Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States.

Article 30

The provisions of Articles 28 and 29 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

Article 31

1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to others.

2. Member States shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.

3. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying the rules contained in this article to ensure equivalent safeguards for the employment and standard of living of the producers concerned.

TITLE II

AGRICULTURE

Article 32

1. The common market shall extend to agriculture and trade in agricultural products. 'Agricultural products' means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products.

2. Save as otherwise provided in Articles 33 to 38, the rules laid down for the establishment of the common market shall apply to agricultural products.

3. The products subject to the provisions of Articles 33 to 38 are listed in Annex I to this Treaty.

4. The operation and development of the common market for agricultural products must be accompanied by the establishment of a common agricultural policy.

Article 33

1. The objectives of the common agricultural policy shall be:

- (a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
- (b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
- (c) to stabilise markets;
- (d) to assure the availability of supplies;
- (e) to ensure that supplies reach consumers at reasonable prices.

2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:

- (a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;
- (b) the need to effect the appropriate adjustments by degrees;
- (c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.

Article 34

1. In order to attain the objectives set out in Article 33, a common organisation of agricultural markets shall be established.

This organisation shall take one of the following forms, depending on the product concerned:

- (a) common rules on competition;
- (b) compulsory coordination of the various national market organisations;
- (c) a European market organisation.

2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article 33, in particular regulation of prices, aids for the production and marketing of the various products, storage and carryover arrangements and common machinery for stabilising imports or exports.

The common organisation shall be limited to pursuit of the objectives set out in Article 33 and shall exclude any discrimination between producers or consumers within the Community.

Any common price policy shall be based on common criteria and uniform methods of calculation.

3. In order to enable the common organisation referred to in paragraph 1 to attain its objectives, one or more agricultural guidance and guarantee funds may be set up.

Article 35

To enable the objectives set out in Article 33 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:

- (a) an effective coordination of efforts in the spheres of vocational training, of research and of the dissemination of agricultural knowledge; this may include joint financing of projects or institutions;
- (b) joint measures to promote consumption of certain products.

Article 36

The provisions of the chapter relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the Council within the framework of Article 37(2) and (3) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 33.

The Council may, in particular, authorise the granting of aid:

- (a) for the protection of enterprises handicapped by structural or natural conditions;
- (b) within the framework of economic development programmes.

Article 37

1. In order to evolve the broad lines of a common agricultural policy, the Commission shall, immediately this Treaty enters into force, convene a conference of the Member States with a view to making a comparison of their agricultural policies, in particular by producing a statement of their resources and needs.

2. Having taken into account the work of the Conference provided for in paragraph 1, after consulting the Economic and Social Committee and within two years of the entry into force of this Treaty, the Commission shall submit proposals for working out and implementing the common agricultural policy, including the replacement of the national organisations by one of the forms of common organisation provided for in Article 34(1), and for implementing the measures specified in this title.

These proposals shall take account of the interdependence of the agricultural matters mentioned in this title.

The Council shall, on a proposal from the Commission and after consulting the European Parliament, acting by a qualified majority, make regulations, issue directives, or take decisions, without prejudice to any recommendations it may also make.

3. The Council may, acting by a qualified majority and in accordance with paragraph 2, replace the national market organisations by the common organisation provided for in Article 34(1) if:

- (a) the common organisation offers Member States which are opposed to this measure and which have an organisation of their own for the production in question equivalent safeguards for the employment and standard of living of the producers concerned, account being taken of the adjustments that will be possible and the specialisation that will be needed with the passage of time;
- (b) such an organisation ensures conditions for trade within the Community similar to those existing in a national market.

4. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw materials as are used for processed products intended for export to third countries may be imported from outside the Community.

Article 38

Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.

The Commission shall fix the amount of these charges at the level required to redress the balance; it may also authorise other measures, the conditions and details of which it shall determine.

TITLE III

FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL

CHAPTER 1

WORKERS

Article 39

1. Freedom of movement for workers shall be secured within the Community.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
 - (a) to accept offers of employment actually made;
 - (b) to move freely within the territory of Member States for this purpose;
 - (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
 - (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.
4. The provisions of this article shall not apply to employment in the public service.

Article 40

The Council shall, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 39, in particular:

- (a) by ensuring close cooperation between national employment services;

- (b) by abolishing those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;
- (c) by abolishing all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as imposed on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;
- (d) by setting up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.

Article 41

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

Article 42

The Council shall, acting in accordance with the procedure referred to in Article 251, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, it shall make arrangements to secure for migrant workers and their dependants:

- (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;
- (b) payment of benefits to persons resident in the territories of Member States.

The Council shall act unanimously throughout the procedure referred to in Article 251.

CHAPTER 2

RIGHT OF ESTABLISHMENT

Article 43

Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 48, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the chapter relating to capital.

Article 44

1. In order to attain freedom of establishment as regards a particular activity, the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall act by means of directives.
2. The Council and the Commission shall carry out the duties devolving upon them under the preceding provisions, in particular:
 - (a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;
 - (b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Community of the various activities concerned;
 - (c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;
 - (d) by ensuring that workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;
 - (e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, in so far as this does not conflict with the principles laid down in Article 33(2);
 - (f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;
 - (g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and other, are required by Member States of companies or firms within the meaning of the second paragraph of Article 48 with a view to making such safeguards equivalent throughout the Community;
 - (h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

Article 45

The provisions of this chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

The Council may, acting by a qualified majority on a proposal from the Commission, rule that the provisions of this chapter shall not apply to certain activities.

Article 46

1. The provisions of this chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.
2. The Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the coordination of the abovementioned provisions.

Article 47

1. In order to make it easier for persons to take up and pursue activities as self-employed persons, the Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications.
2. For the same purpose, the Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons. The Council, acting unanimously throughout the procedure referred to in Article 251, shall decide on directives the implementation of which involves in at least one Member State amendment of the existing principles laid down by law governing the professions with respect to training and conditions of access for natural persons. In other cases the Council shall act by qualified majority.
3. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for their exercise in the various Member States.

Article 48

Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Community shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of Member States.

‘Companies or firms’ means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

CHAPTER 3

SERVICES

Article 49

Within the framework of the provisions set out below, restrictions on freedom to provide services within the Community shall be prohibited in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.

The Council may, acting by a qualified majority on a proposal from the Commission, extend the provisions of the Chapter to nationals of a third country who provide services and who are established within the Community.

Article 50

Services shall be considered to be 'services' within the meaning of this Treaty where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.

'Services' shall in particular include:

- (a) activities of an industrial character;
- (b) activities of a commercial character;
- (c) activities of craftsmen;
- (d) activities of the professions.

Without prejudice to the provisions of the chapter relating to the right of establishment, the person providing a service may, in order to do so, temporarily pursue his activity in the State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

Article 51

1. Freedom to provide services in the field of transport shall be governed by the provisions of the title relating to transport.
2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in step with the liberalisation of movement of capital.

Article 52

1. In order to achieve the liberalisation of a specific service, the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the European Parliament, issue directives acting by a qualified majority.
2. As regards the directives referred to in paragraph 1, priority shall as a general rule be given to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.

Article 53

The Member States declare their readiness to undertake the liberalisation of services beyond the extent required by the directives issued pursuant to Article 52(1), if their general economic situation and the situation of the economic sector concerned so permit.

To this end, the Commission shall make recommendations to the Member States concerned.

Article 54

As long as restrictions on freedom to provide services have not been abolished, each Member State shall apply such restrictions without distinction on grounds of nationality or residence to all persons providing services within the meaning of the first paragraph of Article 49.

Article 55

The provisions of Articles 45 to 48 shall apply to the matters covered by this chapter.

*CHAPTER 4**CAPITAL AND PAYMENTS**Article 56*

1. Within the framework of the provisions set out in this chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.
2. Within the framework of the provisions set out in this chapter, all restrictions on payments between Member States and between Member States and third countries shall be prohibited.

Article 57

1. The provisions of Article 56 shall be without prejudice to the application to third countries of any restrictions which exist on 31 December 1993 under national or Community law adopted in respect of the movement of capital to or from third countries involving direct investment — including in real estate — establishment, the provision of financial services or the admission of securities to capital markets.
2. Whilst endeavouring to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to the other chapters of this Treaty, the Council may, acting by a qualified majority on a proposal from the Commission, adopt measures on the movement of capital to or from third countries involving direct investment — including investment in real estate — establishment, the provision of financial services or the admission of securities to capital markets. Unanimity shall be required for measures under this paragraph which constitute a step back in Community law as regards the liberalisation of the movement of capital to or from third countries.

Article 58

1. The provisions of Article 56 shall be without prejudice to the right of Member States:
 - (a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;
 - (b) to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.
2. The provisions of this chapter shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with this Treaty.

3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 56.

Article 59

Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the operation of economic and monetary union, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the ECB, may take safeguard measures with regard to third countries for a period not exceeding six months if such measures are strictly necessary.

Article 60

1. If, in the cases envisaged in Article 301, action by the Community is deemed necessary, the Council may, in accordance with the procedure provided for in Article 301, take the necessary urgent measures on the movement of capital and on payments as regards the third countries concerned.

2. Without prejudice to Article 297 and as long as the Council has not taken measures pursuant to paragraph 1, a Member State may, for serious political reasons and on grounds of urgency, take unilateral measures against a third country with regard to capital movements and payments. The Commission and the other Member States shall be informed of such measures by the date of their entry into force at the latest.

The Council may, acting by a qualified majority on a proposal from the Commission, decide that the Member State concerned shall amend or abolish such measures. The President of the Council shall inform the European Parliament of any such decision taken by the Council.

TITLE IV

VISAS, ASYLUM, IMMIGRATION AND OTHER POLICIES RELATED TO FREE MOVEMENT OF PERSONS

Article 61

In order to establish progressively an area of freedom, security and justice, the Council shall adopt:

- (a) within a period of five years after the entry into force of the Treaty of Amsterdam, measures aimed at ensuring the free movement of persons in accordance with Article 14, in conjunction with directly related flanking measures with respect to external border controls, asylum and immigration, in accordance with the provisions of Article 62(2) and (3) and Article 63(1)(a) and (2)(a), and measures to prevent and combat crime in accordance with the provisions of Article 31(e) of the Treaty on European Union;
- (b) other measures in the fields of asylum, immigration and safeguarding the rights of nationals of third countries, in accordance with the provisions of Article 63;
- (c) measures in the field of judicial cooperation in civil matters as provided for in Article 65;

- (d) appropriate measures to encourage and strengthen administrative cooperation, as provided for in Article 66;
- (e) measures in the field of police and judicial cooperation in criminal matters aimed at a high level of security by preventing and combating crime within the Union in accordance with the provisions of the Treaty on European Union.

Article 62

The Council, acting in accordance with the procedure referred to in Article 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt:

1. measures with a view to ensuring, in compliance with Article 14, the absence of any controls on persons, be they citizens of the Union or nationals of third countries, when crossing internal borders;
2. measures on the crossing of the external borders of the Member States which shall establish:
 - (a) standards and procedures to be followed by Member States in carrying out checks on persons at such borders;
 - (b) rules on visas for intended stays of no more than three months, including:
 - (i) the list of third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement;
 - (ii) the procedures and conditions for issuing visas by Member States;
 - (iii) a uniform format for visas;
 - (iv) rules on a uniform visa;
3. measures setting out the conditions under which nationals of third countries shall have the freedom to travel within the territory of the Member States during a period of no more than three months.

Article 63

The Council, acting in accordance with the procedure referred to in Article 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt:

1. measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties, within the following areas:
 - (a) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third country in one of the Member States,
 - (b) minimum standards on the reception of asylum seekers in Member States,

- (c) minimum standards with respect to the qualification of nationals of third countries as refugees,
 - (d) minimum standards on procedures in Member States for granting or withdrawing refugee status;
2. measures on refugees and displaced persons within the following areas:
- (a) minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection,
 - (b) promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons;
3. measures on immigration policy within the following areas:
- (a) conditions of entry and residence, and standards on procedures for the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion,
 - (b) illegal immigration and illegal residence, including repatriation of illegal residents;
4. measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.

Measures adopted by the Council pursuant to points 3 and 4 shall not prevent any Member State from maintaining or introducing in the areas concerned national provisions which are compatible with this Treaty and with international agreements.

Measures to be adopted pursuant to points 2(b), 3(a) and 4 shall not be subject to the five-year period referred to above.

Article 64

1. This title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.
2. In the event of one or more Member States being confronted with an emergency situation characterised by a sudden inflow of nationals of third countries and without prejudice to paragraph 1, the Council may, acting by qualified majority on a proposal from the Commission, adopt provisional measures of a duration not exceeding six months for the benefit of the Member States concerned.

Article 65

Measures in the field of judicial cooperation in civil matters having cross-border implications, to be taken in accordance with Article 67 and in so far as necessary for the proper functioning of the internal market, shall include:

- (a) improving and simplifying:
 - the system for cross-border service of judicial and extrajudicial documents,
 - cooperation in the taking of evidence,
 - the recognition and enforcement of decisions in civil and commercial cases, including decisions in extrajudicial cases;
- (b) promoting the compatibility of the rules applicable in the Member States concerning the conflict of laws and of jurisdiction;
- (c) eliminating obstacles to the good functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States.

Article 66

The Council, acting in accordance with the procedure referred to in Article 67, shall take measures to ensure cooperation between the relevant departments of the administrations of the Member States in the areas covered by this title, as well as between those departments and the Commission.

Article 67 ()*

1. During a transitional period of five years following the entry into force of the Treaty of Amsterdam, the Council shall act unanimously on a proposal from the Commission or on the initiative of a Member State and after consulting the European Parliament.
2. After this period of five years:
 - the Council shall act on proposals from the Commission; the Commission shall examine any request made by a Member State that it submit a proposal to the Council,
 - the Council, acting unanimously after consulting the European Parliament, shall take a decision with a view to providing for all or parts of the areas covered by this title to be governed by the procedure referred to in Article 251 and adapting the provisions relating to the powers of the Court of Justice.
3. By derogation from paragraphs 1 and 2, measures referred to in Article 62(2)(b) (i) and (iii) shall, from the entry into force of the Treaty of Amsterdam, be adopted by the Council acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.
4. By derogation from paragraph 2, measures referred to in Article 62(2)(b) (ii) and (iv) shall, after a period of five years following the entry into force of the Treaty of Amsterdam, be adopted by the Council acting in accordance with the procedure referred to in Article 251.

(*) Article amended by the Treaty of Nice.

5. By derogation from paragraph 1, the Council shall adopt, in accordance with the procedure referred to in Article 251:

- the measures provided for in Article 63(1) and (2)(a) provided that the Council has previously adopted, in accordance with paragraph 1 of this article, Community legislation defining the common rules and basic principles governing these issues,
- the measures provided for in Article 65 with the exception of aspects relating to family law.

Article 68

1. Article 234 shall apply to this title under the following circumstances and conditions: where a question on the interpretation of this title or on the validity or interpretation of acts of the institutions of the Community based on this title is raised in a case pending before a court or a tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

2. In any event, the Court of Justice shall not have jurisdiction to rule on any measure or decision taken pursuant to Article 62(1) relating to the maintenance of law and order and the safeguarding of internal security.

3. The Council, the Commission or a Member State may request the Court of Justice to give a ruling on a question of interpretation of this title or of acts of the institutions of the Community based on this title. The ruling given by the Court of Justice in response to such a request shall not apply to judgments of courts or tribunals of the Member States which have become *res judicata*.

Article 69

The application of this title shall be subject to the provisions of the Protocol on the position of the United Kingdom and Ireland and to the Protocol on the position of Denmark and without prejudice to the Protocol on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland.

TITLE V

TRANSPORT

Article 70

The objectives of this Treaty shall, in matters governed by this title, be pursued by Member States within the framework of a common transport policy.

Article 71

1. For the purpose of implementing Article 70, and taking into account the distinctive features of transport, the Council shall, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:

- (a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;

- (b) the conditions under which non-resident carriers may operate transport services within a Member State;
- (c) measures to improve transport safety;
- (d) any other appropriate provisions.

2. By way of derogation from the procedure provided for in paragraph 1, where the application of provisions concerning the principles of the regulatory system for transport would be liable to have a serious effect on the standard of living and on employment in certain areas and on the operation of transport facilities, they shall be laid down by the Council acting unanimously on a proposal from the Commission, after consulting the European Parliament and the Economic and Social Committee. In so doing, the Council shall take into account the need for adaptation to the economic development which will result from establishing the common market.

Article 72

Until the provisions referred to in Article 71(1) have been laid down, no Member State may, without the unanimous approval of the Council, make the various provisions governing the subject on 1 January 1958 or, for acceding States, the date of their accession less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State.

Article 73

Aids shall be compatible with this Treaty if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

Article 74

Any measures taken within the framework of this Treaty in respect of transport rates and conditions shall take account of the economic circumstances of carriers.

Article 75

1. In the case of transport within the Community, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question shall be abolished.

2. Paragraph 1 shall not prevent the Council from adopting other measures pursuant to Article 71(1).

3. The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the Economic and Social Committee, lay down rules for implementing the provisions of paragraph 1.

The Council may in particular lay down the provisions needed to enable the institutions of the Community to secure compliance with the rule laid down in paragraph 1 and to ensure that users benefit from it to the full.

4. The Commission shall, acting on its own initiative or on application by a Member State, investigate any cases of discrimination falling within paragraph 1 and, after consulting any Member State concerned, shall take the necessary decisions within the framework of the rules laid down in accordance with the provisions of paragraph 3.

Article 76

1. The imposition by a Member State, in respect of transport operations carried out within the Community, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by the Commission.

2. The Commission shall, acting on its own initiative or on application by a Member State, examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.

After consulting each Member State concerned, the Commission shall take the necessary decisions.

3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

Article 77

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs progressively.

The Commission may make recommendations to Member States for the application of this article.

Article 78

The provisions of this title shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division.

Article 79

An Advisory Committee consisting of experts designated by the governments of Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters without prejudice to the powers of the Economic and Social Committee.

Article 80

1. The provisions of this title shall apply to transport by rail, road and inland waterway.
2. The Council may, acting by a qualified majority, decide whether, to what extent and by what procedure appropriate provisions may be laid down for sea and air transport.

The procedural provisions of Article 71 shall apply.

TITLE VI

COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS

CHAPTER 1

RULES ON COMPETITION

SECTION 1

RULES APPLYING TO UNDERTAKINGS*Article 81*

1. The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development, or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

— any agreement or category of agreements between undertakings,

- any decision or category of decisions by associations of undertakings,
- any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 82

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Article 83

1. The appropriate regulations or directives to give effect to the principles set out in Articles 81 and 82 shall be laid down by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

2. The regulations or directives referred to in paragraph 1 shall be designed in particular:

- (a) to ensure compliance with the prohibitions laid down in Article 81(1) and in Article 82 by making provision for fines and periodic penalty payments;

- (b) to lay down detailed rules for the application of Article 81(3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;
- (c) to define, if need be, in the various branches of the economy, the scope of the provisions of Articles 81 and 82;
- (d) to define the respective functions of the Commission and of the Court of Justice in applying the provisions laid down in this paragraph;
- (e) to determine the relationship between national laws and the provisions contained in this section or adopted pursuant to this article.

Article 84

Until the entry into force of the provisions adopted in pursuance of Article 83, the authorities in Member States shall rule on the admissibility of agreements, decisions and concerted practices and on abuse of a dominant position in the common market in accordance with the law of their country and with the provisions of Article 81, in particular paragraph 3, and of Article 82.

Article 85

1. Without prejudice to Article 84, the Commission shall ensure the application of the principles laid down in Articles 81 and 82. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, which shall give it their assistance, the Commission shall investigate cases of suspected infringement of these principles. If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.

2. If the infringement is not brought to an end, the Commission shall record such infringement of the principles in a reasoned decision. The Commission may publish its decision and authorise Member States to take the measures, the conditions and details of which it shall determine, needed to remedy the situation.

Article 86

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Articles 81 to 89.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.

3. The Commission shall ensure the application of the provisions of this Article and shall, where necessary, address appropriate directives or decisions to Member States.

SECTION 2

AIDS GRANTED BY STATES*Article 87*

1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

2. The following shall be compatible with the common market:

- (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- (b) aid to make good the damage caused by natural disasters or exceptional occurrences;
- (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

3. The following may be considered to be compatible with the common market:

- (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
- (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;
- (e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

Article 88

1. The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the common market.

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the common market having regard to Article 87, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 226 and 227, refer the matter to the Court of Justice direct.

On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered to be compatible with the common market, in derogation from the provisions of Article 87 or from the regulations provided for in Article 89, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall give its decision on the case.

3. The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the common market having regard to Article 87, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

Article 89

The Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, may make any appropriate regulations for the application of Articles 87 and 88 and may in particular determine the conditions in which Article 88(3) shall apply and the categories of aid exempted from this procedure.

CHAPTER 2

TAX PROVISIONS

Article 90

No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.

Article 91

Where products are exported to the territory of any Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.

Article 92

In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the measures contemplated have been previously approved for a limited period by the Council acting by a qualified majority on a proposal from the Commission.

Article 93

The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market within the time limit laid down in Article 14.

*CHAPTER 3**APPROXIMATION OF LAWS**Article 94*

The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, issue directives for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the common market.

Article 95

1. By way of derogation from Article 94 and save where otherwise provided in this Treaty, the following provisions shall apply for the achievement of the objectives set out in Article 14. The Council shall, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.

3. The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.

4. If, after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 30, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption by the Council or by the Commission of a harmonisation measure, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination 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.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures to the Council.

9. By way of derogation from the procedure laid down in Articles 226 and 227, the Commission and any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.

10. The harmonisation measures referred to above shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article 30, provisional measures subject to a Community control procedure.

Article 96

Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the common market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

If such consultation does not result in an agreement eliminating the distortion in question, the Council shall, on a proposal from the Commission, acting by a qualified majority, issue the necessary directives. The Commission and the Council may take any other appropriate measures provided for in this Treaty.

Article 97

1. Where there is a reason to fear that the adoption or amendment of a provision laid down by law, regulation or administrative action may cause distortion within the meaning of Article 96, a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall recommend to the States concerned such measures as may be appropriate to avoid the distortion in question.

2. If a State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, pursuant to Article 96, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, the provisions of Article 96 shall not apply.

TITLE VII

ECONOMIC AND MONETARY POLICY

CHAPTER 1

ECONOMIC POLICY

Article 98

Member States shall conduct their economic policies with a view to contributing to the achievement of the objectives of the Community, as defined in Article 2, and in the context of the broad guidelines referred to in Article 99(2). The Member States and the Community shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4.

Article 99

1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with the provisions of Article 98.

2. The Council shall, acting by a qualified majority on a recommendation from the Commission, formulate a draft for the broad guidelines of the economic policies of the Member States and of the Community, and shall report its findings to the European Council.

The European Council shall, acting on the basis of the report from the Council, discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Community.

On the basis of this conclusion, the Council shall, acting by a qualified majority, adopt a recommendation setting out these broad guidelines. The Council shall inform the European Parliament of its recommendation.

3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council shall, on the basis of reports submitted by the Commission, monitor economic developments in each of the Member States and in the Community as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and regularly carry out an overall assessment.

For the purpose of this multilateral surveillance, Member States shall forward information to the Commission about important measures taken by them in the field of their economic policy and such other information as they deem necessary.

4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Council may, acting by a qualified majority on a recommendation from the Commission, make the necessary recommendations to the Member State concerned. The Council may, acting by a qualified majority on a proposal from the Commission, decide to make its recommendations public.

The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

5. The Council, acting in accordance with the procedure referred to in Article 252, may adopt detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4 of this Article.

Article 100 ()*

1. Without prejudice to any other procedures provided for in this Treaty, the Council, acting by a qualified majority on a proposal from the Commission, may decide upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products.

2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, acting by a qualified majority on a proposal from the Commission, may grant, under certain conditions, Community financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.

Article 101

1. Overdraft facilities or any other type of credit facility with the ECB or with the central banks of the Member States (hereinafter referred to as 'national central banks') in favour of Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the ECB or national central banks of debt instruments.

2. Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the ECB as private credit institutions.

Article 102

1. Any measure, not based on prudential considerations, establishing privileged access by Community institutions or bodies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions, shall be prohibited.

(*) Article amended by the Treaty of Nice.

2. The Council, acting in accordance with the procedure referred to in Article 252, shall, before 1 January 1994, specify definitions for the application of the prohibition referred to in paragraph 1.

Article 103

1. The Community shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.

2. If necessary, the Council, acting in accordance with the procedure referred to in Article 252, may specify definitions for the application of the prohibition referred to in Article 101 and in this Article.

Article 104

1. Member States shall avoid excessive government deficits.

2. The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States with a view to identifying gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:

- (a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:
 - either the ratio has declined substantially and continuously and reached a level that comes close to the reference value,
 - or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;
- (b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace.

The reference values are specified in the Protocol on the excessive deficit procedure annexed to this Treaty.

3. If a Member State does not fulfil the requirements under one or both of these criteria, the Commission shall prepare a report. The report of the Commission shall also take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State.

The Commission may also prepare a report if, notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion that there is a risk of an excessive deficit in a Member State.

4. The Committee provided for in Article 114 shall formulate an opinion on the report of the Commission.

5. If the Commission considers that an excessive deficit in a Member State exists or may occur, the Commission shall address an opinion to the Council.

6. The Council shall, acting by a qualified majority on a recommendation from the Commission, and having considered any observations which the Member State concerned may wish to make, decide after an overall assessment whether an excessive deficit exists.

7. Where the existence of an excessive deficit is decided according to paragraph 6, the Council shall make recommendations to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to the provisions of paragraph 8, these recommendations shall not be made public.

8. Where it establishes that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.

9. If a Member State persists in failing to put into practice the recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time limit, measures for the deficit reduction which is judged necessary by the Council in order to remedy the situation.

In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.

10. The rights to bring actions provided for in Articles 226 and 227 may not be exercised within the framework of paragraphs 1 to 9 of this Article.

11. As long as a Member State fails to comply with a decision taken in accordance with paragraph 9, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:

- to require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities,
- to invite the European Investment Bank to reconsider its lending policy towards the Member State concerned,
- to require the Member State concerned to make a non-interest-bearing deposit of an appropriate size with the Community until the excessive deficit has, in the view of the Council, been corrected,
- to impose fines of an appropriate size.

The President of the Council shall inform the European Parliament of the decisions taken.

12. The Council shall abrogate some or all of its decisions referred to in paragraphs 6 to 9 and 11 to the extent that the excessive deficit in the Member State concerned has, in the view of the Council, been corrected. If the Council has previously made public recommendations, it shall, as soon as the decision under paragraph 8 has been abrogated, make a public statement that an excessive deficit in the Member State concerned no longer exists.

13. When taking the decisions referred to in paragraphs 7 to 9, 11 and 12, the Council shall act on a recommendation from the Commission by a majority of two thirds of the votes of its members weighted in accordance with Article 205(2), excluding the votes of the representative of the Member State concerned.

14. Further provisions relating to the implementation of the procedure described in this article are set out in the Protocol on the excessive deficit procedure annexed to this Treaty.

The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the ECB, adopt the appropriate provisions which shall then replace the said Protocol.

Subject to the other provisions of this paragraph, the Council shall, before 1 January 1994, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, lay down detailed rules and definitions for the application of the provisions of the said Protocol.

CHAPTER 2

MONETARY POLICY

Article 105

1. The primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Community with a view to contributing to the achievement of the objectives of the Community as laid down in Article 2. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 4.

2. The basic tasks to be carried out through the ESCB shall be:

- to define and implement the monetary policy of the Community,
- to conduct foreign-exchange operations consistent with the provisions of Article 111,
- to hold and manage the official foreign reserves of the Member States,
- to promote the smooth operation of payment systems.

3. The third indent of paragraph 2 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

4. The ECB shall be consulted:

- on any proposed Community act in its fields of competence,
- by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 107(6).

The ECB may submit opinions to the appropriate Community institutions or bodies or to national authorities on matters in its fields of competence.

5. The ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

6. The Council may, acting unanimously on a proposal from the Commission and after consulting the ECB and after receiving the assent of the European Parliament, confer upon the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

Article 106

1. The ECB shall have the exclusive right to authorise the issue of banknotes within the Community. The ECB and the national central banks may issue such notes. The banknotes issued by the ECB and the national central banks shall be the only such notes to have the status of legal tender within the Community.

2. Member States may issue coins subject to approval by the ECB of the volume of the issue. The Council may, acting in accordance with the procedure referred to in Article 252 and after consulting the ECB, adopt measures to harmonise the denominations and technical specifications of all coins intended for circulation to the extent necessary to permit their smooth circulation within the Community.

Article 107

1. The ESCB shall be composed of the ECB and of the national central banks.

2. The ECB shall have legal personality.

3. The ESCB shall be governed by the decision-making bodies of the ECB which shall be the Governing Council and the Executive Board.

4. The Statute of the ESCB is laid down in a Protocol annexed to this Treaty.

5. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB may be amended by the Council, acting either by a qualified majority on a recommendation from the ECB and after consulting the Commission or unanimously on a proposal from the Commission and after consulting the ECB. In either case, the assent of the European Parliament shall be required.

6. The Council, acting by a qualified majority either on a proposal from the Commission and after consulting the European Parliament and the ECB or on a recommendation from the ECB and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of the Statute of the ESCB.

Article 108

When exercising the powers and carrying out the tasks and duties conferred upon them by this Treaty and the Statute of the ESCB, neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Community institutions or bodies, from any government of a Member State or from any other body. The Community institutions and bodies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks.

Article 109

Each Member State shall ensure, at the latest at the date of the establishment of the ESCB, that its national legislation including the statutes of its national central bank is compatible with this Treaty and the Statute of the ESCB.

Article 110

1. In order to carry out the tasks entrusted to the ESCB, the ECB shall, in accordance with the provisions of this Treaty and under the conditions laid down in the Statute of the ESCB:

- make regulations to the extent necessary to implement the tasks defined in Article 3.1, first indent, Articles 19.1, 22 and 25.2 of the Statute of the ESCB and in cases which shall be laid down in the acts of the Council referred to in Article 107(6),
- take decisions necessary for carrying out the tasks entrusted to the ESCB under this Treaty and the Statute of the ESCB,
- make recommendations and deliver opinions.

2. A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

Recommendations and opinions shall have no binding force.

A decision shall be binding in its entirety upon those to whom it is addressed.

Articles 253, 254 and 256 shall apply to regulations and decisions adopted by the ECB.

The ECB may decide to publish its decisions, recommendations and opinions.

3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 107(6), the ECB shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions.

Article 111 ()*

1. By way of derogation from Article 300, the Council may, acting unanimously on a recommendation from the ECB or from the Commission, and after consulting the ECB in an endeavour to reach a consensus consistent with the objective of price stability, after consulting the European Parliament, in accordance with the procedure in paragraph 3 for determining the arrangements, conclude formal agreements on an exchange-rate system for the ecu in relation to non-Community currencies. The Council may, acting by a qualified majority on a recommendation from the ECB or from the Commission, and after consulting the ECB in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the ecu within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the ecu central rates.

2. In the absence of an exchange-rate system in relation to one or more non-Community currencies as referred to in paragraph 1, the Council, acting by a qualified majority either on a recommendation from the Commission and after consulting the ECB or on a recommendation from the ECB, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the ESCB to maintain price stability.

3. By way of derogation from Article 300, where agreements concerning monetary or foreign-exchange regime matters need to be negotiated by the Community with one or more States or international organisations, the Council, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.

Agreements concluded in accordance with this paragraph shall be binding on the institutions of the Community, on the ECB and on Member States.

4. Subject to paragraph 1, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the ECB, shall decide on the position of the Community at international level as regards issues of particular relevance to economic and monetary union and on its representation, in compliance with the allocation of powers laid down in Articles 99 and 105.

5. Without prejudice to Community competence and Community agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

*CHAPTER 3**INSTITUTIONAL PROVISIONS**Article 112*

1. The Governing Council of the ECB shall comprise the members of the Executive Board of the ECB and the Governors of the national central banks.

(*) Article amended by the Treaty of Nice.

2. (a) The Executive Board shall comprise the President, the Vice-President and four other members.
- (b) The President, the Vice-President and the other members of the Executive Board shall be appointed from among persons of recognised standing and professional experience in monetary or banking matters by common accord of the governments of the Member States at the level of Heads of State or Government, on a recommendation from the Council, after it has consulted the European Parliament and the Governing Council of the ECB.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board.

Article 113

1. The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the ECB.

The President of the Council may submit a motion for deliberation to the Governing Council of the ECB.

2. The President of the ECB shall be invited to participate in Council meetings when the Council is discussing matters relating to the objectives and tasks of the ESCB.

3. The ECB shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and current year to the European Parliament, the Council and the Commission, and also to the European Council. The President of the ECB shall present this report to the Council and to the European Parliament, which may hold a general debate on that basis.

The President of the ECB and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent committees of the European Parliament.

Article 114

1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, a Monetary Committee with advisory status is hereby set up.

It shall have the following tasks:

- to keep under review the monetary and financial situation of the Member States and of the Community and the general payments system of the Member States and to report regularly thereon to the Council and to the Commission,
- to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions,
- without prejudice to Article 207, to contribute to the preparation of the work of the Council referred to in Articles 59, 60, 99(2), (3), (4) and (5), 100, 102, 103, 104, 116(2), 117(6), 119, 120, 121(2) and 122(1),

- to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of this Treaty and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

The Member States and the Commission shall each appoint two members of the Monetary Committee.

2. At the start of the third stage, an Economic and Financial Committee shall be set up. The Monetary Committee provided for in paragraph 1 shall be dissolved.

The Economic and Financial Committee shall have the following tasks:

- to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions,
- to keep under review the economic and financial situation of the Member States and of the Community and to report regularly thereon to the Council and to the Commission, in particular on financial relations with third countries and international institutions,
- without prejudice to Article 207, to contribute to the preparation of the work of the Council referred to in Articles 59, 60, 99(2), (3), (4) and (5), 100, 102, 103, 104, 105(6), 106(2), 107(5) and (6), 111, 119, 120(2) and (3), 122(2), 123(4) and (5), and to carry out other advisory and preparatory tasks assigned to it by the Council,
- to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of this Treaty and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

The Member States, the Commission and the ECB shall each appoint no more than two members of the Committee.

3. The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the ECB and the Committee referred to in this Article, lay down detailed provisions concerning the composition of the Economic and Financial Committee. The President of the Council shall inform the European Parliament of such a decision.

4. In addition to the tasks set out in paragraph 2, if and as long as there are Member States with a derogation as referred to in Articles 122 and 123, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly thereon to the Council and to the Commission.

Article 115

For matters within the scope of Articles 99(4), 104 with the exception of paragraph 14, 111, 121, 122 and 123(4) and (5), the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.

*CHAPTER 4**TRANSITIONAL PROVISIONS**Article 116*

1. The second stage for achieving economic and monetary union shall begin on 1 January 1994.
2. Before that date:
 - (a) each Member State shall:
 - adopt, where necessary, appropriate measures to comply with the prohibitions laid down in Article 56 and in Articles 101 and 102(1),
 - adopt, if necessary, with a view to permitting the assessment provided for in subparagraph (b), multiannual programmes intended to ensure the lasting convergence necessary for the achievement of economic and monetary union, in particular with regard to price stability and sound public finances;
 - (b) the Council shall, on the basis of a report from the Commission, assess the progress made with regard to economic and monetary convergence, in particular with regard to price stability and sound public finances, and the progress made with the implementation of Community law concerning the internal market.
3. The provisions of Articles 101, 102(1), 103(1) and 104 with the exception of paragraphs 1, 9, 11 and 14 shall apply from the beginning of the second stage.

The provisions of Articles 100(2), 104(1), (9) and (11), 105, 106, 108, 111, 112, 113 and 114(2) and (4) shall apply from the beginning of the third stage.

4. In the second stage, Member States shall endeavour to avoid excessive government deficits.
5. During the second stage, each Member State shall, as appropriate, start the process leading to the independence of its central bank, in accordance with Article 109.

Article 117

1. At the start of the second stage, a European Monetary Institute (hereinafter referred to as 'EMI') shall be established and take up its duties; it shall have legal personality and be directed and managed by a Council, consisting of a President and the Governors of the national central banks, one of whom shall be Vice-President.

The President shall be appointed by common accord of the governments of the Member States at the level of Heads of State or Government, on a recommendation from the Council of the EMI, and after consulting the European Parliament and the Council. The President shall be selected from among persons of recognised standing and professional experience in monetary or banking matters. Only nationals of Member States may be President of the EMI. The Council of the EMI shall appoint the Vice-President.

The Statute of the EMI is laid down in a Protocol annexed to this Treaty.

2. The EMI shall:

- strengthen cooperation between the national central banks,
- strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability,
- monitor the functioning of the European Monetary System,
- hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets,
- take over the tasks of the European Monetary Cooperation Fund, which shall be dissolved; the modalities of dissolution are laid down in the Statute of the EMI,
- facilitate the use of the ecu and oversee its development, including the smooth functioning of the ecu clearing system.

3. For the preparation of the third stage, the EMI shall:

- prepare the instruments and the procedures necessary for carrying out a single monetary policy in the third stage,
- promote the harmonisation, where necessary, of the rules and practices governing the collection, compilation and distribution of statistics in the areas within its field of competence,
- prepare the rules for operations to be undertaken by the national central banks within the framework of the ESCB,
- promote the efficiency of cross-border payments,
- supervise the technical preparation of ecu banknotes.

At the latest by 31 December 1996, the EMI shall specify the regulatory, organisational and logistical framework necessary for the ESCB to perform its tasks in the third stage. This framework shall be submitted for decision to the ECB at the date of its establishment.

4. The EMI, acting by a majority of two thirds of the members of its Council, may:
 - formulate opinions or recommendations on the overall orientation of monetary policy and exchange-rate policy as well as on related measures introduced in each Member State,
 - submit opinions or recommendations to governments and to the Council on policies which might affect the internal or external monetary situation in the Community and, in particular, the functioning of the European Monetary System,
 - make recommendations to the monetary authorities of the Member States concerning the conduct of their monetary policy.
5. The EMI, acting unanimously, may decide to publish its opinions and its recommendations.
6. The EMI shall be consulted by the Council regarding any proposed Community act within its field of competence.

Within the limits and under the conditions set out by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament and the EMI, the EMI shall be consulted by the authorities of the Member States on any draft legislative provision within its field of competence.

7. The Council may, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the EMI, confer upon the EMI other tasks for the preparation of the third stage.
8. Where this Treaty provides for a consultative role for the ECB, references to the ECB shall be read as referring to the EMI before the establishment of the ECB.
9. During the second stage, the term 'ECB' used in Articles 230, 232, 233, 234, 237 and 288 shall be read as referring to the EMI.

Article 118

The currency composition of the ecu basket shall not be changed.

From the start of the third stage, the value of the ecu shall be irrevocably fixed in accordance with Article 123(4).

Article 119

1. Where a Member State is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the common market or the progressive implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions of this Treaty. The Commission shall state what measures it recommends the State concerned to take.

If the action taken by a Member State and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Committee referred to in Article 114, recommend to the Council the granting of mutual assistance and appropriate methods therefor.

The Commission shall keep the Council regularly informed of the situation and of how it is developing.

2. The Council, acting by a qualified majority, shall grant such mutual assistance; it shall adopt directives or decisions laying down the conditions and details of such assistance, which may take such forms as:

- (a) a concerted approach to or within any other international organisations to which Member States may have recourse;
- (b) measures needed to avoid deflection of trade where the State which is in difficulties maintains or reintroduces quantitative restrictions against third countries;
- (c) the granting of limited credits by other Member States, subject to their agreement.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorise the State which is in difficulties to take protective measures, the conditions and details of which the Commission shall determine.

Such authorisation may be revoked and such conditions and details may be changed by the Council acting by a qualified majority.

4. Subject to Article 122(6), this article shall cease to apply from the beginning of the third stage.

Article 120

1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 119(2) is not immediately taken, the Member State concerned may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the common market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 119.

3. After the Commission has delivered an opinion and the Committee referred to in Article 114 has been consulted, the Council may, acting by a qualified majority, decide that the State concerned shall amend, suspend or abolish the protective measures referred to above.

4. Subject to Article 122(6), this article shall cease to apply from the beginning of the third stage.

Article 121

1. The Commission and the EMI shall report to the Council on the progress made in the fulfilment by the Member States of their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between each Member State's national legislation, including the statutes of its national central bank, and Articles 108 and 109 of this Treaty and the Statute of the ESCB. The reports shall also examine the achievement of a high degree of sustainable convergence by reference to the fulfilment by each Member State of the following criteria:

- the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability,
- the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 104(6),
- the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the currency of any other Member State,
- the durability of convergence achieved by the Member State and of its participation in the exchange-rate mechanism of the European Monetary System being reflected in the long-term interest-rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to this Treaty. The reports of the Commission and the EMI shall also take account of the development of the ecu, the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2. On the basis of these reports, the Council, acting by a qualified majority on a recommendation from the Commission, shall assess:

- for each Member State, whether it fulfils the necessary conditions for the adoption of a single currency;
- whether a majority of the Member States fulfils the necessary conditions for the adoption of a single currency,

and recommend its findings to the Council, meeting in the composition of the Heads of State or Government. The European Parliament shall be consulted and forward its opinion to the Council, meeting in the composition of the Heads of State or Government.

3. Taking due account of the reports referred to in paragraph 1 and the opinion of the European Parliament referred to in paragraph 2, the Council, meeting in the composition of the Heads of State or Government, shall, acting by a qualified majority, not later than 31 December 1996:

- decide, on the basis of the recommendations of the Council referred to in paragraph 2, whether a majority of the Member States fulfils the necessary conditions for the adoption of a single currency,

— decide whether it is appropriate for the Community to enter the third stage,

and if so:

— set the date for the beginning of the third stage.

4. If, by the end of 1997, the date for the beginning of the third stage has not been set, the third stage shall start on 1 January 1999. Before 1 July 1998, the Council, meeting in the composition of the Heads of State or Government, after a repetition of the procedure provided for in paragraphs 1 and 2, with the exception of the second indent of paragraph 2, taking into account the reports referred to in paragraph 1 and the opinion of the European Parliament, shall, acting by a qualified majority and on the basis of the recommendations of the Council referred to in paragraph 2, confirm which Member States fulfil the necessary conditions for the adoption of a single currency.

Article 122

1. If the decision has been taken to set the date in accordance with Article 121(3), the Council shall, on the basis of its recommendations referred to in Article 121(2), acting by a qualified majority on a recommendation from the Commission, decide whether any, and if so which, Member States shall have a derogation as defined in paragraph 3 of this Article. Such Member States shall in this Treaty be referred to as 'Member States with a derogation'.

If the Council has confirmed which Member States fulfil the necessary conditions for the adoption of a single currency, in accordance with Article 121(4), those Member States which do not fulfil the conditions shall have a derogation as defined in paragraph 3 of this Article. Such Member States shall in this Treaty be referred to as 'Member States with a derogation'.

2. At least once every two years, or at the request of a Member State with a derogation, the Commission and the ECB shall report to the Council in accordance with the procedure laid down in Article 121(1). After consulting the European Parliament and after discussion in the Council, meeting in the composition of the Heads of State or Government, the Council shall, acting by a qualified majority on a proposal from the Commission, decide which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in Article 121(1), and abrogate the derogations of the Member States concerned.

3. A derogation referred to in paragraph 1 shall entail that the following articles do not apply to the Member State concerned: Articles 104(9) and (11), 105(1), (2), (3) and (5), 106, 110, 111, and 112(2)(b). The exclusion of such a Member State and its national central bank from rights and obligations within the ESCB is laid down in Chapter IX of the Statute of the ESCB.

4. In Articles 105(1), (2) and (3), 106, 110, 111 and 112(2)(b), 'Member States' shall be read as 'Member States without a derogation'.

5. The voting rights of Member States with a derogation shall be suspended for the Council decisions referred to in the articles of this Treaty mentioned in paragraph 3. In that case, by way of derogation from Articles 205 and 250(1), a qualified majority shall be defined as two thirds of the votes of the representatives of the Member States without a derogation weighted in accordance with Article 205(2), and unanimity of those Member States shall be required for an act requiring unanimity.

6. Articles 119 and 120 shall continue to apply to a Member State with a derogation.

Article 123 ()*

1. Immediately after the decision on the date for the beginning of the third stage has been taken in accordance with Article 121(3), or, as the case may be, immediately after 1 July 1998:

- the Council shall adopt the provisions referred to in Article 107(6),
- the governments of the Member States without a derogation shall appoint, in accordance with the procedure set out in Article 50 of the Statute of the ESCB, the President, the Vice-President and the other members of the Executive Board of the ECB. If there are Member States with a derogation, the number of members of the Executive Board may be smaller than provided for in Article 11.1 of the Statute of the ESCB, but in no circumstances shall it be less than four.

As soon as the Executive Board is appointed, the ESCB and the ECB shall be established and shall prepare for their full operation as described in this Treaty and the Statute of the ESCB. The full exercise of their powers shall start from the first day of the third stage.

2. As soon as the ECB is established, it shall, if necessary, take over tasks of the EMI. The EMI shall go into liquidation upon the establishment of the ECB; the modalities of liquidation are laid down in the Statute of the EMI.

3. If and as long as there are Member States with a derogation, and without prejudice to Article 107(3) of this Treaty, the General Council of the ECB referred to in Article 45 of the Statute of the ESCB shall be constituted as a third decision-making body of the ECB.

4. At the starting date of the third stage, the Council shall, acting with the unanimity of the Member States without a derogation, on a proposal from the Commission and after consulting the ECB, adopt the conversion rates at which their currencies shall be irrevocably fixed and at which irrevocably fixed rate the ecu shall be substituted for these currencies, and the ecu will become a currency in its own right. This measure shall by itself not modify the external value of the ecu. The Council, acting by a qualified majority of the said Member States, on a proposal from the Commission and after consulting the ECB, shall take the other measures necessary for the rapid introduction of the ecu as the single currency of those Member States. The second sentence of Article 122(5) shall apply.

(*) Article amended by the Treaty of Nice.

5. If it is decided, according to the procedure set out in Article 122(2), to abrogate a derogation, the Council shall, acting with the unanimity of the Member States without a derogation and the Member State concerned, on a proposal from the Commission and after consulting the ECB, adopt the rate at which the ecu shall be substituted for the currency of the Member State concerned, and take the other measures necessary for the introduction of the ecu as the single currency in the Member State concerned.

Article 124

1. Until the beginning of the third stage, each Member State shall treat its exchange-rate policy as a matter of common interest. In so doing, Member States shall take account of the experience acquired in cooperation within the framework of the European Monetary System (EMS) and in developing the ecu, and shall respect existing powers in this field.

2. From the beginning of the third stage and for as long as a Member State has a derogation, paragraph 1 shall apply by analogy to the exchange-rate policy of that Member State.

TITLE VIII

EMPLOYMENT

Article 125

Member States and the Community shall, in accordance with this title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article 2 of the Treaty on European Union and in Article 2 of this Treaty.

Article 126

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 125 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Community adopted pursuant to Article 99(2).

2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with the provisions of Article 128.

Article 127

1. The Community shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.

2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Community policies and activities.

Article 128

1. The European Council shall each year consider the employment situation in the Community and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.
2. On the basis of the conclusions of the European Council, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 130, shall each year draw up guidelines which the Member States shall take into account in their employment policies. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article 99(2).
3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.
4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, acting by a qualified majority on a recommendation from the Commission, may, if it considers it appropriate in the light of that examination, make recommendations to Member States.
5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Community and on the implementation of the guidelines for employment.

Article 129

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, may adopt incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.

Those measures shall not include harmonisation of the laws and regulations of the Member States.

Article 130

The Council, after consulting the European Parliament, shall establish an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. The tasks of the Committee shall be:

- to monitor the employment situation and employment policies in the Member States and the Community,
- without prejudice to Article 207, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article 128.

In fulfilling its mandate, the Committee shall consult management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

TITLE IX

COMMON COMMERCIAL POLICY

Article 131

By establishing a customs union between themselves Member States aim to contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and the lowering of customs barriers.

The common commercial policy shall take into account the favourable effect which the abolition of customs duties between Member States may have on the increase in the competitive strength of undertakings in those States.

Article 132

1. Without prejudice to obligations undertaken by them within the framework of other international organisations, Member States shall progressively harmonise the systems whereby they grant aid for exports to third countries, to the extent necessary to ensure that competition between undertakings of the Community is not distorted.

On a proposal from the Commission, the Council shall, acting by a qualified majority, issue any directives needed for this purpose.

2. The preceding provisions shall not apply to such a drawback of customs duties or charges having equivalent effect nor to such a repayment of indirect taxation including turnover taxes, excise duties and other indirect taxes as is allowed when goods are exported from a Member State to a third country, in so far as such a drawback or repayment does not exceed the amount imposed, directly or indirectly, on the products exported.

Article 133 ()*

1. The common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies.

2. The Commission shall submit proposals to the Council for implementing the common commercial policy.

3. Where agreements with one or more States or international organisations need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Community policies and rules.

(*) Article amended by the Treaty of Nice.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee on the progress of negotiations.

The relevant provisions of Article 300 shall apply.

4. In exercising the powers conferred upon it by this Article, the Council shall act by a qualified majority.

5. Paragraphs 1 to 4 shall also apply to the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, in so far as those agreements are not covered by the said paragraphs and without prejudice to paragraph 6.

By way of derogation from paragraph 4, the Council shall act unanimously when negotiating and concluding an agreement in one of the fields referred to in the first subparagraph, where that agreement includes provisions for which unanimity is required for the adoption of internal rules or where it relates to a field in which the Community has not yet exercised the powers conferred upon it by this Treaty by adopting internal rules.

The Council shall act unanimously with respect to the negotiation and conclusion of a horizontal agreement insofar as it also concerns the preceding subparagraph or the second subparagraph of paragraph 6.

This paragraph shall not affect the right of the Member States to maintain and conclude agreements with third countries or international organisations in so far as such agreements comply with Community law and other relevant international agreements.

6. An agreement may not be concluded by the Council if it includes provisions which would go beyond the Community's internal powers, in particular by leading to harmonisation of the laws or regulations of the Member States in an area for which this Treaty rules out such harmonisation.

In this regard, by way of derogation from the first subparagraph of paragraph 5, agreements relating to trade in cultural and audiovisual services, educational services, and social and human health services, shall fall within the shared competence of the Community and its Member States. Consequently, in addition to a Community decision taken in accordance with the relevant provisions of Article 300, the negotiation of such agreements shall require the common accord of the Member States. Agreements thus negotiated shall be concluded jointly by the Community and the Member States.

The negotiation and conclusion of international agreements in the field of transport shall continue to be governed by the provisions of Title V and Article 300.

7. Without prejudice to the first subparagraph of paragraph 6, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may extend the application of paragraphs 1 to 4 to international negotiations and agreements on intellectual property in so far as they are not covered by paragraph 5.

Article 134

In order to ensure that the execution of measures of commercial policy taken in accordance with this Treaty by any Member State is not obstructed by deflection of trade, or where differences between such measures lead to economic difficulties in one or more Member States, the Commission shall recommend the methods for the requisite cooperation between Member States. Failing this, the Commission may authorise Member States to take the necessary protective measures, the conditions and details of which it shall determine.

In case of urgency, Member States shall request authorisation to take the necessary measures themselves from the Commission, which shall take a decision as soon as possible; the Member States concerned shall then notify the measures to the other Member States. The Commission may decide at any time that the Member States concerned shall amend or abolish the measures in question.

In the selection of such measures, priority shall be given to those which cause the least disturbance of the functioning of the common market.

TITLE X

CUSTOMS COOPERATION*Article 135*

Within the scope of application of this Treaty, the Council, acting in accordance with the procedure referred to in Article 251, shall take measures in order to strengthen customs cooperation between Member States and between the latter and the Commission. These measures shall not concern the application of national criminal law or the national administration of justice.

TITLE XI

SOCIAL POLICY, EDUCATION, VOCATIONAL TRAINING AND YOUTH

CHAPTER 1

SOCIAL PROVISIONS*Article 136*

The Community and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Community economy.

They believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonisation of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action.

Article 137 ()*

1. With a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in the following fields:

- (a) improvement in particular of the working environment to protect workers' health and safety;
- (b) working conditions;
- (c) social security and social protection of workers;
- (d) protection of workers where their employment contract is terminated;
- (e) the information and consultation of workers;
- (f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;
- (g) conditions of employment for third-country nationals legally residing in Community territory;
- (h) the integration of persons excluded from the labour market, without prejudice to Article 150;
- (i) equality between men and women with regard to labour market opportunities and treatment at work;
- (j) the combating of social exclusion;
- (k) the modernisation of social protection systems without prejudice to point (c).

2. To this end, the Council:

- (a) may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;
- (b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

(*) Article amended by the Treaty of Nice.

The Council shall act in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee and the Committee of the Regions, except in the fields referred to in paragraph 1(c), (d), (f) and (g) of this article, where the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament and the said Committees. The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament, may decide to render the procedure referred to in Article 251 applicable to paragraph 1(d), (f) and (g) of this article.

3. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraph 2.

In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 249, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive.

4. The provisions adopted pursuant to this article:

- shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof,
- shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with this Treaty.

5. The provisions of this article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Article 138

1. The Commission shall have the task of promoting the consultation of management and labour at Community level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.

2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Community action.

3. If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.

4. On the occasion of such consultation, management and labour may inform the Commission of their wish to initiate the process provided for in Article 139. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article 139 ()*

1. Should management and labour so desire, the dialogue between them at Community level may lead to contractual relations, including agreements.

2. Agreements concluded at Community level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 137, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.

The Council shall act by qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article 137(2). In that case, it shall act unanimously.

Article 140

With a view to achieving the objectives of Article 136 and without prejudice to the other provisions of this Treaty, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this chapter, particularly in matters relating to:

- employment,
- labour law and working conditions,
- basic and advanced vocational training,
- social security,
- prevention of occupational accidents and diseases,
- occupational hygiene,
- the right of association and collective bargaining between employers and workers.

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations.

Before delivering the opinions provided for in this article, the Commission shall consult the Economic and Social Committee.

(*) Article amended by the Treaty of Nice.

Article 141

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Article 142

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

Article 143

The Commission shall draw up a report each year on progress in achieving the objectives of Article 136, including the demographic situation in the Community. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

The European Parliament may invite the Commission to draw up reports on particular problems concerning the social situation.

Article 144 ()*

The Council, after consulting the European Parliament, shall establish a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The tasks of the Committee shall be:

— to monitor the social situation and the development of social protection policies in the Member States and the Community,

(*) Article amended by the Treaty of Nice.

- to promote exchanges of information, experience and good practice between Member States and with the Commission,
- without prejudice to Article 207, to prepare reports, formulate opinions or undertake other work within its fields of competence, at the request of either the Council or the Commission or on its own initiative.

In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

Article 145

The Commission shall include a separate chapter on social developments within the Community in its annual report to the European Parliament.

The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.

CHAPTER 2

THE EUROPEAN SOCIAL FUND

Article 146

In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established in accordance with the provisions set out below; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Community, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.

Article 147

The Fund shall be administered by the Commission.

The Commission shall be assisted in this task by a Committee presided over by a Member of the Commission and composed of representatives of governments, trade unions and employers' organisations.

Article 148

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt implementing decisions relating to the European Social Fund.

CHAPTER 3

EDUCATION, VOCATIONAL TRAINING AND YOUTH

Article 149

1. The Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

2. Community action shall be aimed at:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States,
- encouraging mobility of students and teachers, by encouraging *inter alia*, the academic recognition of diplomas and periods of study,
- promoting cooperation between educational establishments,
- developing exchanges of information and experience on issues common to the education systems of the Member States,
- encouraging the development of youth exchanges and of exchanges of socioeducational instructors,
- encouraging the development of distance education.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education, in particular the Council of Europe.

4. In order to contribute to the achievement of the objectives referred to in this Article, the Council:

- acting in accordance with the procedure referred to in Article 251, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States,
- acting by a qualified majority on a proposal from the Commission, shall adopt recommendations.

Article 150

1. The Community shall implement a vocational training policy which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

2. Community action shall aim to:

- facilitate adaptation to industrial changes, in particular through vocational training and retraining,

- improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market,
- facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people,
- stimulate cooperation on training between educational or training establishments and firms,
- develop exchanges of information and experience on issues common to the training systems of the Member States.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt measures to contribute to the achievement of the objectives referred to in this article, excluding any harmonisation of the laws and regulations of the Member States.

TITLE XII

CULTURE

Article 151

1. The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

2. Action by the Community shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:

- improvement of the knowledge and dissemination of the culture and history of the European peoples,
- conservation and safeguarding of cultural heritage of European significance,
- non-commercial cultural exchanges,
- artistic and literary creation, including in the audiovisual sector.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.

4. The Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.

5. In order to contribute to the achievement of the objectives referred to in this Article, the Council:
- acting in accordance with the procedure referred to in Article 251 and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States. The Council shall act unanimously throughout the procedure referred to in Article 251,
 - acting unanimously on a proposal from the Commission, shall adopt recommendations.

TITLE XIII

PUBLIC HEALTH

Article 152

1. A high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities.

Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education.

The Community shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.

2. The Community shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall contribute to the achievement of the objectives referred to in this article through adopting:

- (a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;
- (b) by way of derogation from Article 37, measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;

- (c) incentive measures designed to protect and improve human health, excluding any harmonisation of the laws and regulations of the Member States.

The Council, acting by a qualified majority on a proposal from the Commission, may also adopt recommendations for the purposes set out in this article.

5. Community action in the field of public health shall fully respect the responsibilities of the Member States for the organisation and delivery of health services and medical care. In particular, measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.

TITLE XIV

CONSUMER PROTECTION

Article 153

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Community shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

2. Consumer protection requirements shall be taken into account in defining and implementing other Community policies and activities.

3. The Community shall contribute to the attainment of the objectives referred to in paragraph 1 through:

- (a) measures adopted pursuant to Article 95 in the context of the completion of the internal market;
- (b) measures which support, supplement and monitor the policy pursued by the Member States.

4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall adopt the measures referred to in paragraph 3(b).

5. Measures adopted pursuant to paragraph 4 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with this Treaty. The Commission shall be notified of them.

TITLE XV

TRANS-EUROPEAN NETWORKS

Article 154

1. To help achieve the objectives referred to in Articles 14 and 158 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the Community shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

2. Within the framework of a system of open and competitive markets, action by the Community shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Community.

Article 155

1. In order to achieve the objectives referred to in Article 154, the Community:
 - shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest,
 - shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation,
 - may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in the first indent, particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Community may also contribute, through the Cohesion Fund set up pursuant to Article 161, to the financing of specific projects in Member States in the area of transport infrastructure.

The Community's activities shall take into account the potential economic viability of the projects.

2. Member States shall, in liaison with the Commission, coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article 154. The Commission may, in close cooperation with the Member State, take any useful initiative to promote such coordination.

3. The Community may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.

Article 156

The guidelines and other measures referred to in Article 155(1) shall be adopted by the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.

Guidelines and projects of common interest which relate to the territory of a Member State shall require the approval of the Member State concerned.

TITLE XVI

INDUSTRY*Article 157 (*)*

1. The Community and the Member States shall ensure that the conditions necessary for the competitiveness of the Community's industry exist.

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

- speeding up the adjustment of industry to structural changes,
- encouraging an environment favourable to initiative and to the development of undertakings throughout the Community, particularly small and medium-sized undertakings,
- encouraging an environment favourable to cooperation between undertakings,
- fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination.

3. The Community shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of this Treaty. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, may decide on specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1.

This title shall not provide a basis for the introduction by the Community of any measure which could lead to a distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons.

TITLE XVII

ECONOMIC AND SOCIAL COHESION*Article 158*

In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion.

In particular, the Community shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, including rural areas.

(*) Article amended by the Treaty of Nice.

Article 159 ()*

Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article 158. The formulation and implementation of the Community's policies and actions and the implementation of the internal market shall take into account the objectives set out in Article 158 and shall contribute to their achievement. The Community shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing Financial Instruments.

The Commission shall submit a report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions every three years on the progress made towards achieving economic and social cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals.

If specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of the other Community policies, such actions may be adopted by the Council acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.

Article 160

The European Regional Development Fund is intended to help to redress the main regional imbalances in the Community through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.

Article 161 ()*

Without prejudice to Article 162, the Council, acting unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament and consulting the Economic and Social Committee and the Committee of the Regions, shall define the tasks, priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds. The Council, acting by the same procedure, shall also define the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing Financial Instruments.

A Cohesion Fund set up by the Council in accordance with the same procedure shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

From 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission after obtaining the assent of the European Parliament and after consulting the Economic and Social Committee and the Committee of the Regions if, by that date, the multiannual financial perspective applicable from 1 January 2007 and the Interinstitutional Agreement relating thereto have been adopted. If such is not the case, the procedure laid down by this paragraph shall apply from the date of their adoption.

(*) Article amended by the Treaty of Nice.

Article 162

Implementing decisions relating to the European Regional Development Fund shall be taken by the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.

With regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, and the European Social Fund, Articles 37 and 148 respectively shall continue to apply.

TITLE XVIII

RESEARCH AND TECHNOLOGICAL DEVELOPMENT*Article 163*

1. The Community shall have the objective of strengthening the scientific and technological bases of Community industry and encouraging it to become more competitive at international level, while promoting all the research activities deemed necessary by virtue of other chapters of this Treaty.

2. For this purpose the Community shall, throughout the Community, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality; it shall support their efforts to cooperate with one another, aiming, notably, at enabling undertakings to exploit the internal market potential to the full, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.

3. All Community activities under this Treaty in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with the provisions of this title.

Article 164

In pursuing these objectives, the Community shall carry out the following activities, complementing the activities carried out in the Member States:

- (a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;
- (b) promotion of cooperation in the field of Community research, technological development and demonstration with third countries and international organisations;
- (c) dissemination and optimisation of the results of activities in Community research, technological development and demonstration;
- (d) stimulation of the training and mobility of researchers in the Community.

Article 165

1. The Community and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and Community policy are mutually consistent.
2. In close cooperation with the Member State, the Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Article 166

1. A multiannual framework programme, setting out all the activities of the Community, shall be adopted by the Council, acting in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee.

The framework programme shall:

- establish the scientific and technological objectives to be achieved by the activities provided for in Article 164 and fix the relevant priorities,
 - indicate the broad lines of such activities,
 - fix the maximum overall amount and the detailed rules for Community financial participation in the framework programme and the respective shares in each of the activities provided for.
2. The framework programme shall be adapted or supplemented as the situation changes.
 3. The framework programme shall be implemented through specific programmes developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, may not exceed the overall maximum amount fixed for the framework programme and each activity.
 4. The Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt the specific programmes.

Article 167

For the implementation of the multiannual framework programme the Council shall:

- determine the rules for the participation of undertakings, research centres and universities,
- lay down the rules governing the dissemination of research results.

Article 168

In implementing the multiannual framework programme, supplementary programmes may be decided on involving the participation of certain Member States only, which shall finance them subject to possible Community participation.

The Council shall adopt the rules applicable to supplementary programmes, particularly as regards the dissemination of knowledge and access by other Member States.

Article 169

In implementing the multiannual framework programme, the Community may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

Article 170

In implementing the multiannual framework programme the Community may make provision for cooperation in Community research, technological development and demonstration with third countries or international organisations.

The detailed arrangements for such cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

Article 171

The Community may set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes.

Article 172

The Council, acting by qualified majority on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt the provisions referred to in Article 171.

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall adopt the provisions referred to in Articles 167, 168 and 169. Adoption of the supplementary programmes shall require the agreement of the Member States concerned.

Article 173

At the beginning of each year the Commission shall send a report to the European Parliament and to the Council. The report shall include information on research and technological development activities and the dissemination of results during the previous year, and the work programme for the current year.

TITLE XIX

ENVIRONMENT

Article 174

1. Community policy on the environment shall contribute to pursuit of the following objectives:
 - preserving, protecting and improving the quality of the environment,

- protecting human health,
- prudent and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems.

2. Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a Community inspection procedure.

3. In preparing its policy on the environment, the Community shall take account of:

- available scientific and technical data,
- environmental conditions in the various regions of the Community,
- the potential benefits and costs of action or lack of action,
- the economic and social development of the Community as a whole and the balanced development of its regions.

4. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

Article 175 ()*

1. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall decide what action is to be taken by the Community in order to achieve the objectives referred to in Article 174.

2. By way of derogation from the decision-making procedure provided for in paragraph 1 and without prejudice to Article 95, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt:

- (a) provisions primarily of a fiscal nature;

(*) Article amended by the Treaty of Nice.

(b) measures affecting:

- town and country planning,
- quantitative management of water resources or affecting, directly or indirectly, the availability of those resources,
- land use, with the exception of waste management;

(c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.

The Council may, under the conditions laid down in the first subparagraph, define those matters referred to in this paragraph on which decisions are to be taken by a qualified majority.

3. In other areas, general action programmes setting out priority objectives to be attained shall be adopted by the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.

The Council, acting under the terms of paragraph 1 or paragraph 2 according to the case, shall adopt the measures necessary for the implementation of these programmes.

4. Without prejudice to certain measures of a Community nature, the Member States shall finance and implement the environment policy.

5. Without prejudice to the principle that the polluter should pay, if a measure based on the provisions of paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, the Council shall, in the act adopting that measure, lay down appropriate provisions in the form of:

- temporary derogations, and/or
- financial support from the Cohesion Fund set up pursuant to Article 161.

Article 176

The protective measures adopted pursuant to Article 175 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with this Treaty. They shall be notified to the Commission.

TITLE XX

DEVELOPMENT COOPERATION

Article 177

1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster:

- the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them,

- the smooth and gradual integration of the developing countries into the world economy,
- the campaign against poverty in the developing countries.

2. Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.

3. The Community and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

Article 178

The Community shall take account of the objectives referred to in Article 177 in the policies that it implements which are likely to affect developing countries.

Article 179

1. Without prejudice to the other provisions of this Treaty, the Council, acting in accordance with the procedure referred to in Article 251, shall adopt the measures necessary to further the objectives referred to in Article 177. Such measures may take the form of multiannual programmes.

2. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

3. The provisions of this Article shall not affect cooperation with the African, Caribbean and Pacific countries in the framework of the ACP-EC Convention.

Article 180

1. The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Article 181

Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The previous paragraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

TITLE XXI (*)

ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES*Article 181a*

1. Without prejudice to the other provisions of this Treaty, and in particular those of Title XX, the Community shall carry out, within its spheres of competence, economic, financial and technical cooperation measures with third countries. Such measures shall be complementary to those carried out by the Member States and consistent with the development policy of the Community.

Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to the objective of respecting human rights and fundamental freedoms.

2. The Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall adopt the measures necessary for the implementation of paragraph 1. The Council shall act unanimously for the association agreements referred to in Article 310 and for the agreements to be concluded with the States which are candidates for accession to the Union.

3. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The first subparagraph shall be without prejudice to the Member States' competence to negotiate in international bodies and to conclude international agreements.

PART FOUR

ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES*Article 182*

The Member States agree to associate with the Community the non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom. These countries and territories (hereinafter called the 'countries and territories') are listed in Annex II to this Treaty.

The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole.

In accordance with the principles set out in the preamble to this Treaty, association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.

(*) Title added by the Treaty of Nice.

Article 183

Association shall have the following objectives.

1. Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to this Treaty.
2. Each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which it has special relations.
3. The Member States shall contribute to the investments required for the progressive development of these countries and territories.
4. For investments financed by the Community, participation in tenders and supplies shall be open on equal terms to all natural and legal persons who are nationals of a Member State or of one of the countries and territories.
5. In relations between Member States and the countries and territories the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions and procedures laid down in the Chapter relating to the right of establishment and on a non-discriminatory basis, subject to any special provisions laid down pursuant to Article 187.

Article 184

1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be prohibited in conformity with the prohibition of customs duties between Member States in accordance with the provisions of this Treaty.
2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be prohibited in accordance with the provisions of Article 25.
3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.

The duties referred to in the preceding subparagraph may not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.

4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff.
5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.

Article 185

If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when the provisions of Article 184(1) have been applied, to cause deflections of trade to the detriment of any Member State, the latter may request the Commission to propose to the other Member States the measures needed to remedy the situation.

Article 186

Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries and territories for workers from Member States, shall be governed by agreements to be concluded subsequently with the unanimous approval of Member States.

Article 187

The Council, acting unanimously, shall, on the basis of the experience acquired under the association of the countries and territories with the Community and of the principles set out in this Treaty, lay down provisions as regards the detailed rules and the procedure for the association of the countries and territories with the Community.

Article 188

The provisions of Articles 182 to 187 shall apply to Greenland, subject to the specific provisions for Greenland set out in the Protocol on special arrangements for Greenland, annexed to this Treaty.

PART FIVE**INSTITUTIONS OF THE COMMUNITY****TITLE I****PROVISIONS GOVERNING THE INSTITUTIONS***CHAPTER 1***THE INSTITUTIONS****SECTION 1****THE EUROPEAN PARLIAMENT***Article 189 (*)*

The European Parliament, which shall consist of representatives of the peoples of the States brought together in the Community, shall exercise the powers conferred upon it by this Treaty.

The number of Members of the European Parliament shall not exceed 732.

(*) Article amended by the Treaty of Nice.

Article 190 ()*

1. The representatives in the European Parliament of the peoples of the States brought together in the Community shall be elected by direct universal suffrage.

2. (**) The number of representatives elected in each Member State shall be as follows:

Belgium	25
Denmark	16
Germany	99
Greece	25
Spain	64
France	87
Ireland	15
Italy	87
Luxembourg	6
Netherlands	31
Austria	21
Portugal	25
Finland	16
Sweden	22
United Kingdom	87.

In the event of amendments to this paragraph, the number of representatives elected in each Member State must ensure appropriate representation of the peoples of the States brought together in the Community.

3. Representatives shall be elected for a term of five years.

4. The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

5. The European Parliament, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.

Article 191 ()*

Political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union.

(*) Article amended by the Treaty of Nice.

(**) This paragraph will be amended, on 1 January 2004, in accordance with the Protocol on the enlargement of the European Union (see the end of this publication).

The Council, acting in accordance with the procedure referred to in Article 251, shall lay down the regulations governing political parties at European level and in particular the rules regarding their funding.

Article 192

In so far as provided in this Treaty, the European Parliament shall participate in the process leading up to the adoption of Community acts by exercising its powers under the procedures laid down in Articles 251 and 252 and by giving its assent or delivering advisory opinions.

The European Parliament may, acting by a majority of its Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing this Treaty.

Article 193

In the course of its duties, the European Parliament may, at the request of a quarter of its Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by this Treaty on other institutions or bodies, alleged contraventions or maladministration in the implementation of Community law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on the submission of its report.

The detailed provisions governing the exercise of the right of inquiry shall be determined by common accord of the European Parliament, the Council and the Commission.

Article 194

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and which affects him, her or it directly.

Article 195

1. The European Parliament shall appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be appointed after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any body. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.

Article 196

The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.

The European Parliament may meet in extraordinary session at the request of a majority of its Members or at the request of the Council or of the Commission.

Article 197

The European Parliament shall elect its President and its officers from among its Members.

Members of the Commission may attend all meetings and shall, at their request, be heard on behalf of the Commission.

The Commission shall reply orally or in writing to questions put to it by the European Parliament or by its Members.

The Council shall be heard by the European Parliament in accordance with the conditions laid down by the Council in its Rules of Procedure.

Article 198

Save as otherwise provided in this Treaty, the European Parliament shall act by an absolute majority of the votes cast.

The Rules of Procedure shall determine the quorum.

Article 199

The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members.

The proceedings of the European Parliament shall be published in the manner laid down in its Rules of Procedure.

Article 200

The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.

Article 201

If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the Members of the European Parliament, the Members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 214. In this case, the term of office of the Members of the Commission appointed to replace them shall expire on the date on which the term of office of the Members of the Commission obliged to resign as a body would have expired.

SECTION 2

THE COUNCIL

Article 202

To ensure that the objectives set out in this Treaty are attained the Council shall, in accordance with the provisions of this Treaty:

- ensure coordination of the general economic policies of the Member States,
- have power to take decisions,
- confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down. The Council may impose certain requirements in respect of the exercise of these powers. The Council may also reserve the right, in specific cases, to exercise directly implementing powers itself. The procedures referred to above must be consonant with principles and rules to be laid down in advance by the Council, acting unanimously on a proposal from the Commission and after obtaining the opinion of the European Parliament.

Article 203

The Council shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State.

The office of President shall be held in turn by each Member State in the Council for a term of six months in the order decided by the Council acting unanimously.

Article 204

The Council shall meet when convened by its President on his own initiative or at the request of one of its Members or of the Commission.

Article 205 ()*

1. Save as otherwise provided in this Treaty, the Council shall act by a majority of its Members.
2. Where the Council is required to act by a qualified majority, the votes of its Members shall be weighted as follows:

Belgium	5
Denmark	3
Germany	10
Greece	5
Spain	8
France	10
Ireland	3
Italy	10
Luxembourg	2
Netherlands	5
Austria	4
Portugal	5
Finland	3
Sweden	4
United Kingdom	10.

For their adoption, acts of the Council shall require at least:

- 62 votes in favour where this Treaty requires them to be adopted on a proposal from the Commission,
- 62 votes in favour, cast by at least 10 members, in other cases.

3. Abstentions by Members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

Article 206

Where a vote is taken, any Member of the Council may also act on behalf of not more than one other member.

*Article 207 (**)*

1. A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

(*) This Article will be amended, on 1 January 2005, in accordance with the Protocol on the enlargement of the European Union (see the end of this publication).

(**) Article amended by the Treaty of Nice.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the common foreign and security policy, who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council acting by a qualified majority.

The Council shall decide on the organisation of the General Secretariat.

3. The Council shall adopt its Rules of Procedure.

For the purpose of applying Article 255(3), the Council shall elaborate in these Rules the conditions under which the public shall have access to Council documents. For the purpose of this paragraph, the Council shall define the cases in which it is to be regarded as acting in its legislative capacity, with a view to allowing greater access to documents in those cases, while at the same time preserving the effectiveness of its decision-making process. In any event, when the Council acts in its legislative capacity, the results of votes and explanations of vote as well as statements in the minutes shall be made public.

Article 208

The Council may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit to it any appropriate proposals.

Article 209

The Council shall, after receiving an opinion from the Commission, determine the rules governing the committees provided for in this Treaty.

Article 210 ()*

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and Members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice and of the Members and Registrar of the Court of First Instance. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

SECTION 3

THE COMMISSION

Article 211

In order to ensure the proper functioning and development of the common market, the Commission shall:

- ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied,

(*) Article amended by the Treaty of Nice.

- formulate recommendations or deliver opinions on matters dealt with in this Treaty, if it expressly so provides or if the Commission considers it necessary,
- have its own power of decision and participate in the shaping of measures taken by the Council and by the European Parliament in the manner provided for in this Treaty,
- exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.

Article 212

The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Community.

Article 213

1. (*) The Commission shall consist of 20 Members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.

The number of Members of the Commission may be altered by the Council, acting unanimously.

Only nationals of Member States may be Members of the Commission.

The Commission must include at least one national of each of the Member States, but may not include more than two Members having the nationality of the same State.

2. The Members of the Commission shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the Members of the Commission in the performance of their tasks.

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 216 or deprived of his right to a pension or other benefits in its stead.

(*) This paragraph will be amended, on 1 January 2005, and thereafter when the Union comprises 27 Member States in accordance with the Protocol on the enlargement of the European Union (see the end of this publication).

Article 214 ()*

1. The Members of the Commission shall be appointed, in accordance with the procedure referred to in paragraph 2, for a period of five years, subject, if need be, to Article 201.

Their term of office shall be renewable.

2. The Council, meeting in the composition of Heads of State or Government and acting by a qualified majority, shall nominate the person it intends to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

The Council, acting by a qualified majority and by common accord with the nominee for President, shall adopt the list of the other persons whom it intends to appoint as Members of the Commission, drawn up in accordance with the proposals made by each Member State.

The President and the other Members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other Members of the Commission shall be appointed by the Council, acting by a qualified majority.

Article 215 ()*

Apart from normal replacement, or death, the duties of a Member of the Commission shall end when he resigns or is compulsorily retired.

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the Member's term of office by a new Member appointed by the Council, acting by a qualified majority. The Council may, acting unanimously, decide that such a vacancy need not be filled.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article 214(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 216, Members of the Commission shall remain in office until they have been replaced or until the Council has decided that the vacancy need not be filled, as provided for in the second paragraph of this Article.

Article 216

If any Member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire him.

Article 217 ()*

1. The Commission shall work under the political guidance of its President, who shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality.

(*) Article amended by the Treaty of Nice.

2. The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.

3. After obtaining the approval of the College, the President shall appoint Vice-Presidents from among its Members.

4. A Member of the Commission shall resign if the President so requests, after obtaining the approval of the College.

Article 218

1. The Council and the Commission shall consult each other and shall settle by common accord their methods of cooperation.

2. The Commission shall adopt its Rules of Procedure so as to ensure that both it and its departments operate in accordance with the provisions of this Treaty. It shall ensure that these Rules are published.

Article 219 ()*

The Commission shall act by a majority of the number of Members provided for in Article 213.

A meeting of the Commission shall be valid only if the number of Members laid down in its Rules of Procedure is present.

SECTION 4

THE COURT OF JUSTICE

Article 220 ()*

The Court of Justice and the Court of First Instance, each within its jurisdiction, shall ensure that in the interpretation and application of this Treaty the law is observed.

In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 225a in order to exercise, in certain specific areas, the judicial competence laid down in this Treaty.

Article 221 ()*

The Court of Justice shall consist of one judge per Member State.

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice.

When provided for in the Statute, the Court of Justice may also sit as a full Court.

(*) Article amended by the Treaty of Nice.

Article 222 ()*

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice, require his involvement.

Article 223 ()*

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.

Retiring Judges and Advocates-General may be reappointed.

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council, acting by a qualified majority.

Article 224 ()*

The Court of First Instance shall comprise at least one judge per Member State. The number of Judges shall be determined by the Statute of the Court of Justice. The Statute may provide for the Court of First Instance to be assisted by Advocates-General.

The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

The Judges shall elect the President of the Court of First Instance from among their number for a term of three years. He may be re-elected.

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service.

The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the Statute of the Court of Justice provides otherwise, the provisions of this Treaty relating to the Court of Justice shall apply to the Court of First Instance.

(*) Article amended by the Treaty of Nice.

Article 225 ()*

1. The Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 230, 232, 235, 236 and 238, with the exception of those assigned to a judicial panel and those reserved in the Statute for the Court of Justice. The Statute may provide for the Court of First Instance to have jurisdiction for other classes of action or proceeding.

Decisions given by the Court of First Instance under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the judicial panels set up under Article 225a.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 234, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

*Article 225a (**)*

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

(*) Article amended by the Treaty of Nice.

(**) Article inserted by the Treaty of Nice.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the decision establishing the judicial panel provides otherwise, the provisions of this Treaty relating to the Court of Justice and the provisions of the Statute of the Court of Justice shall apply to the judicial panels.

Article 226

If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

Article 227

A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

Article 228

1. If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

2. If the Commission considers that the Member State concerned has not taken such measures it shall, after giving that State the opportunity to submit its observations, issue a reasoned opinion specifying the points on which the Member State concerned has not complied with the judgment of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgment within the time limit laid down by the Commission, the latter may bring the case before the Court of Justice. In so doing it shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 227.

Article 229

Regulations adopted jointly by the European Parliament and the Council, and by the Council, pursuant to the provisions of this Treaty, may give the Court of Justice unlimited jurisdiction with regard to the penalties provided for in such regulations.

Article 229a ()*

Without prejudice to the other provisions of this Treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may adopt provisions to confer jurisdiction, to the extent that it shall determine, on the Court of Justice in disputes relating to the application of acts adopted on the basis of this Treaty which create Community industrial property rights. The Council shall recommend those provisions to the Member States for adoption in accordance with their respective constitutional requirements.

*Article 230 (**)*

The Court of Justice shall review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors and by the ECB for the purpose of protecting their prerogatives.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

(*) Article inserted by the Treaty of Nice.

(**) Article amended by the Treaty of Nice.

Article 231

If the action is well founded, the Court of Justice shall declare the act concerned to be void.

In the case of a regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

Article 232

Should the European Parliament, the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

The Court of Justice shall have jurisdiction, under the same conditions, in actions or proceedings brought by the ECB in the areas falling within the latter's field of competence and in actions or proceedings brought against the latter.

Article 233

The institution or institutions whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 288.

This article shall also apply to the ECB.

Article 234

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of this Treaty;
- (b) the validity and interpretation of acts of the institutions of the Community and of the ECB;
- (c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

Article 235

The Court of Justice shall have jurisdiction in disputes relating to compensation for damage provided for in the second paragraph of Article 288.

Article 236

The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and under the conditions laid down in the Staff Regulations or the Conditions of employment.

Article 237

The Court of Justice shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:

- (a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article 226;
- (b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article 230;
- (c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article 230, and solely on the grounds of non-compliance with the procedure provided for in Article 21(2), (5), (6) and (7) of the Statute of the Bank;
- (d) the fulfilment by national central banks of obligations under this Treaty and the Statute of the ESCB. In this connection the powers of the Council of the ECB in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article 226. If the Court of Justice finds that a national central bank has failed to fulfil an obligation under this Treaty, that bank shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

Article 238

The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

Article 239

The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

Article 240

Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

Article 241

Notwithstanding the expiry of the period laid down in the fifth paragraph of Article 230, any party may, in proceedings in which a regulation adopted jointly by the European Parliament and the Council, or a regulation of the Council, of the Commission, or of the ECB is at issue, plead the grounds specified in the second paragraph of Article 230 in order to invoke before the Court of Justice the inapplicability of that regulation.

Article 242

Actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

Article 243

The Court of Justice may in any cases before it prescribe any necessary interim measures.

Article 244

The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 256.

Article 245 ()*

The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the Court of Justice, may amend the provisions of the Statute, with the exception of Title I.

SECTION 5

THE COURT OF AUDITORS*Article 246*

The Court of Auditors shall carry out the audit.

Article 247 ()*

1. The Court of Auditors shall consist of one national from each Member State.

(*) Article amended by the Treaty of Nice.

2. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

3. The Members of the Court of Auditors shall be appointed for a term of six years. The Council, acting by a qualified majority after consulting the European Parliament, shall adopt the list of Members drawn up in accordance with the proposals made by each Member State. The term of office of the Members of the Court of Auditors shall be renewable.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

4. The Members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

5. The Members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

6. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7.

The vacancy thus caused shall be filled for the remainder of the Member's term of office.

Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been replaced.

7. A Member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

8. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the Members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

9. The provisions of the Protocol on the privileges and immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the Members of the Court of Auditors.

Article 248 ()*

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Union*. This statement may be supplemented by specific assessments for each major area of Community activity.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community, on the premises of any body which manages revenue or expenditure on behalf of the Community and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Community, any bodies managing revenue or expenditure on behalf of the Community, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Community expenditure and revenue, the Court's rights of access to information held by the Bank shall be governed by an agreement between the Court, the Bank and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit of Community expenditure and revenue managed by the Bank.

(*) Article amended by the Treaty of Nice.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

The Court of Auditors shall draw up its Rules of Procedure. Those rules shall require the approval of the Council, acting by a qualified majority.

CHAPTER 2

PROVISIONS COMMON TO SEVERAL INSTITUTIONS

Article 249

In order to carry out their task and in accordance with the provisions of this Treaty, the European Parliament acting jointly with the Council, the Council and the Commission shall make regulations and issue directives, take decisions, make recommendations or deliver opinions.

A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A decision shall be binding in its entirety upon those to whom it is addressed.

Recommendations and opinions shall have no binding force.

Article 250

1. Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal, subject to Article 251(4) and (5).

2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Community act.

Article 251

1. Where reference is made in this Treaty to this Article for the adoption of an act, the following procedure shall apply.

2. The Commission shall submit a proposal to the European Parliament and the Council.

The Council, acting by a qualified majority after obtaining the opinion of the European Parliament:

- if it approves all the amendments contained in the European Parliament's opinion, may adopt the proposed act thus amended,
- if the European Parliament does not propose any amendments, may adopt the proposed act,
- shall otherwise adopt a common position and communicate it to the European Parliament. The Council shall inform the European Parliament fully of the reasons which led it to adopt its common position. The Commission shall inform the European Parliament fully of its position.

If, within three months of such communication, the European Parliament:

- (a) approves the common position or has not taken a decision, the act in question shall be deemed to have been adopted in accordance with that common position;
- (b) rejects, by an absolute majority of its component members, the common position, the proposed act shall be deemed not to have been adopted;
- (c) proposes amendments to the common position by an absolute majority of its component members, the amended text shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

3. If, within three months of the matter being referred to it, the Council, acting by a qualified majority, approves all the amendments of the European Parliament, the act in question shall be deemed to have been adopted in the form of the common position thus amended; however, the Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion. If the Council does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

4. The Conciliation Committee, which shall be composed of the Members of the Council or their representatives and an equal number of representatives of the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the Members of the Council or their representatives and by a majority of the representatives of the European Parliament. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council. In fulfilling this task, the Conciliation Committee shall address the common position on the basis of the amendments proposed by the European Parliament.

5. If, within six weeks of its being convened, the Conciliation Committee approves a joint text, the European Parliament, acting by an absolute majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If either of the two institutions fails to approve the proposed act within that period, it shall be deemed not to have been adopted.

6. Where the Conciliation Committee does not approve a joint text, the proposed act shall be deemed not to have been adopted.

7. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Article 252

Where reference is made in this Treaty to this Article for the adoption of an act, the following procedure shall apply.

- (a) The Council, acting by a qualified majority on a proposal from the Commission and after obtaining the opinion of the European Parliament, shall adopt a common position.
- (b) The Council's common position shall be communicated to the European Parliament. The Council and the Commission shall inform the European Parliament fully of the reasons which led the Council to adopt its common position and also of the Commission's position.

If, within three months of such communication, the European Parliament approves this common position or has not taken a decision within that period, the Council shall definitively adopt the act in question in accordance with the common position.

- (c) The European Parliament may, within the period of three months referred to in point (b), by an absolute majority of its component Members, propose amendments to the Council's common position. The European Parliament may also, by the same majority, reject the Council's common position. The result of the proceedings shall be transmitted to the Council and the Commission.

If the European Parliament has rejected the Council's common position, unanimity shall be required for the Council to act on a second reading.

- (d) The Commission shall, within a period of one month, re-examine the proposal on the basis of which the Council adopted its common position, by taking into account the amendments proposed by the European Parliament.

The Commission shall forward to the Council, at the same time as its re-examined proposal, the amendments of the European Parliament which it has not accepted, and shall express its opinion on them. The Council may adopt these amendments unanimously.

- (e) The Council, acting by a qualified majority, shall adopt the proposal as re-examined by the Commission.

Unanimity shall be required for the Council to amend the proposal as re-examined by the Commission.

- (f) In the cases referred to in points (c), (d) and (e), the Council shall be required to act within a period of three months. If no decision is taken within this period, the Commission proposal shall be deemed not to have been adopted.

- (g) The periods referred to in points (b) and (f) may be extended by a maximum of one month by common accord between the Council and the European Parliament.

Article 253

Regulations, directives and decisions adopted jointly by the European Parliament and the Council, and such acts adopted by the Council or the Commission, shall state the reasons on which they are based and shall refer to any proposals or opinions which were required to be obtained pursuant to this Treaty.

Article 254 (*)

1. Regulations, directives and decisions adopted in accordance with the procedure referred to in Article 251 shall be signed by the President of the European Parliament and by the President of the Council and published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the 20th day following that of their publication.
2. Regulations of the Council and of the Commission, as well as directives of those institutions which are addressed to all Member States, shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the 20th day following that of their publication.
3. Other directives, and decisions, shall be notified to those to whom they are addressed and shall take effect upon such notification.

Article 255

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European Parliament, Council and Commission documents, subject to the principles and the conditions to be defined in accordance with paragraphs 2 and 3.
2. General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the Council, acting in accordance with the procedure referred to in Article 251 within two years of the entry into force of the Treaty of Amsterdam.
3. Each institution referred to above shall elaborate in its own Rules of Procedure specific provisions regarding access to its documents.

Article 256

Decisions of the Council or of the Commission which impose a pecuniary obligation on persons other than States, shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice.

(*) Article amended by the Treaty of Nice.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

CHAPTER 3

THE ECONOMIC AND SOCIAL COMMITTEE

Article 257 ()*

An Economic and Social Committee is hereby established. It shall have advisory status.

The Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest.

Article 258 ()*

The number of members of the Economic and Social Committee shall not exceed 350.

The number of members of the Committee shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24.

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.

The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.

(*) Article amended by the Treaty of Nice.

Article 259 ()*

1. The members of the Committee shall be appointed for four years, on proposals from the Member States. The Council, acting by a qualified majority, shall adopt the list of members drawn up in accordance with the proposals made by each Member State. The term of office of the members of the Committee shall be renewable.

2. The Council shall consult the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors to which the activities of the Community are of concern.

Article 260

The Committee shall elect its chairman and officers from among its members for a term of two years.

It shall adopt its Rules of Procedure.

The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.

Article 261

The Committee shall include specialised sections for the principal fields covered by this Treaty.

These specialised sections shall operate within the general terms of reference of the Committee. They may not be consulted independently of the Committee.

Subcommittees may also be established within the Committee to prepare on specific questions or in specific fields, draft opinions to be submitted to the Committee for its consideration.

The Rules of Procedure shall lay down the methods of composition and the terms of reference of the specialised sections and of the subcommittees.

Article 262

The Committee must be consulted by the Council or by the Commission where this Treaty so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee and that of the specialised section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.

The Committee may be consulted by the European Parliament.

(*) Article amended by the Treaty of Nice.

CHAPTER 4

THE COMMITTEE OF THE REGIONS

Article 263 ()*

A committee, hereinafter referred to as 'the Committee of the Regions', consisting of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly, is hereby established with advisory status.

The number of members of the Committee of the Regions shall not exceed 350.

The number of members of the Committee shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24.

The members of the Committee and an equal number of alternate members shall be appointed for four years, on proposals from the respective Member States. Their term of office shall be renewable. The Council, acting by a qualified majority, shall adopt the list of members and alternate members drawn up in accordance with the proposals made by each Member State. When the mandate referred to in the first paragraph on the basis of which they were proposed comes to an end, the term of office of members of the Committee shall terminate automatically and they shall then be replaced for the remainder of the said term of office in accordance with the same procedure. No member of the Committee shall at the same time be a Member of the European Parliament.

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.

Article 264

The Committee of the Regions shall elect its chairman and officers from among its members for a term of two years.

It shall adopt its Rules of Procedure.

(*) Article amended by the Treaty of Nice.

The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.

Article 265

The Committee of the Regions shall be consulted by the Council or by the Commission where this Treaty so provides and in all other cases, in particular those which concern cross-border cooperation, in which one of these two institutions considers it appropriate.

The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

Where the Economic and Social Committee is consulted pursuant to Article 262, the Committee of the Regions shall be informed by the Council or the Commission of the request for an opinion. Where it considers that specific regional interests are involved, the Committee of the Regions may issue an opinion on the matter.

The Committee of the Regions may be consulted by the European Parliament.

It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

The opinion of the Committee, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.

CHAPTER 5

THE EUROPEAN INVESTMENT BANK

Article 266 ()*

The European Investment Bank shall have legal personality.

The members of the European Investment Bank shall be the Member States.

The Statute of the European Investment Bank is laid down in a Protocol annexed to this Treaty. The Council acting unanimously, at the request of the European Investment Bank and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the European Investment Bank, may amend Articles 4, 11 and 12 and Article 18(5) of the Statute of the Bank.

Article 267

The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the Community. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

(*) Article amended by the Treaty of Nice.

- (a) projects for developing less-developed regions;
- (b) projects for modernising or converting undertakings or for developing fresh activities called for by the progressive establishment of the common market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;
- (c) projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.

In carrying out its task, the Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Community Financial Instruments.

TITLE II

FINANCIAL PROVISIONS

Article 268

All items of revenue and expenditure of the Community, including those relating to the European Social Fund, shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.

Administrative expenditure occasioned for the institutions by the provisions of the Treaty on European Union relating to common foreign and security policy and to cooperation in the fields of justice and home affairs shall be charged to the budget. The operational expenditure occasioned by the implementation of the said provisions may, under the conditions referred to therein, be charged to the budget.

The revenue and expenditure shown in the budget shall be in balance.

Article 269

Without prejudice to other revenue, the budget shall be financed wholly from own resources.

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall lay down provisions relating to the system of own resources of the Community, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Article 270

With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Community act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Community's own resources arising under provisions laid down by the Council pursuant to Article 269.

Article 271

The expenditure shown in the budget shall be authorised for one financial year, unless the regulations made pursuant to Article 279 provide otherwise.

In accordance with conditions to be laid down pursuant to Article 279, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 279.

The expenditure of the European Parliament, the Council, the Commission and the Court of Justice shall be set out in separate parts of the budget, without prejudice to special arrangements for certain common items of expenditure.

Article 272

1. The financial year shall run from 1 January to 31 December.
2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the Commission and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

The Council, acting by a qualified majority, shall establish the draft budget and forward it to the European Parliament.

4. The draft budget shall be placed before the European Parliament not later than 5 October of the year preceding that in which the budget is to be implemented.

The European Parliament shall have the right to amend the draft budget, acting by a majority of its Members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft budget being placed before it, the European Parliament has given its approval, the budget shall stand as finally adopted. If within this period the European Parliament has not amended the draft budget nor proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the European Parliament has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

- (a) the Council may, acting by a qualified majority, modify any of the amendments adopted by the European Parliament;
- (b) with regard to the proposed modifications:
 - where a modification proposed by the European Parliament does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted,
 - where a modification proposed by the European Parliament has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected,
 - where, pursuant to one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

The draft budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft being placed before it, the Council has not modified any of the amendments adopted by the European Parliament and if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally adopted. The Council shall inform the European Parliament that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the European Parliament or if the modifications proposed by the latter have been rejected or modified, the modified draft budget shall again be forwarded to the European Parliament. The Council shall inform the European Parliament of the results of its deliberations.

6. Within 15 days of the draft budget being placed before it, the European Parliament, which shall have been notified of the action taken on its proposed modifications, may, acting by a majority of its Members and three fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the budget accordingly. If within this period the European Parliament has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been finally adopted.

8. However, the European Parliament, acting by a majority of its Members and two thirds of the votes cast, may, if there are important reasons, reject the draft budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Economic Policy Committee, declare what this maximum rate is as it results from:

- the trend, in terms of volume, of the gross national product within the Community,
- the average variation in the budgets of the Member States,
- and
- the trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the European Parliament may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the European Parliament, the Council or the Commission consider that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the European Parliament, acting by a majority of its Members and three fifths of the votes cast.

10. Each institution shall exercise the powers conferred upon it by this article, with due regard for the provisions of the Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

Article 273

If, at the beginning of a financial year, the budget has not yet been voted, a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget in accordance with the provisions of the Regulations made pursuant to Article 279; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft budget in course of preparation.

The Council may, acting by a qualified majority, provided that the other conditions laid down in the first subparagraph are observed, authorise expenditure in excess of one twelfth.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the European Parliament; within 30 days the European Parliament, acting by a majority of its Members and three fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one twelfth referred to in the first subparagraph. This part of the decision of the Council shall be suspended until the European Parliament has taken its decision. If within the said period the European Parliament has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

The decisions referred to in the second and third subparagraphs shall lay down the necessary measures relating to resources to ensure application of this Article.

Article 274

The Commission shall implement the budget, in accordance with the provisions of the regulations made pursuant to Article 279, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 279, transfer appropriations from one chapter to another or from one subdivision to another.

Article 275

The Commission shall submit annually to the Council and to the European Parliament the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

Article 276

1. The European Parliament, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 275, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in Article 248(1), second subparagraph and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.

Article 277

The budget shall be drawn up in the unit of account determined in accordance with the provisions of the regulations made pursuant to Article 279.

Article 278

The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

Article 279 ()*

1. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

- (a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection.

From 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors.

2. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Community's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements.

Article 280

1. The Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Community through measures to be taken in accordance with this article, which shall act as a deterrent and be such as to afford effective protection in the Member States.

(*) Article amended by the Treaty of Nice.

2. Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests.

3. Without prejudice to other provisions of this Treaty, the Member States shall coordinate their action aimed at protecting the financial interests of the Community against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

4. The Council, acting in accordance with the procedure referred to in Article 251, after consulting the Court of Auditors, shall adopt the necessary measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Community with a view to affording effective and equivalent protection in the Member States. These measures shall not concern the application of national criminal law or the national administration of justice.

5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this article.

PART SIX

GENERAL AND FINAL PROVISIONS

Article 281

The Community shall have legal personality.

Article 282

In each of the Member States, the Community shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Community shall be represented by the Commission.

Article 283

The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, lay down the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of those Communities.

Article 284

The Commission may, within the limits and under conditions laid down by the Council in accordance with the provisions of this Treaty, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

Article 285

1. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the Council, acting in accordance with the procedure referred to in Article 251, shall adopt measures for the production of statistics where necessary for the performance of the activities of the Community.

2. The production of Community statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.

Article 286

1. From 1 January 1999, Community acts on the protection of individuals with regard to the processing of personal data and the free movement of such data shall apply to the institutions and bodies set up by, or on the basis of, this Treaty.

2. Before the date referred to in paragraph 1, the Council, acting in accordance with the procedure referred to in Article 251, shall establish an independent supervisory body responsible for monitoring the application of such Community acts to Community institutions and bodies and shall adopt any other relevant provisions as appropriate.

Article 287

The members of the institutions of the Community, the members of committees, and the officials and other servants of the Community shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Article 288

The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

The preceding paragraph shall apply under the same conditions to damage caused by the ECB or by its servants in the performance of their duties.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of employment applicable to them.

Article 289

The seat of the institutions of the Community shall be determined by common accord of the governments of the Member States.

Article 290 ()*

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the Statute of the Court of Justice, be determined by the Council, acting unanimously.

Article 291

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Communities. The same shall apply to the European Central Bank, the European Monetary Institute, and the European Investment Bank.

Article 292

Member States undertake not to submit a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

Article 293

Member States shall, so far as is necessary, enter into negotiations with each other with a view to securing for the benefit of their nationals:

- the protection of persons and the enjoyment and protection of rights under the same conditions as those accorded by each State to its own nationals,
- the abolition of double taxation within the Community,
- the mutual recognition of companies or firms within the meaning of the second paragraph of Article 48, the retention of legal personality in the event of transfer of their seat from one country to another, and the possibility of mergers between companies or firms governed by the laws of different countries,
- the simplification of formalities governing the reciprocal recognition and enforcement of judgments of courts or tribunals and of arbitration awards.

Article 294

Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of Article 48, without prejudice to the application of the other provisions of this Treaty.

Article 295

This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership.

Article 296

1. The provisions of this Treaty shall not preclude the application of the following rules:

(*) Article amended by the Treaty of Nice.

- (a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;
- (b) any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.

2. The Council may, acting unanimously on a proposal from the Commission, make changes to the list, which it drew up on 15 April 1958, of the products to which the provisions of paragraph 1(b) apply.

Article 297

Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the common market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article 298

If measures taken in the circumstances referred to in Articles 296 and 297 have the effect of distorting the conditions of competition in the common market, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in the Treaty.

By way of derogation from the procedure laid down in Articles 226 and 227, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 296 and 297. The Court of Justice shall give its ruling in camera.

Article 299

1. This Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. The provisions of this Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands.

However, taking account of the structural social and economic situation of the French overseas departments, the Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall adopt specific measures aimed, in particular, at laying down the conditions of application of the present Treaty to those regions, including common policies.

The Council shall, when adopting the relevant measures referred to in the second subparagraph, take into account areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Community programmes.

The Council shall adopt the measures referred to in the second subparagraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Community legal order, including the internal market and common policies.

3. The special arrangements for association set out in part four of this Treaty shall apply to the overseas countries and territories listed in Annex II to this Treaty.

This Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in the aforementioned list.

4. The provisions of this Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. The provisions of this Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding the preceding paragraphs:

- (a) this Treaty shall not apply to the Faeroe Islands;
- (b) this Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
- (c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

Article 300 ()*

1. Where this Treaty provides for the conclusion of agreements between the Community and one or more States or international organisations, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Commission shall conduct these negotiations in consultation with special committees appointed by the Council to assist it in this task and within the framework of such directives as the Council may issue to it.

In exercising the powers conferred upon it by this paragraph, the Council shall act by a qualified majority, except in the cases where the first subparagraph of paragraph 2 provides that the Council shall act unanimously.

(*) Article amended by the Treaty of Nice.

2. Subject to the powers vested in the Commission in this field, the signing, which may be accompanied by a decision on provisional application before entry into force, and the conclusion of the agreements shall be decided on by the Council, acting by a qualified majority on a proposal from the Commission. The Council shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of internal rules and for the agreements referred to in Article 310.

By way of derogation from the rules laid down in paragraph 3, the same procedures shall apply for a decision to suspend the application of an agreement, and for the purpose of establishing the positions to be adopted on behalf of the Community in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.

The European Parliament shall be immediately and fully informed of any decision under this paragraph concerning the provisional application or the suspension of agreements, or the establishment of the Community position in a body set up by an agreement.

3. The Council shall conclude agreements after consulting the European Parliament, except for the agreements referred to in Article 133(3), including cases where the agreement covers a field for which the procedure referred to in Article 251 or that referred to in Article 252 is required for the adoption of internal rules. The European Parliament shall deliver its opinion within a time limit which the Council may lay down according to the urgency of the matter. In the absence of an opinion within that time limit, the Council may act.

By way of derogation from the previous subparagraph, agreements referred to in Article 310, other agreements establishing a specific institutional framework by organising cooperation procedures, agreements having important budgetary implications for the Community and agreements entailing amendment of an act adopted under the procedure referred to in Article 251 shall be concluded after the assent of the European Parliament has been obtained.

The Council and the European Parliament may, in an urgent situation, agree upon a time limit for the assent.

4. When concluding an agreement, the Council may, by way of derogation from paragraph 2, authorise the Commission to approve modifications on behalf of the Community where the agreement provides for them to be adopted by a simplified procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.

5. When the Council envisages concluding an agreement which calls for amendments to this Treaty, the amendments must first be adopted in accordance with the procedure laid down in Article 48 of the Treaty on European Union.

6. The European Parliament, the Council, the Commission or a Member State may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 48 of the Treaty on European Union.

7. Agreements concluded under the conditions set out in this Article shall be binding on the institutions of the Community and on Member States.

Article 301

Where it is provided, in a common position or in a joint action adopted according to the provisions of the Treaty on European Union relating to the common foreign and security policy, for an action by the Community to interrupt or to reduce, in part or completely, economic relations with one or more third countries, the Council shall take the necessary urgent measures. The Council shall act by a qualified majority on a proposal from the Commission.

Article 302

It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations and of its specialised agencies.

The Commission shall also maintain such relations as are appropriate with all international organisations.

Article 303

The Community shall establish all appropriate forms of cooperation with the Council of Europe.

Article 304

The Community shall establish close cooperation with the Organisation for Economic Cooperation and Development, the details of which shall be determined by common accord.

Article 305

1. The provisions of this Treaty shall not affect the provisions of the Treaty establishing the European Coal and Steel Community, in particular as regards the rights and obligations of Member States, the powers of the institutions of that Community and the rules laid down by that Treaty for the functioning of the common market in coal and steel.

2. The provisions of this Treaty shall not derogate from those of the Treaty establishing the European Atomic Energy Community.

Article 306

The provisions of this Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of this Treaty.

Article 307

The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of this Treaty.

To the extent that such agreements are not compatible with this Treaty, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under this Treaty by each Member State form an integral part of the establishment of the Community and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantages by all the other Member States.

Article 308

If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community, and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.

Article 309 ()*

1. Where a decision has been taken to suspend the voting rights of the representative of the government of a Member State in accordance with Article 7(3) of the Treaty on European Union, these voting rights shall also be suspended with regard to this Treaty.

2. Moreover, where the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1) of the Treaty on European Union has been determined in accordance with Article 7(2) of that Treaty, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under this Treaty shall in any case continue to be binding on that State.

3. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken in accordance with paragraph 2 in response to changes in the situation which led to their being imposed.

4. When taking decisions referred to in paragraphs 2 and 3, the Council shall act without taking into account the votes of the representative of the government of the Member State in question. By way of derogation from Article 205(2) a qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2).

This paragraph shall also apply in the event of voting rights being suspended in accordance with paragraph 1. In such cases, a decision requiring unanimity shall be taken without the vote of the representative of the government of the Member State in question.

Article 310

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.

(*) Article amended by the Treaty of Nice.

Article 311

The protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof.

Article 312

This Treaty is concluded for an unlimited period.

FINAL PROVISIONS*Article 313*

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The Instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the Instrument of ratification by the last signatory State to take this step. If, however, such deposit is made less than 15 days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

Article 314

This Treaty, drawn up in a single original in the Dutch, French, German, and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the Governments of the other signatory States.

Pursuant to the Accession Treaties, the Danish, English, Finnish, Greek, Irish, Portuguese, Spanish and Swedish versions of this Treaty shall also be authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Treaty.

Done at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

(List of signatories not reproduced)

ANNEXES

ANNEX I

LIST

referred to in Article 32 of the Treaty

(1) No in the Brussels nomenclature	(2) Description of products
Chapter 1	Live animals
Chapter 2	Meat and edible meat offal
Chapter 3	Fish, crustaceans and molluscs
Chapter 4	Dairy produce; birds' eggs; natural honey
Chapter 5	
05.04	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof
05.15	Animal products not elsewhere specified or included; dead animals of Chapter 1 or Chapter 3, unfit for human consumption
Chapter 6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
Chapter 7	Edible vegetables and certain roots and tubers
Chapter 8	Edible fruit and nuts; peel of melons or citrus fruit
Chapter 9	Coffee, tea and spices, excluding maté (heading No 09.03)
Chapter 10	Cereals
Chapter 11	Products of the milling industry; malt and starches; gluten; inulin
Chapter 12	Oil seeds and oleaginous fruit; miscellaneous grains, seeds and fruit; industrial and medical plants; straw and fodder
Chapter 13	
ex 13.03	Pectin
Chapter 15	
15.01	Lard and other rendered pig fat; rendered poultry fat
15.02	Unrendered fats of bovine cattle, sheep or goats; tallow (including 'premier jus') produced from those fats
15.03	Lard stearin, oleostearin and tallow stearin; lard oil, oleo-oil and tallow oil, not emulsified or mixed or prepared in any way
15.04	Fats and oil, of fish and marine mammals, whether or not refined
15.07	Fixed vegetable oils, fluid or solid, crude, refined or purified
15.12	Animal or vegetable fats and oils, hydrogenated, whether or not refined, but not further prepared
15.13	Margarine, imitation lard and other prepared edible fats
15.17	Residues resulting from the treatment of fatty substances or animal or vegetable waxes
Chapter 16	Preparations of meat, of fish, of crustaceans or molluscs

(1) No in the Brussels nomenclature	(2) Description of products
Chapter 17	
17.01	Beet sugar and cane sugar, solid
17.02	Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel
17.03	Molasses, whether or not decolourised
17.05 (*)	Flavoured or coloured sugars, syrups and molasses, but not including fruit juices containing added sugar in any proportion
Chapter 18	
18.01	Cocoa beans, whole or broken, raw or roasted
18.02	Cocoa shells, husks, skins and waste
Chapter 20	Preparations of vegetables, fruit or other parts of plants
Chapter 22	
22.04	Grape must, in fermentation or with fermentation arrested otherwise than by the addition of alcohol
22.05	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol
22.07	Other fermented beverages (for example, cider, perry and mead)
ex 22.08 (*)	Ethyl alcohol or neutral spirits, whether or not denatured, of any strength, obtained from agricultural products listed in Annex I to the Treaty, excluding liqueurs and other spirituous beverages and compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages
ex 22.09 (*)	
ex 22.10 (*)	Vinegar and substitutes for vinegar
Chapter 23	Residues and waste from the food industries; prepared animal fodder
Chapter 24	
24.01	Unmanufactured tobacco, tobacco refuse
Chapter 45	
45.01	Natural cork, unworked, crushed, granulated or ground; waste cork
Chapter 54	
54.01	Flax, raw or processed but not spun; flax tow and waste (including pulled or garnetted rags)
Chapter 57	
57.01	True hemp (<i>Cannabis sativa</i>), raw or processed but not spun; tow and waste of true hemp (including pulled or garnetted rags or ropes)

(*) Heading added by Article 1 of Regulation No 7a of the Council of the European Economic Community, of 18 December 1959 (OJ 7, 30.1.1961, p. 71 — Special edition (English edition) 1959 to 1962, p. 68).

*ANNEX II***OVERSEAS COUNTRIES AND TERRITORIES**

to which the provisions of part four of the Treaty apply

- Greenland
- New Caledonia and Dependencies
- French Polynesia
- French Southern and Antarctic Territories
- Wallis and Futuna Islands
- Mayotte
- Saint Pierre and Miquelon
- Aruba
- Netherlands Antilles:
 - Bonaire
 - Curaçao
 - Saba
 - Sint Eustatius
 - Sint Maarten
- Anguilla
- Cayman Islands
- Falkland Islands
- South Georgia and the South Sandwich Islands
- Montserrat
- Pitcairn
- Saint Helena and Dependencies
- British Antarctic Territory
- British Indian Ocean Territory
- Turks and Caicos Islands
- British Virgin Islands
- Bermuda

PROTOCOLS ADOPTED AT NICE

PROTOCOL

ON THE ENLARGEMENT OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaties establishing the European Communities:

Article 1

Repeal of the Protocol on the institutions

The Protocol on the institutions with the prospect of enlargement of the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities, is hereby repealed.

Article 2

Provisions concerning the European Parliament

1. On 1 January 2004 and with effect from the start of the 2004 to 2009 term, in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community, the first subparagraph shall be replaced by the following:

‘The number of representatives elected in each Member State shall be as follows:

Belgium	22
Denmark	13
Germany	99
Greece	22
Spain	50
France	72
Ireland	12
Italy	72
Luxembourg	6
Netherlands	25
Austria	17
Portugal	22
Finland	13
Sweden	18
United Kingdom	72’.

2. Subject to paragraph 3, the total number of representatives in the European Parliament for the 2004 to 2009 term shall be equal to the number of representatives specified in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community plus the number of representatives of the new Member States resulting from the accession treaties signed by 1 January 2004 at the latest.

3. If the total number of members referred to in paragraph 2 is less than 732, a pro rata correction shall be applied to the number of representatives to be elected in each Member State, so that the total number is as close as possible to 732, without such a correction leading to the number of representatives to be elected in each Member State being higher than that provided for in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community for the 1999 to 2004 term.

The Council shall adopt a decision to that effect.

4. By way of derogation from the second paragraph of Article 189 of the Treaty establishing the European Community and from the second paragraph of Article 107 of the Treaty establishing the European Atomic Energy Community, in the event of the entry into force of accession treaties after the adoption of the Council decision provided for in the second subparagraph of paragraph 3 of this Article, the number of members of the European Parliament may temporarily exceed 732 for the period for which that decision applies. The same correction as that referred to in the first subparagraph of paragraph 3 of this Article shall be applied to the number of representatives to be elected in the Member States in question.

Article 3

Provisions concerning the weighting of votes in the Council

1. On 1 January 2005:

(a) in Article 205 of the Treaty establishing the European Community and in Article 118 of the Treaty establishing the European Atomic Energy Community:

(i) paragraph 2 shall be replaced by the following:

‘2. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as follows:

Belgium	12
Denmark	7
Germany	29
Greece	12
Spain	27
France	29
Ireland	7
Italy	29
Luxembourg	4
Netherlands	13
Austria	10
Portugal	12
Finland	7
Sweden	10
United Kingdom	29

Acts of the Council shall require for their adoption at least 169 votes in favour cast by a majority of the members where this Treaty requires them to be adopted on a proposal from the Commission.

In other cases, for their adoption acts of the Council shall require at least 169 votes in favour, cast by at least two-thirds of the members.’;

(ii) the following paragraph 4 shall be added:

‘4. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.’

(b) In Article 23(2) of the Treaty on European Union, the third subparagraph shall be replaced by the following text:

‘The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community. For their adoption, decisions shall require at least 169 votes in favour cast by at least two thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.’

(c) In Article 34 of the Treaty on European Union, paragraph 3 shall be replaced by the following:

‘3. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 205(2) of the Treaty establishing the European Community, and for their adoption acts of the Council shall require at least 169 votes in favour, cast by at least two thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.’

2. At the time of each accession, the threshold referred to in the second subparagraph of Article 205(2) of the Treaty establishing the European Community and in the second subparagraph of Article 118(2) of the Treaty establishing the European Atomic Energy Community shall be calculated in such a way that the qualified majority threshold expressed in votes does not exceed the threshold resulting from the table in the Declaration on the enlargement of the European Union, included in the Final Act of the Conference which adopted the Treaty of Nice.

Article 4

Provisions concerning the Commission

1. On 1 January 2005 and with effect from when the first Commission following that date takes up its duties, Article 213(1) of the Treaty establishing the European Community and Article 126(1) of the Treaty establishing the European Atomic Energy Community shall be replaced by the following:

'1. The Members of the Commission shall be chosen on the grounds of their general competence and their independence shall be beyond doubt.

The Commission shall include one national of each of the Member States.

The number of Members of the Commission may be altered by the Council, acting unanimously.'

2. When the Union consists of 27 Member States, Article 213(1) of the Treaty establishing the European Community and Article 126(1) of the Treaty establishing the European Atomic Energy Community shall be replaced by the following:

'1. The Members of the Commission shall be chosen on the grounds of their general competence and their independence shall be beyond doubt.

The number of Members of the Commission shall be less than the number of Member States. The Members of the Commission shall be chosen according to a rotation system based on the principle of equality, the implementing arrangements for which shall be adopted by the Council, acting unanimously.

The number of Members of the Commission shall be set by the Council, acting unanimously.'

This amendment shall apply as from the date on which the first Commission following the date of accession of the 27th Member State of the Union takes up its duties.

3. The Council, acting unanimously after signing the treaty of accession of the 27th Member State of the Union, shall adopt:

- the number of Members of the Commission,
- the implementing arrangements for a rotation system based on the principle of equality containing all the criteria and rules necessary for determining the composition of successive colleges automatically on the basis of the following principles:
 - (a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as Members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;
 - (b) subject to point (a), each successive college shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States of the Union.

4. Any State which accedes to the Union shall be entitled, at the time of its accession, to have one of its nationals as a Member of the Commission until paragraph 2 applies.

PROTOCOL

ON THE STATUTE OF THE COURT OF JUSTICE

THE HIGH CONTRACTING PARTIES

DESIRING to lay down the Statute of the Court of Justice provided for in Article 245 of the Treaty establishing the European Community and in Article 160 of the Treaty establishing the European Atomic Energy Community,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community:

Article 1

The Court of Justice shall be constituted and shall function in accordance with the provisions of the Treaty on European Union (EU Treaty), of the Treaty establishing the European Community (EC Treaty), of the Treaty establishing the European Atomic Energy Community (EAEC Treaty) and of this Statute.

TITLE I

JUDGES AND ADVOCATES-GENERAL

Article 2

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 3

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting as a full Court, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the court competent to judge the members of the highest national judiciary.

Articles 12 to 15 and Article 18 of the Protocol on the privileges and immunities of the European Communities shall apply to the Judges, Advocates-General, Registrar and Assistant Rapporteurs of the Court, without prejudice to the provisions relating to immunity from legal proceedings of Judges which are set out in the preceding paragraphs.

Article 4

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

Article 5

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

Article 6

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the President of the European Parliament and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

Article 7

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

Article 8

The provisions of Articles 2 to 7 shall apply to the Advocates-General.

TITLE II

ORGANISATION*Article 9*

When, every three years, the Judges are partially replaced, eight and seven Judges shall be replaced alternately.

When, every three years, the Advocates-General are partially replaced, four Advocates-General shall be replaced on each occasion.

Article 10

The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 11

The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

Article 12

Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

Article 13

On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the Rules of Procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 14

The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court has its seat.

Article 15

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

Article 16

The Court shall form chambers consisting of three and five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The Grand Chamber shall consist of 11 Judges. It shall be presided over by the President of the Court. The Presidents of the chambers of five Judges and other Judges appointed in accordance with the conditions laid down in the Rules of Procedure shall also form part of the Grand Chamber.

The Court shall sit in a Grand Chamber when a Member State or an institution of the Communities that is party to the proceedings so requests.

The Court shall sit as a full Court where cases are brought before it pursuant to Article 195(2), Article 213(2), Article 216 or Article 247(7) of the EC Treaty or Article 107d(2), Article 126(2), Article 129 or Article 160b(7) of the EAEC Treaty.

Moreover, where it considers that a case before it is of exceptional importance, the Court may decide, after hearing the Advocate-General, to refer the case to the full Court.

Article 17

Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations.

Decisions of the chambers consisting of either three or five Judges shall be valid only if they are taken by three Judges.

Decisions of the Grand Chamber shall be valid only if nine Judges are sitting.

Decisions of the full Court shall be valid only if 11 Judges are sitting.

In the event of one of the Judges of a chamber being prevented from attending, a Judge of another chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure.

Article 18

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the chamber of a Judge of the nationality of that party.

TITLE III

PROCEDURE*Article 19*

The Member States and the institutions of the Communities shall be represented before the Court by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer.

The States, other than the Member States, which are parties to the Agreement on the European Economic Area and also the EFTA Surveillance Authority referred to in that Agreement shall be represented in same manner.

Other parties must be represented by a lawyer.

Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the Rules of Procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the Rules of Procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this article to lawyers.

Article 20

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Communities whose decisions are in dispute, of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the Rules of Procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

Where it considers that the case raises no new point of law, the Court may decide, after hearing the Advocate-General, that the case shall be determined without a submission from the Advocate-General.

Article 21

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party or names of the parties against whom the application is made, the subject-matter of the dispute, the form of order sought and a brief statement of the pleas in law on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 232 of the EC Treaty and article 148 of the EAEC Treaty, by documentary evidence of the date on which an institution was, in accordance with those Articles, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

Article 22

A case governed by Article 18 of the EAEC Treaty shall be brought before the Court by an appeal addressed to the Registrar. The appeal shall contain the name and permanent address of the applicant and the description of the signatory, a reference to the decision against which the appeal is brought, the names of the respondents, the subject-matter of the dispute, the submissions and a brief statement of the grounds on which the appeal is based.

The appeal shall be accompanied by a certified copy of the decision of the Arbitration Committee which is contested.

If the Court rejects the appeal, the decision of the Arbitration Committee shall become final.

If the Court annuls the decision of the Arbitration Committee, the matter may be re-opened, where appropriate, on the initiative of one of the parties in the case, before the Arbitration Committee. The latter shall conform to any decisions on points of law given by the Court.

Article 23

In the cases governed by Article 35(1) of the EU Treaty, by Article 234 of the EC Treaty and by Article 150 of the EAEC Treaty, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and also to the Council or to the European Central Bank if the act the validity or interpretation of which is in dispute originates from one of them, and to the European Parliament and the Council if the act the validity or interpretation of which is in dispute was adopted jointly by those two institutions.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the European Parliament, the Council and the European Central Bank, shall be entitled to submit statements of case or written observations to the Court.

In the cases governed by Article 234 of the EC Treaty, the decision of the national court or tribunal shall, moreover, be notified by the Registrar of the Court to the States, other than the Member States, which are parties to the Agreement on the European Economic Area and also to the EFTA Surveillance Authority referred to in that Agreement which may, within two months of notification, where one of the fields of application of that Agreement is concerned, submit statements of case or written observations to the Court.

Article 24

The Court may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions not being parties to the case to supply all information which the Court considers necessary for the proceedings.

Article 25

The Court may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of giving an expert opinion.

Article 26

Witnesses may be heard under conditions laid down in the Rules of Procedure.

Article 27

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the Rules of Procedure.

Article 28

Witnesses and experts may be heard on oath taken in the form laid down in the Rules of Procedure or in the manner laid down by the law of the country of the witness or expert.

Article 29

The Court may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the Rules of Procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

Article 30

A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court, the Member State concerned shall prosecute the offender before its competent court.

Article 31

The hearing in court shall be public, unless the Court, of its own motion or on application by the parties, decides otherwise for serious reasons.

Article 32

During the hearings the Court may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court only through their representatives.

Article 33

Minutes shall be made of each hearing and signed by the President and the Registrar.

Article 34

The case list shall be established by the President.

Article 35

The deliberations of the Court shall be and shall remain secret.

Article 36

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

Article 37

Judgments shall be signed by the President and the Registrar. They shall be read in open court.

Article 38

The Court shall adjudicate upon costs.

Article 39

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the Rules of Procedure, adjudicate upon applications to suspend execution, as provided for in Article 242 of the EC Treaty and Article 157 of the EAEC Treaty, or to prescribe interim measures pursuant to Article 243 of the EC Treaty or Article 158 of the EAEC Treaty, or to suspend enforcement in accordance with the fourth paragraph of Article 256 of the EC Treaty or the third paragraph of Article 164 of the EAEC Treaty.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the Rules of Procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

Article 40

Member States and institutions of the Communities may intervene in cases before the Court.

The same right shall be open to any other person establishing an interest in the result of any case submitted to the Court, save in cases between Member States, between institutions of the Communities or between Member States and institutions of the Communities.

Without prejudice to the second paragraph, the States, other than the Member States, which are parties to the Agreement on the European Economic Area, and also the EFTA Surveillance Authority referred to in that Agreement, may intervene in cases before the Court where one of the fields of application that Agreement is concerned.

An application to intervene shall be limited to supporting the form of order sought by one of the parties.

Article 41

Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

Article 42

Member States, institutions of the Communities and any other natural or legal persons may, in cases and under conditions to be determined by the Rules of Procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

Article 43

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Communities establishing an interest therein.

Article 44

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognising that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of 10 years from the date of the judgment.

Article 45

Periods of grace based on considerations of distance shall be determined by the Rules of Procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of force majeure.

Article 46

Proceedings against the Communities in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Communities. In the latter event the proceedings must be instituted within the period of two months provided for in Article 230 of the EC Treaty and Article 146 of the EAEC Treaty; the provisions of the second paragraph of Article 232 of the EC Treaty and the second paragraph of Article 148 of the EAEC Treaty, respectively, shall apply where appropriate.

TITLE IV

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

Article 47

Articles 2 to 8, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the Court of First Instance and its members. The oath referred to in Article 2 shall be taken before the Court of Justice and the decisions referred to in Articles 3, 4 and 6 shall be adopted by that Court after hearing the Court of First Instance.

The fourth paragraph of Article 3 and Articles 10, 11 and 14 shall apply to the Registrar of the Court of First Instance *mutatis mutandis*.

Article 48

The Court of First Instance shall consist of 15 Judges.

Article 49

The Members of the Court of First Instance may be called upon to perform the task of an Advocate-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on certain cases brought before the Court of First Instance in order to assist the Court of First Instance in the performance of its task.

The criteria for selecting such cases, as well as the procedures for designating the Advocates-General, shall be laid down in the Rules of Procedure of the Court of First Instance.

A Member called upon to perform the task of Advocate-General in a case may not take part in the judgment of the case.

Article 50

The Court of First Instance shall sit in chambers of three or five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The composition of the chambers and the assignment of cases to them shall be governed by the Rules of Procedure. In certain cases governed by the Rules of Procedure, the Court of First Instance may sit as a full court or be constituted by a single Judge.

The Rules of Procedure may also provide that the Court of First Instance may sit in a Grand Chamber in cases and under the conditions specified therein.

Article 51

By way of exception to the rule laid down in Article 225(1) of the EC Treaty and Article 140a(1) of the EAEC Treaty, the Court of Justice shall have jurisdiction in actions brought by the Member States, by the institutions of the Communities and by the European Central Bank.

Article 52

The President of the Court of Justice and the President of the Court of First Instance shall determine, by common accord, the conditions under which officials and other servants attached to the Court of Justice shall render their services to the Court of First Instance to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the Court of First Instance under the authority of the President of the Court of First Instance.

Article 53

The procedure before the Court of First Instance shall be governed by Title III.

Such further and more detailed provisions as may be necessary shall be laid down in its Rules of Procedure. The Rules of Procedure may derogate from the fourth paragraph of Article 40 and from Article 41 in order to take account of the specific features of litigation in the field of intellectual property.

Notwithstanding the fourth paragraph of Article 20, the Advocate-General may make his reasoned submissions in writing.

Article 54

Where an application or other procedural document addressed to the Court of First Instance is lodged by mistake with the Registrar of the Court of Justice, it shall be transmitted immediately by that Registrar to the Registrar of the Court of First Instance; likewise, where an application or other procedural document addressed to the Court of Justice is lodged by mistake with the Registrar of the Court of First Instance, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice.

Where the Court of First Instance finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it shall refer that action to the Court of Justice; likewise, where the Court of Justice finds that an action falls within the jurisdiction of the Court of First Instance, it shall refer that action to the Court of First Instance, whereupon that Court may not decline jurisdiction.

Where the Court of Justice and the Court of First Instance are seised of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the Court of First Instance may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice shall have delivered judgment. Where applications are made for the same act to be declared void, the Court of First Instance may also decline jurisdiction in order that the Court of Justice may rule on such applications. In the cases referred to in this paragraph, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the Court of First Instance shall continue.

Article 55

Final decisions of the Court of First Instance, decisions disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, shall be notified by the Registrar of the Court of First Instance to all parties as well as all Member States and the institutions of the Communities even if they did not intervene in the case before the Court of First Instance.

Article 56

An appeal may be brought before the Court of Justice, within two months of the notification of the decision appealed against, against final decisions of the Court of First Instance and decisions of that Court disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Communities may bring such an appeal only where the decision of the Court of First Instance directly affects them.

With the exception of cases relating to disputes between the Communities and their servants, an appeal may also be brought by Member States and institutions of the Communities which did not intervene in the proceedings before the Court of First Instance. Such Member States and institutions shall be in the same position as Member States or institutions which intervened at first instance.

Article 57

Any person whose application to intervene has been dismissed by the Court of First Instance may appeal to the Court of Justice within two weeks from the notification of the decision dismissing the application.

The parties to the proceedings may appeal to the Court of Justice against any decision of the Court of First Instance made pursuant to Article 242 or Article 243 or the fourth paragraph of Article 256 of the EC Treaty or Article 157 or Article 158 or the third paragraph of Article 164 of the EAEC Treaty within two months from their notification.

The appeal referred to in the first two paragraphs of this Article shall be heard and determined under the procedure referred to in Article 39.

Article 58

An appeal to the Court of Justice shall be limited to points of law. It shall lie on the grounds of lack of competence of the Court of First Instance, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Court of First Instance.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 59

Where an appeal is brought against a decision of the Court of First Instance, the procedure before the Court of Justice shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure, the Court of Justice, having heard the Advocate-General and the parties, may dispense with the oral procedure.

Article 60

Without prejudice to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, an appeal shall not have suspensory effect.

By way of derogation from Article 244 of the EC Treaty and Article 159 of the EAEC Treaty, decisions of the Court of First Instance declaring a regulation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 56 of this Statute or, if an appeal shall have been brought within that period, as from the date of dismissal of the appeal, without prejudice, however, to the right of a party to apply to the Court of Justice, pursuant to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, for the suspension of the effects of the regulation which has been declared void or for the prescription of any other interim measure.

Article 61

If the appeal is well founded, the Court of Justice shall quash the decision of the Court of First Instance. It may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the Court of First Instance for judgment.

Where a case is referred back to the Court of First Instance, that Court shall be bound by the decision of the Court of Justice on points of law.

When an appeal brought by a Member State or an institution of the Communities, which did not intervene in the proceedings before the Court of First Instance, is well founded, the Court of Justice may, if it considers this necessary, state which of the effects of the decision of the Court of First Instance which has been quashed shall be considered as definitive in respect of the parties to the litigation.

Article 62

In the cases provided for in Article 225(2) and (3) of the EC Treaty and Article 140a(2) and (3) of the EAEC Treaty, where the First Advocate-General considers that there is a serious risk of the unity or consistency of Community law being affected, he may propose that the Court of Justice review the decision of the Court of First Instance.

The proposal must be made within one month of delivery of the decision by the Court of First Instance. Within one month of receiving the proposal made by the First Advocate-General, the Court of Justice shall decide whether or not the decision should be reviewed.

TITLE V

FINAL PROVISIONS*Article 63*

The Rules of Procedure of the Court of Justice and of the Court of First Instance shall contain any provisions necessary for applying and, where required, supplementing this Statute.

Article 64

Until the rules governing the language arrangements applicable at the Court of Justice and the Court of First Instance have been adopted in this Statute, the provisions of the Rules of Procedure of the Court of Justice and of the Rules of Procedure of the Court of First Instance governing language arrangements shall continue to apply. Those provisions may only be amended or repealed in accordance with the procedure laid down for amending this Statute.

PROTOCOL

**ON THE FINANCIAL CONSEQUENCES
OF THE EXPIRY OF THE ECSC TREATY AND ON THE
RESEARCH FUND FOR COAL AND STEEL**

THE HIGH CONTRACTING PARTIES,

DESIRING to settle certain questions relating to the expiry of the Treaty establishing the European Coal and Steel Community (ECSC),

WISHING to confer ownership of the ECSC funds on the European Community,

TAKING ACCOUNT of the desire to use these funds for research in sectors related to the coal and steel industry and therefore the necessity to provide for certain special rules in this regard,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing the European Community:

Article 1

1. All assets and liabilities of the ECSC, as they exist on 23 July 2002, shall be transferred to the European Community on 24 July 2002.

2. The net worth of these assets and liabilities, as they appear in the balance sheet of the ECSC of 23 July 2002, subject to any increase or decrease which may occur as a result of the liquidation operations, shall be considered as assets intended for research in the sectors related to the coal and steel industry, referred to as the 'ECSC in liquidation'. On completion of the liquidation they shall be referred to as the 'assets of the Research Fund for Coal and Steel'.

3. The revenue from these assets, referred to as the 'Research Fund for Coal and Steel', shall be used exclusively for research, outside the research framework programme, in the sectors related to the coal and steel industry in accordance with the provisions of this Protocol and of acts adopted on the basis hereof.

Article 2

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall adopt all the necessary provisions for the implementation of this Protocol, including essential principles and proper decision-making procedures, in particular for the adoption of multi-annual financial guidelines for managing the assets of the Research Fund for Coal and Steel and technical guidelines for the research programme of the Research Fund for Coal and Steel.

Article 3

Except as otherwise provided in this Protocol and in the acts adopted on the basis hereof, the provisions of the Treaty establishing the European Community shall apply.

Article 4

This Protocol shall apply from 24 July 2002.

PROTOCOL

**ON ARTICLE 67 OF THE TREATY
ESTABLISHING THE EUROPEAN COMMUNITY**

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provision, which shall be annexed to the Treaty establishing the European Community:

Sole Article

From 1 May 2004, the Council shall act by a qualified majority, on a proposal from the Commission and after consulting the European Parliament, in order to adopt the measures referred to in Article 66 of the Treaty establishing the European Community.

TREATY ESTABLISHING A CONSTITUTION FOR EUROPE

PREAMBLE

HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE CZECH REPUBLIC, HER MAJESTY THE QUEEN OF DENMARK, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE REPUBLIC OF ESTONIA, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MAJESTY THE KING OF SPAIN, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF IRELAND, THE PRESIDENT OF THE ITALIAN REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF CYPRUS, THE PRESIDENT OF THE REPUBLIC OF LATVIA, THE PRESIDENT OF THE REPUBLIC OF LITHUANIA, HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG, THE PRESIDENT OF THE REPUBLIC OF HUNGARY, THE PRESIDENT OF MALTA, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA, THE PRESIDENT OF THE REPUBLIC OF POLAND, THE PRESIDENT OF THE PORTUGUESE REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF SLOVENIA, THE PRESIDENT OF THE SLOVAK REPUBLIC, THE PRESIDENT OF THE REPUBLIC OF FINLAND, THE GOVERNMENT OF THE KINGDOM OF SWEDEN, HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,

BELIEVING that Europe, reunited after bitter experiences, intends to continue along the path of civilisation, progress and prosperity, for the good of all its inhabitants, including the weakest and most deprived; that it wishes to remain a continent open to culture, learning and social progress; and that it wishes to deepen the democratic and transparent nature of its public life, and to strive for peace, justice and solidarity throughout the world,

CONVINCED that, while remaining proud of their own national identities and history, the peoples of Europe are determined to transcend their former divisions and, united ever more closely, to forge a common destiny,

CONVINCED that, thus 'United in diversity', Europe offers them the best chance of pursuing, with due regard for the rights of each individual and in awareness of their responsibilities towards future generations and the Earth, the great venture which makes of it a special area of human hope,

DETERMINED to continue the work accomplished within the framework of the Treaties establishing the European Communities and the Treaty on European Union, by ensuring the continuity of the Community *acquis*,

GRATEFUL to the members of the European Convention for having prepared the draft of this Constitution on behalf of the citizens and States of Europe,

PART I

TITLE I

DEFINITION AND OBJECTIVES OF THE UNION

Article I-1

Establishment of the Union

1. Reflecting the will of the citizens and States of Europe to build a common future, this Constitution establishes the European Union, on which the Member States confer competences to attain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives, and shall exercise on a Community basis the competences they confer on it.
2. The Union shall be open to all European States which respect its values and are committed to promoting them together.

Article I-2

The Union's values

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article I-3

The Union's objectives

1. The Union's aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and an internal market where competition is free and undistorted.
3. The Union shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

4. In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

5. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Constitution.

Article I-4

Fundamental freedoms and non-discrimination

1. The free movement of persons, services, goods and capital, and freedom of establishment shall be guaranteed within and by the Union, in accordance with the Constitution.

2. Within the scope of the Constitution, and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.

Article I-5

Relations between the Union and the Member States

1. The union shall respect the equality of Member States before the constitution as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security.

2. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Constitution.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Constitution or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

Article I-6

Union law

The Constitution and law adopted by the institutions of the Union in exercising competences conferred on it shall have primacy over the law of the Member States.

*Article I-7***Legal personality**

The Union shall have legal personality.

*Article I-8***The symbols of the Union**

The flag of the Union shall be a circle of twelve golden stars on a blue background.

The anthem of the Union shall be based on the 'Ode to Joy' from the Ninth Symphony by Ludwig van Beethoven.

The motto of the Union shall be: 'United in diversity'.

The currency of the Union shall be the euro.

Europe day shall be celebrated on 9 May throughout the Union.

TITLE II

FUNDAMENTAL RIGHTS AND CITIZENSHIP OF THE UNION*Article I-9***Fundamental rights**

1. The Union shall recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights which constitutes Part II.
2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Constitution.
3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

*Article I-10***Citizenship of the Union**

1. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.

2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Constitution. They shall have:

- (a) the right to move and reside freely within the territory of the Member States;
- (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
- (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
- (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Constitution's languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Constitution and by the measures adopted thereunder.

TITLE III

UNION COMPETENCES

Article I-11

Fundamental principles

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.
2. Under the principle of conferral, the Union shall act within the limits of the competences conferred upon it by the Member States in the Constitution to attain the objectives set out in the Constitution. Competences not conferred upon the Union in the Constitution remain with the Member States.
3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Constitution.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

Article I-12

Categories of competence

1. When the Constitution confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.
2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.
3. The Member States shall coordinate their economic and employment policies within arrangements as determined by Part III, which the Union shall have competence to provide.
4. The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.
5. In certain areas and under the conditions laid down in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

Legally binding acts of the Union adopted on the basis of the provisions in Part III relating to these areas shall not entail harmonisation of Member States' laws or regulations.

6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions relating to each area in Part III.

Article I-13

Areas of exclusive competence

1. The Union shall have exclusive competence in the following areas:
 - (a) customs union;
 - (b) the establishing of the competition rules necessary for the functioning of the internal market;
 - (c) monetary policy for the Member States whose currency is the euro;
 - (d) the conservation of marine biological resources under the common fisheries policy;

(e) common commercial policy.

2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

Article I-14

Areas of shared competence

1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles I-13 and I-17.

2. Shared competence between the Union and the Member States applies in the following principal areas:

- (a) internal market;
- (b) social policy, for the aspects defined in Part III;
- (c) economic, social and territorial cohesion;
- (d) agriculture and fisheries, excluding the conservation of marine biological resources;
- (e) environment;
- (f) consumer protection;
- (g) transport;
- (h) trans-European networks;
- (i) energy;
- (j) area of freedom, security and justice;
- (k) common safety concerns in public health matters, for the aspects defined in Part III.

3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

4. In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

*Article I-15***The coordination of economic and employment policies**

1. The Member States shall coordinate their economic policies within the Union. To this end, the Council of Ministers shall adopt measures, in particular broad guidelines for these policies.

Specific provisions shall apply to those Member States whose currency is the euro.

2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.

3. The Union may take initiatives to ensure coordination of Member States' social policies.

*Article I-16***The common foreign and security policy**

1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

2. Member States shall actively and unreservedly support the Union's common foreign and security policy in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area. They shall refrain from action contrary to the Union's interests or likely to impair its effectiveness.

*Article I-17***Areas of supporting, coordinating or complementary action**

The Union shall have competence to carry out supporting, coordinating or complementary action. The areas of such action shall, at European level, be:

(a) protection and improvement of human health;

(b) industry;

(c) culture;

(d) tourism;

(e) education, youth, sport and vocational training;

(f) civil protection;

(g) administrative cooperation.

*Article I-18***Flexibility clause**

1. If action by the Union should prove necessary, within the framework of the policies defined in Part III, to attain one of the objectives set out in the Constitution, and the Constitution has not provided the necessary powers, the Council of Ministers, acting unanimously on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.
2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-11(3), the European Commission shall draw national Parliaments' attention to proposals based on this Article.
3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the Constitution excludes such harmonisation.

TITLE IV

THE UNION'S INSTITUTIONS AND BODIES

CHAPTER I

THE INSTITUTIONAL FRAMEWORK

*Article I-19***The Union's institutions**

1. The Union shall have an institutional framework which shall aim to:
 - promote its values,
 - advance its objectives,
 - serve its interests, those of its citizens and those of the Member States,
 - ensure the consistency, effectiveness and continuity of its policies and actions.

This institutional framework comprises:

- The European Parliament,
- The European Council,
- The Council of Ministers (hereinafter referred to as the 'Council'),

- The European Commission (hereinafter referred to as the ‘Commission’),
- The Court of Justice of the European Union.

2. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practise mutual sincere cooperation.

Article I-20

The European Parliament

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Constitution. It shall elect the President of the Commission.
2. The European Parliament shall be composed of representatives of the Union’s citizens. They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a European decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.

3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.
4. The European Parliament shall elect its President and its officers from among its members.

Article I-21

The European Council

1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.
2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The Union Minister for Foreign Affairs shall take part in its work.
3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.
4. Except where the Constitution provides otherwise, decisions of the European Council shall be taken by consensus.

*Article I-22***The European Council President**

1. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.
2. The President of the European Council:
 - (a) shall chair it and drive forward its work;
 - (b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
 - (c) shall endeavour to facilitate cohesion and consensus within the European Council;
 - (d) shall present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the Union Minister for Foreign Affairs.

3. The President of the European Council shall not hold a national office.

*Article I-23***The Council of Ministers**

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Constitution.
2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
3. The Council shall act by a qualified majority except where the Constitution provides otherwise.

*Article I-24***Configurations of the Council of Ministers**

1. The Council shall meet in different configurations.
2. The General Affairs Council shall ensure consistency in the work of the different Council configurations.

It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

3. The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

4. The European Council shall adopt by a qualified majority a European decision establishing the list of other Council configurations.

5. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

6. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

7. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established by a European decision of the European Council. The European Council shall act by a qualified majority.

Article I-25

Definition of qualified majority within the European Council and the Council

1. A qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.

A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

2. By way of derogation from paragraph 1, when the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.

3. Paragraphs 1 and 2 shall apply to the European Council when it is acting by a qualified majority.

4. Within the European Council, its President and the President of the Commission shall not take part in the vote.

Article I-26

The European Commission

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Constitution, and measures adopted by the institutions pursuant to the Constitution. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage

programmes. It shall exercise coordinating, executive and management functions, as laid down in the Constitution. With the exception of the common foreign and security policy, and other cases provided for in the Constitution, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the Constitution provides otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Constitution so provides.

3. The Commission's term of office shall be five years.

4. The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

5. The first Commission appointed under the provisions of the Constitution shall consist of one national of each Member State, including its President and the Union Minister for Foreign Affairs who shall be one of its Vice-Presidents.

6. As from the end of the term of office of the Commission referred to in paragraph 5, the Commission shall consist of a number of members, including its President and the Union Minister for Foreign Affairs, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be selected from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established by a European decision adopted unanimously by the European Council and on the basis of the following principles:

- (a) Member states shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;
- (b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States.

7. In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article I-28(2), the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

8. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article III-340, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from the duties that he or she carries out in the Commission.

*Article I-27***The President of the European Commission**

1. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

2. The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in Article I-26 (4) and (6), second subparagraph.

The President, the Union Minister for Foreign Affairs and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

3. The President of the Commission shall:

- (a) lay down guidelines within which the Commission is to work;
- (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;
- (c) appoint Vice-Presidents, other than the Union Minister for Foreign Affairs, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The Union Minister for Foreign Affairs shall resign, in accordance with the procedure set out in article I-28(1), if the President so requests.

*Article I-28***The Union Minister for Foreign Affairs**

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the Union Minister for Foreign Affairs. The European Council may end his or her term of office by the same procedure.

2. The Union Minister for Foreign Affairs shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.

3. The Union Minister for Foreign Affairs shall preside over the Foreign Affairs Council.

4. The Union Minister for Foreign Affairs shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the Union Minister for Foreign Affairs shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.

Article I-29

The Court of Justice of the European Union

1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Constitution the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

2. The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General.

The General Court shall include at least one judge per Member State.

The Judges and the Advocates-General of the Court of Justice and the Judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles III-355 and III-356. They shall be appointed by common accord of the governments of the Member States for six years. Retiring Judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall in accordance with Part III:

- (a) rule on actions brought by a Member State, an institution or a natural or legal person;
- (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;
- (c) rule in other cases provided for in the Constitution.

CHAPTER II

THE OTHER UNION INSTITUTIONS AND ADVISORY BODIES

Article I-30

The European Central Bank

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.
2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives. It shall conduct other Central Bank tasks in accordance with Part III and the Statute of the European System of Central Banks and of the European Central Bank.
3. The European Central Bank is an institution. It shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.
4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles III-185 to III-191 and Article III-196, and with the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.
5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.
6. The decision-making organs of the European Central Bank, their composition and operating methods are set out in Articles III-382 and III-383, as well as in the Statute of the European System of Central Banks and of the European Central Bank.

Article I-31

The Court of Auditors

1. The Court of Auditors is an institution. It shall carry out the Union's audit.
2. It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.

3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.

Article I-32

The Union's advisory bodies

1. The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.

2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.

3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.

4. The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.

5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles III-386 to III-392.

The rules referred to in paragraphs 2 and 3 governing the nature of their composition shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt European decisions to that end.

TITLE V

EXERCISE OF UNION COMPETENCE

CHAPTER I

COMMON PROVISIONS

Article I-33

The legal acts of the Union

1. To exercise the Union's competences the institutions shall use as legal instruments, in accordance with Part III, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

A European law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.

A European framework law shall be a legislative act binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain provisions of the Constitution. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European decision shall be a non-legislative act, binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

2. When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question.

Article I-34

Legislative acts

1. European laws and framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council under the ordinary legislative procedure as set out in Article III-396. If the two institutions cannot reach agreement on an act, it shall not be adopted.

2. In the specific cases provided for in the Constitution, European laws and framework laws shall be adopted by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, in accordance with special legislative procedures.

3. In the specific cases provided for in the Constitution, European laws and framework laws may be adopted at the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

Article I-35

Non-legislative acts

1. The European Council shall adopt European decisions in the cases provided for in the Constitution.

2. The Council and the Commission, in particular in the cases referred to in articles I-36 and I-37, and the European Central Bank in the specific cases provided for in the constitution, shall adopt European regulations and decisions.

3. The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Constitution provides that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Constitution, shall adopt recommendations.

Article I-36

Delegated European regulations

1. European laws and framework laws may delegate to the Commission the power to adopt delegated European regulations to supplement or amend certain non-essential elements of the law or framework law.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the European laws and framework laws. The essential elements of an area shall be reserved for the European law or framework law and accordingly shall not be the subject of a delegation of power.

2. European laws and framework laws shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

- (a) the European Parliament or the Council may decide to revoke the delegation;
- (b) the delegated European regulation may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the European law or framework law.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

Article I-37

Implementing acts

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article I-40, on the Council.

3. For the purposes of paragraph 2, European laws shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

4. Union implementing acts shall take the form of European implementing regulations or European implementing decisions.

*Article I-38***Principles common to the Union's legal acts**

1. Where the Constitution does not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality referred to in Article I-11.
2. Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Constitution.

*Article I-39***Publication and entry into force**

1. European laws and framework laws adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

In other cases they shall be signed by the President of the institution which adopted them.

European laws and framework laws shall be published in the *Official Journal of the European Union* and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.

2. European regulations, and European decisions which do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

European regulations, and European decisions when the latter do not specify to whom they are addressed, shall be published in the *Official Journal of the European Union* and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

3. European decisions other than those referred to in paragraph 2 shall be notified to those to whom they are addressed and shall take effect upon such notification.

*CHAPTER II***SPECIFIC PROVISIONS***Article I-40***Specific provisions relating to the common foreign and security policy**

1. The European Union shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.

2. The European Council shall identify the Union's strategic interests and determine the objectives of its common foreign and security policy. The Council shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with Part III.
3. The European Council and the Council shall adopt the necessary European decisions.
4. The common foreign and security policy shall be put into effect by the Union Minister for Foreign Affairs and by the Member States, using national and Union resources.
5. Member States shall consult one another within the European Council and the Council on any foreign and security policy issue which is of general interest in order to determine a common approach. Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.
6. European decisions relating to the common foreign and security policy shall be adopted by the European Council and the Council unanimously, except in the cases referred to in Part III. The European Council and the Council shall act on an initiative from a Member State, on a proposal from the Union Minister for Foreign Affairs or on a proposal from that Minister with the Commission's support. European laws and framework laws shall be excluded.
7. The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority in cases other than those referred to in Part III.
8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common foreign and security policy. It shall be kept informed of how it evolves.

Article I-41

Specific provisions relating to the common security and defence policy

1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.
2. The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States, it shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation, under the North Atlantic Treaty, and be compatible with the common security and defence policy established within that framework.

3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. An Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall be established to identify operational requirements, to promote measures to satisfy those requirements, to contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, to participate in defining a European capabilities and armaments policy, and to assist the Council in evaluating the improvement of military capabilities.

4. European decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the Union Minister for Foreign Affairs or an initiative from a Member State. The Union Minister for Foreign Affairs may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article III-310.

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article III-312. It shall not affect the provisions of Article III-309.

7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.

8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common security and defence policy. It shall be kept informed of how it evolves.

*Article I-42***Specific provisions relating to the area of freedom, security and justice**

1. The Union shall constitute an area of freedom, security and justice:
 - (a) by adopting European laws and framework laws intended, where necessary, to approximate laws and regulations of the Member States in the areas referred to in Part III;
 - (b) by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;
 - (c) by operational cooperation between the competent authorities of the Member States, including the police, customs and other services specialising in the prevention and detection of criminal offences.
2. National Parliaments may, within the framework of the area of freedom, security and justice, participate in the evaluation mechanisms provided for in Article III-260. They shall be involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles III-276 and III-273.
3. Member States shall have a right of initiative in the field of police and judicial cooperation in criminal matters, in accordance with Article III-264.

*Article I-43***Solidarity clause**

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:
 - (a) — prevent the terrorist threat in the territory of the Member States;
— protect democratic institutions and the civilian population from any terrorist attack;
— assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
 - (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.
2. The detailed arrangements for implementing this Article are set out in Article III-329.

CHAPTER III

ENHANCED COOPERATION

Article I-44

Enhanced cooperation

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Constitution, subject to the limits and in accordance with the procedures laid down in this Article and in Articles III-416 to III-423.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article III-418.

2. The European decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least one third of the Member States participate in it. The Council shall act in accordance with the procedure laid down in Article III-419.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

By way of derogation from the third and fourth subparagraphs, where the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the required qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the *acquis* which has to be accepted by candidate States for accession to the Union.

TITLE VI

THE DEMOCRATIC LIFE OF THE UNION*Article I-45***The principle of democratic equality**

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.

*Article I-46***The principle of representative democracy**

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

*Article I-47***The principle of participatory democracy**

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.
3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution. European laws shall determine the provisions for the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which such citizens must come.

Article I-48

The social partners and autonomous social dialogue

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.

Article I-49

The European Ombudsman

A European Ombudsman elected by the European Parliament shall receive, examine and report on complaints about maladministration in the activities of the Union institutions, bodies, offices or agencies, under the conditions laid down in the Constitution. The European Ombudsman shall be completely independent in the performance of his or her duties.

Article I-50

Transparency of the proceedings of Union institutions, bodies, offices and agencies

1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.
2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.
3. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State shall have, under the conditions laid down in Part III, a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium.

European laws shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents.

4. Each institution, body, office or agency shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European laws referred to in paragraph 3.

*Article I-51***Protection of personal data**

1. Everyone has the right to the protection of personal data concerning him or her.
2. European laws or framework laws shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

*Article I-52***Status of churches and non-confessional organisations**

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.
2. The Union equally respects the status under national law of philosophical and non-confessional organisations.
3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

TITLE VII

THE UNION'S FINANCES

*Article I-53***Budgetary and financial principles**

1. All items of Union revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the Union's budget, in accordance with Part III.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law referred to in Article III-412.
4. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the European law referred to in Article III-412, except in cases for which that law provides.
5. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own

resources and in compliance with the multiannual financial framework referred to in Article I-55.

6. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

7. The Union and the Member States, in accordance with Article III-415, shall counter fraud and any other illegal activities affecting the financial interests of the Union.

Article I-54

The Union's own resources

1. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

2. Without prejudice to other revenue, the Union's budget shall be financed wholly from its own resources.

3. A European law of the Council shall lay down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. The Council shall act unanimously after consulting the European Parliament. That law shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

4. A European law of the Council shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the European law adopted on the basis of paragraph 3. The Council shall act after obtaining the consent of the European Parliament.

Article I-55

The multiannual financial framework

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure in accordance with Article III-402.

2. A European law of the Council shall lay down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

3. The annual budget of the Union shall comply with the multiannual financial framework.

4. The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority when adopting the European law of the Council referred to in paragraph 2.

*Article I-56***The Union's budget**

A European law shall establish the Union's annual budget in accordance with Article III-404.

TITLE VIII

THE UNION AND ITS NEIGHBOURS*Article I-57***The Union and its neighbours**

1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.
2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

TITLE IX

UNION MEMBERSHIP*Article I-58***Conditions of eligibility and procedure for accession to the Union**

1. The Union shall be open to all European States which respect the values referred to in Article I-2, and are committed to promoting them together.
2. Any European State which wishes to become a member of the Union shall address its application to the Council. The European Parliament and national Parliaments shall be notified of this application. The Council shall act unanimously after consulting the Commission and after obtaining the consent of the European Parliament, which shall act by a majority of its component members. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the candidate State. That agreement shall be subject to ratification by each contracting State, in accordance with its respective constitutional requirements.

*Article I-59***Suspension of certain rights resulting from Union membership**

1. On the reasoned initiative of one third of the Member States or the reasoned initiative of the European Parliament or on a proposal from the Commission, the Council may adopt a European decision determining that there is a clear risk of a serious breach by a Member State of the values

referred to in Article I-2. The Council shall act by a majority of four fifths of its members after obtaining the consent of the European Parliament.

Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council, on the initiative of one third of the Member States or on a proposal from the Commission, may adopt a European decision determining the existence of a serious and persistent breach by a Member State of the values mentioned in Article I-2, after inviting the Member State in question to submit its observations. The European Council shall act unanimously after obtaining the consent of the European Parliament.

3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may adopt a European decision suspending certain of the rights deriving from the application of the Constitution to the Member State in question, including the voting rights of the member of the Council representing that State. The Council shall take into account the possible consequences of such a suspension for the rights and obligations of natural and legal persons.

In any case, that State shall continue to be bound by its obligations under the Constitution.

4. The Council, acting by a qualified majority, may adopt a European decision varying or revoking measures adopted under paragraph 3 in response to changes in the situation which led to their being imposed.

5. For the purposes of this Article, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2. Abstentions by members present in person or represented shall not prevent the adoption of European decisions referred to in paragraph 2.

For the adoption of the European decisions referred to in paragraphs 3 and 4, a qualified majority shall be defined as at least 72 % of the members of the Council, representing the participating Member States, comprising at least 65 % of the population of these States.

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the Constitution, that qualified majority shall be defined as in the second subparagraph, or, where the Council acts on a proposal from the Commission or from the Union Minister for Foreign Affairs, as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States. In the latter case, a blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

6. For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members.

*Article I-60***Voluntary withdrawal from the Union**

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article III-325(3). It shall be concluded by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.
3. The Constitution shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.
4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in European decisions concerning it.

A qualified majority shall be defined as at least 72 % of the members of the Council, representing the participating Member States, comprising at least 65 % of the population of these States.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article I-58.

PART II

THE CHARTER OF FUNDAMENTAL RIGHTS OF THE UNION

PREAMBLE

The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.

Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, services, goods and capital, and the freedom of establishment.

To this end, it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter.

This Charter reaffirms, with due regard for the powers and tasks of the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case-law of the Court of Justice of the European Union and of the European Court of Human Rights. In this context the Charter will be interpreted by the courts of the Union and the Member States with due regard to the explanations prepared under the authority of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention.

Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.

The Union therefore recognises the rights, freedoms and principles set out hereafter.

TITLE I

DIGNITY

Article II-61

Human dignity

Human dignity is inviolable. It must be respected and protected.

Article II-62

Right to life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

Article II-63

Right to the integrity of the person

1. Everyone has the right to respect for his or her physical and mental integrity.
2. In the fields of medicine and biology, the following must be respected in particular:
 - (a) the free and informed consent of the person concerned, according to the procedures laid down by law;
 - (b) the prohibition of eugenic practices, in particular those aiming at the selection of persons;
 - (c) the prohibition on making the human body and its parts as such a source of financial gain;
 - (d) the prohibition of the reproductive cloning of human beings.

Article II-64

Prohibition of torture and inhuman or degrading treatment or punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

*Article II-65***Prohibition of slavery and forced labour**

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

TITLE II

FREEDOMS*Article II-66***Right to liberty and security**

Everyone has the right to liberty and security of person.

*Article II-67***Respect for private and family life**

Everyone has the right to respect for his or her private and family life, home and communications.

*Article II-68***Protection of personal data**

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

*Article II-69***Right to marry and right to found a family**

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

*Article II-70***Freedom of thought, conscience and religion**

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.
2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

*Article II-71***Freedom of expression and information**

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.

*Article II-72***Freedom of assembly and of association**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.
2. Political parties at Union level contribute to expressing the political will of the citizens of the Union.

*Article II-73***Freedom of the arts and sciences**

The arts and scientific research shall be free of constraint. Academic freedom shall be respected.

*Article II-74***Right to education**

1. Everyone has the right to education and to have access to vocational and continuing training.
2. This right includes the possibility to receive free compulsory education.
3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the

national laws governing the exercise of such freedom and right.

Article II-75

Freedom to choose an occupation and right to engage in work

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.
3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

Article II-76

Freedom to conduct a business

The freedom to conduct a business in accordance with Union law and national laws and practices is recognised.

Article II-77

Right to property

1. Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law insofar as is necessary for the general interest.
2. Intellectual property shall be protected.

Article II-78

Right to asylum

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Constitution.

Article II-79

Protection in the event of removal, expulsion or extradition

1. Collective expulsions are prohibited.
2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

TITLE III

EQUALITY

Article II-80

Equality before the law

Everyone is equal before the law.

Article II-81

Non-discrimination

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Constitution and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.

Article II-82

Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity.

Article II-83

Equality between women and men

Equality between women and men must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

Article II-84

The rights of the child

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

Article II-85

The rights of the elderly

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

Article II-86

Integration of persons with disabilities

The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

TITLE IV

SOLIDARITY

Article II-87

Workers' right to information and consultation within the undertaking

Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices.

Article II-88

Right of collective bargaining and action

Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

Article II-89

Right of access to placement services

Everyone has the right of access to a free placement service.

*Article II-90***Protection in the event of unjustified dismissal**

Every worker has the right to protection against unjustified dismissal, in accordance with Union law and national laws and practices.

*Article II-91***Fair and just working conditions**

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

*Article II-92***Prohibition of child labour and protection of young people at work**

The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations.

Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

*Article II-93***Family and professional life**

1. The family shall enjoy legal, economic and social protection.
2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

*Article II-94***Social security and social assistance**

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.

2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.

3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.

Article II-95

Health care

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Article II-96

Access to services of general economic interest

The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Constitution, in order to promote the social and territorial cohesion of the Union.

Article II-97

Environmental protection

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

Article II-98

Consumer protection

Union policies shall ensure a high level of consumer protection.

TITLE V

CITIZENS' RIGHTS

*Article II-99***Right to vote and to stand as a candidate at elections to the European Parliament**

1. Every citizen of the Union has the right to vote and to stand as a candidate at elections to the European Parliament in the Member State in which he or she resides, under the same conditions as nationals of that State.
2. Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot.

*Article II-100***Right to vote and to stand as a candidate at municipal elections**

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State.

*Article II-101***Right to good administration**

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.
2. This right includes:
 - (a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
 - (b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
 - (c) the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Constitution and must have an answer in the same language.

*Article II-102***Right of access to documents**

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium.

*Article II-103***European Ombudsman**

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the European Ombudsman cases of maladministration in the activities of the institutions, bodies, offices or agencies of the Union, with the exception of the Court of Justice of the European Union acting in its judicial role.

*Article II-104***Right to petition**

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament.

*Article II-105***Freedom of movement and of residence**

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.
2. Freedom of movement and residence may be granted, in accordance with the Constitution, to nationals of third countries legally resident in the territory of a Member State.

*Article II-106***Diplomatic and consular protection**

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he or she is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State.

TITLE VI

JUSTICE

*Article II-107***Right to an effective remedy and to a fair trial**

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.

Legal aid shall be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice.

*Article II-108***Presumption of innocence and right of defence**

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.
2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

*Article II-109***Principles of legality and proportionality of criminal offences and penalties**

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.
3. The severity of penalties must not be disproportionate to the criminal offence.

*Article II-110***Right not to be tried or punished twice in criminal proceedings for the same criminal offence**

No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.

TITLE VII

**GENERAL PROVISIONS GOVERNING THE INTERPRETATION
AND APPLICATION OF THE CHARTER***Article II-111***Field of application**

1. The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the other Parts of the Constitution.
2. This Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks defined in the other Parts of the Constitution.

*Article II-112***Scope and interpretation of rights and principles**

1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.
2. Rights recognised by this Charter for which provision is made in other Parts of the Constitution shall be exercised under the conditions and within the limits defined by these relevant Parts.
3. Insofar as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.
4. Insofar as this Charter recognises fundamental rights as they result from the constitutional traditions common to the Member States, those rights shall be interpreted in harmony with those traditions.
5. The provisions of this Charter which contain principles may be implemented by legislative and executive acts taken by institutions, bodies, offices and agencies of the Union, and by acts of Member States when they are implementing Union law, in the exercise of their respective powers. They shall be judicially cognisable only in the interpretation of such acts and in the ruling on their legality.

6. Full account shall be taken of national laws and practices as specified in this Charter.
7. The explanations drawn up as a way of providing guidance in the interpretation of the Charter of Fundamental Rights shall be given due regard by the courts of the Union and of the Member States.

Article II-113

Level of protection

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.

Article II-114

Prohibition of abuse of rights

Nothing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter or at their limitation to a greater extent than is provided for herein.

PART III

THE POLICIES AND FUNCTIONING OF THE UNION

TITLE I

PROVISIONS OF GENERAL APPLICATION

Article III-115

The Union shall ensure consistency between the policies and activities referred to in this Part, taking all of its objectives into account and in accordance with the principle of conferral of powers.

Article III-116

In all the activities referred to in this Part, the Union shall aim to eliminate inequalities, and to promote equality, between women and men.

Article III-117

In defining and implementing the policies and actions referred to in this Part, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

Article III-118

In defining and implementing the policies and activities referred to in this Part, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article III-119

Environmental protection requirements must be integrated into the definition and implementation of the policies and activities referred to in this Part, in particular with a view to promoting sustainable development.

Article III-120

Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.

Article III-121

In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall,

since animals are sentient beings, pay full regard to the requirements of animal welfare, while respecting the legislative or administrative provisions and customs of Member States relating in particular to religious rites, cultural traditions and regional heritage.

Article III-122

Without prejudice to Articles I-5, III-166, III-167 and III-238, and given the place occupied by services of general economic interest as services to which all in the Union attribute value as well as their role in promoting its social and territorial cohesion, the Union and the Member States, each within their respective competences and within the scope of application of the Constitution, shall take care that such services operate on the basis of principles and conditions, in particular economic and financial conditions, which enable them to fulfil their missions. European laws shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Constitution, to provide, to commission and to fund such services.

TITLE II

NON-DISCRIMINATION AND CITIZENSHIP

Article III-123

European laws or framework laws may lay down rules to prohibit discrimination on grounds of nationality as referred to in Article I-4(2).

Article III-124

1. Without prejudice to the other provisions of the Constitution and within the limits of the powers assigned by it to the Union, a European law or framework law of the Council may establish the measures needed to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Council shall act unanimously after obtaining the consent of the European Parliament.

2. By way of derogation from paragraph 1, European laws or framework laws may establish basic principles for Union incentive measures and define such measures, to support action taken by Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, excluding any harmonisation of their laws and regulations.

Article III-125

1. If action by the Union should prove necessary to facilitate the exercise of the right, referred to in Article I-10(2)(a), of every citizen of the Union to move and reside freely and the Constitution has not provided the necessary powers, European laws or framework laws may establish measures for that purpose.

2. For the same purposes as those referred to in paragraph 1 and if the Constitution has not provided the necessary powers, a European law or framework law of the Council may establish measures concerning passports, identity cards, residence permits or any other such document and measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.

Article III-126

A European law or framework law of the Council shall determine the detailed arrangements for exercising the right, referred to in Article I-10(2)(b), for every citizen of the Union to vote and to stand as a candidate in municipal elections and elections to the European Parliament in his or her Member State of residence without being a national of that State. The Council shall act unanimously after consulting the European Parliament. These arrangements may provide for derogations where warranted by problems specific to a Member State.

The right to vote and to stand as a candidate in elections to the European Parliament shall be exercised without prejudice to Article III-330(1) and the measures adopted for its implementation.

Article III-127

Member States shall adopt the necessary provisions to secure diplomatic and consular protection of citizens of the Union in third countries, as referred to in Article I-10(2)(c).

Member States shall commence the international negotiations required to secure this protection.

A European law of the Council may establish the measures necessary to facilitate such protection. The Council shall act after consulting the European Parliament.

Article III-128

The languages in which every citizen of the Union has the right to address the institutions or bodies under Article I-10(2)(d), and to have an answer, are those listed in Article IV-448(1). The institutions and bodies referred to in Article I-10(2)(d) are those listed in Articles I-19(1), second subparagraph, I-30, I-31 and I-32 and also the European Ombudsman.

Article III-129

The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of Article I-10 and of this Title. This report shall take account of the development of the Union.

On the basis of this report, and without prejudice to the other provisions of the Constitution, a European law or framework law of the Council may add to the rights laid down in Article I-10. The Council shall act unanimously after obtaining the consent of the European Parliament. The law or framework law concerned shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

TITLE III

INTERNAL POLICIES AND ACTION

CHAPTER I

INTERNAL MARKET

SECTION 1

ESTABLISHMENT AND FUNCTIONING OF THE INTERNAL MARKET

Article III-130

1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Constitution.
2. The internal market shall comprise an area without internal frontiers in which the free movement of persons, services, goods and capital is ensured in accordance with the Constitution.
3. The Council, on a proposal from the Commission, shall adopt European regulations and decisions determining the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.
4. When drawing up its proposals for achieving the objectives set out in paragraphs 1 and 2, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain for the establishment of the internal market and it may propose appropriate measures.

If these measures take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the internal market.

Article III-131

Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the internal market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article III-132

If measures taken in the circumstances referred to in Articles III-131 and III-436 have the effect of distorting the conditions of competition in the internal market, the Commission shall, together with the Member State concerned, examine how these measures can be adjusted to the rules laid down in the Constitution.

By way of derogation from the procedure laid down in Articles III-360 and III-361, the Commission or any Member State may bring the matter directly before the Court of Justice if the Commission or Member State considers that another Member State is making improper use of the powers provided for in Articles III-131 and III-436. The Court of Justice shall give its ruling in camera.

SECTION 2

FREE MOVEMENT OF PERSONS AND SERVICES

Subsection 1

Workers

Article III-133

1. Workers shall have the right to move freely within the Union.
2. Any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment shall be prohibited.
3. Workers shall have the right, subject to limitations justified on grounds of public policy, public security or public health:
 - (a) to accept offers of employment actually made;
 - (b) to move freely within the territory of Member States for this purpose;
 - (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
 - (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in European regulations adopted by the Commission.
4. This Article shall not apply to employment in the public service.

Article III-134

European laws or framework laws shall establish the measures needed to bring about freedom of movement for workers, as defined in Article III-133. They shall be adopted after consultation of the Economic and Social Committee.

Such European laws or framework laws shall aim, in particular, to:

- (a) ensure close cooperation between national employment services;

- (b) abolish those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;
- (c) abolish all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as impose on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;
- (d) set up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.

Article III-135

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

Article III-136

1. In the field of social security, European laws or framework laws shall establish such measures as are necessary to bring about freedom of movement for workers by making arrangements to secure for employed and self-employed migrant workers and their dependants:

- (a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the different countries;
- (b) payment of benefits to persons resident in the territories of Member States.

2. Where a member of the Council considers that a draft European law or framework law referred to in paragraph 1 would affect fundamental aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the procedure referred to in Article III-396 shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396, or
- (b) request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.

*Subsection 2***Freedom of establishment***Article III-137*

Within the framework of this Subsection, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Nationals of a Member State shall have the right, in the territory of another Member State, to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article III-142, under the conditions laid down for its own nationals by the law of the Member State where such establishment is effected, subject to Section 4 relating to capital and payments.

Article III-138

1. European framework laws shall establish measures to attain freedom of establishment as regards a particular activity. They shall be adopted after consultation of the Economic and Social Committee.
2. The European Parliament, the Council and the Commission shall carry out the duties devolving upon them under paragraph 1, in particular:
 - (a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;
 - (b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Union of the various activities concerned;
 - (c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;
 - (d) by ensuring that workers from one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;
 - (e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, insofar as this does not conflict with the principles laid down in Article III-227(2);
 - (f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;

- (g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and others, are required by Member States of companies or firms within the meaning of the second paragraph of Article III-142 with a view to making such safeguards equivalent throughout the Union;
- (h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

Article III-139

This Subsection shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

European laws or framework laws may exclude certain activities from application of this Subsection.

Article III-140

1. This Subsection and measures adopted in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action in Member States providing for special treatment for foreign nationals on grounds of public policy, public security or public health.
2. European framework laws shall coordinate the national provisions referred to in paragraph 1.

Article III-141

1. European framework laws shall make it easier for persons to take up and pursue activities as self-employed persons. They shall cover:
 - (a) the mutual recognition of diplomas, certificates and other evidence of formal qualifications;
 - (b) the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.
2. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for the exercise of such professions in the various Member States.

Article III-142

Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union shall, for the purposes of this Subsection, be treated in the same way as natural persons who are nationals of Member States.

‘Companies or firms’ means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

Article III-143

Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of the second paragraph of Article III-142, without prejudice to the application of the other provisions of the Constitution.

*Subsection 3***Freedom to provide services***Article III-144*

Within the framework of this Subsection, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.

European laws or framework laws may extend this Subsection to service providers who are nationals of a third State and who are established within the Union.

Article III-145

Services shall be considered to be 'services' for the purposes of the Constitution where they are normally provided for remuneration, insofar as they are not governed by the provisions relating to freedom of movement for persons, goods and capital.

'Services' shall in particular include:

- (a) activities of an industrial character;
- (b) activities of a commercial character;
- (c) activities of craftsmen;
- (d) activities of the professions.

Without prejudice to Subsection 2 relating to freedom of establishment, the person providing a service may, in order to do so, temporarily pursue his or her activity in the Member State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

Article III-146

1. Freedom to provide services in the field of transport shall be governed by Section 7 of Chapter III relating to transport.
2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in step with the liberalisation of movement of capital.

Article III-147

1. European framework laws shall establish measures to achieve the liberalisation of a specific service. They shall be adopted after consultation of the Economic and Social Committee.
2. European framework laws referred to in paragraph 1 shall as a general rule give priority to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.

Article III-148

The Member States shall endeavour to undertake liberalisation of services beyond the extent required by the European framework laws adopted pursuant to Article III-147(1), if their general economic situation and the situation of the economic sector concerned so permit.

To this end, the Commission shall make recommendations to the Member States concerned.

Article III-149

As long as restrictions on freedom to provide services have not been abolished, the Member States shall apply such restrictions without distinction on grounds of nationality or of residence to all persons providing services within the meaning of the first paragraph of Article III-144.

Article III-150

Articles III-139 to III-142 shall apply to the matters covered by this Subsection.

SECTION 3**FREE MOVEMENT OF GOODS***Subsection 1***Customs union***Article III-151*

1. The Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.
2. Paragraph 4 and Subsection 3 on the prohibition of quantitative restrictions shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

3. Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.
4. Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.
5. The Council, on a proposal from the Commission, shall adopt the European regulations and decisions fixing Common Customs Tariff duties.
6. In carrying out the tasks entrusted to it under this Article the Commission shall be guided by:
- (a) the need to promote trade between Member States and third countries;
 - (b) developments in conditions of competition within the Union insofar as they lead to an improvement in the competitive capacity of undertakings;
 - (c) the requirements of the Union as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;
 - (d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Union.

Subsection 2

Customs cooperation

Article III-152

Within the scope of application of the Constitution, European laws or framework laws shall establish measures in order to strengthen customs cooperation between Member States and between them and the Commission.

Subsection 3

Prohibition of quantitative restrictions

Article III-153

Quantitative restrictions on imports and exports and all measures having equivalent effect shall be prohibited between Member States.

Article III-154

Article III-153 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

Article III-155

1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

This Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. It shall likewise apply to monopolies delegated by the State to others.

2. Member States shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the Articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.

3. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying this Article to ensure equivalent safeguards for the employment and standard of living of the producers concerned.

*SECTION 4**CAPITAL AND PAYMENTS**Article III-156*

Within the framework of this Section, restrictions both on the movement of capital and on payments between Member States and between Member States and third countries shall be prohibited.

Article III-157

1. Article III-156 shall be without prejudice to the application to third countries of any restrictions which existed on 31 December 1993 under national or Union law adopted in respect of the movement of capital to or from third countries involving direct investment — including investment in real estate, establishment, the provision of financial services or the admission of securities to capital markets. With regard to restrictions which exist under national law in Estonia and Hungary, the date in question shall be 31 December 1999.

2. European laws or framework laws shall enact measures on the movement of capital to or from third countries involving direct investment — including investment in real estate, establishment, the provision of financial services or the admission of securities to capital markets.

The European Parliament and the Council shall endeavour to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to other provisions of the Constitution.

3. Notwithstanding paragraph 2, only a European law or framework law of the Council may enact measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries. The Council shall act unanimously after consulting the European Parliament.

Article III-158

1. Article III-156 shall be without prejudice to the right of Member States:

- (a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;
- (b) to take all requisite measures to prevent infringements of national provisions laid down by law or regulation, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.

2. This Section shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with the Constitution.

3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article III-156.

4. In the absence of a European law or framework law provided for in Article III-157(3), the Commission or, in the absence of a European decision of the Commission within three months from the request of the Member State concerned, the Council, may adopt a European decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Constitution insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State.

Article III-159

Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the functioning of economic and monetary union, the Council, on a proposal from the Commission, may adopt European regulations or decisions introducing safeguard measures with regard to third countries for a period not exceeding six months

if such measures are strictly necessary. It shall act after consulting the European Central Bank.

Article III-160

Where necessary to achieve the objectives set out in Article III-257, as regards preventing and combating terrorism and related activities, European laws shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt European regulations or European decisions in order to implement the European laws referred to in the first paragraph.

The acts referred to in this Article shall include necessary provisions on legal safeguards.

SECTION 5

RULES ON COMPETITION

Subsection 1

Rules applying to undertakings

Article III-161

1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development, or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. Paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings,
- any decision or category of decisions by associations of undertakings,
- any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

- (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article III-162

Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market insofar as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Article III-163

The Council, on a proposal from the Commission, shall adopt the European regulations to give effect to the principles set out in Articles III-161 and III-162. It shall act after consulting the European Parliament.

Such regulations shall be designed in particular:

- (a) to ensure compliance with the prohibitions laid down in Article III-161(1) and in Article III-162 by making provision for fines and periodic penalty payments;
- (b) to lay down detailed rules for the application of Article III-161(3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;
- (c) to define, if need be, in the various branches of the economy, the scope of Articles III-161 and III-162;
- (d) to define the respective functions of the Commission and of the Court of Justice of the European Union in applying the provisions laid down in this paragraph;
- (e) to determine the relationship between Member States' laws and this Subsection as well as the European regulations adopted pursuant to this Article.

Article III-164

Until the entry into force of the European regulations adopted pursuant to Article III-163, the authorities in Member States shall rule on the admissibility of agreements, decisions and concerted practices and on abuse of a dominant position in the internal market in accordance with their national law and Article III-161, in particular paragraph 3, and Article III-162.

Article III-165

1. Without prejudice to Article III-164, the Commission shall ensure the application of the principles set out in Articles III-161 and III-162. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, which shall give it their assistance, the Commission shall investigate cases of suspected infringement of these principles. If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.

2. If the infringement referred to in paragraph 1 is not brought to an end, the Commission shall adopt a reasoned European decision recording the infringement of the principles. The Commission may publish its decision and authorise Member States to take the measures, the conditions and details of which it shall determine, needed to remedy the situation.

3. The Commission may adopt European regulations relating to the categories of agreement in respect of which the Council has adopted a European regulation pursuant to Article III-163, second paragraph, (b).

Article III-166

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the Constitution, in particular Article I-4(2) and Articles III-161 to III-169.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of an income-producing monopoly shall be subject to the provisions of the Constitution, in particular to the rules on competition, insofar as the application of such provisions does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the Union's interests.

3. The Commission shall ensure the application of this Article and shall, where necessary, adopt appropriate European regulations or decisions.

Subsection 2

Aid granted by Member States

Article III-167

1. Save as otherwise provided in the Constitution, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the internal market.

2. The following shall be compatible with the internal market:

- (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- (b) aid to make good the damage caused by natural disasters or exceptional occurrences;
- (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, insofar as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing this point.

3. The following may be considered to be compatible with the internal market:

- (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article III-424, in view of their structural, economic and social situation;
- (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

- (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest;
- (e) such other categories of aid as may be specified by European regulations or decisions adopted by the Council on a proposal from the Commission.

Article III-168

1. The Commission, in cooperation with Member States, shall keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market.
2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a Member State or through State resources is not compatible with the internal market having regard to Article III-167, or that such aid is being misused, it shall adopt a European decision requiring the Member State concerned to abolish or alter such aid within a period of time to be determined by the Commission.

If the Member State concerned does not comply with this European decision within the prescribed time, the Commission or any other interested Member State may, in derogation from Articles III-360 and III-361, refer the matter to the Court of Justice of the European Union directly.

On application by a Member State, the Council may adopt unanimously a European decision that aid which that State is granting or intends to grant shall be considered to be compatible with the internal market, in derogation from Article III-167 or from European regulations provided for in Article III-169, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the Member State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall act.

3. The Commission shall be informed by the Member States, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the internal market having regard to Article III-167, it shall without delay initiate the procedure provided for in paragraph 2 of this Article. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.
4. The Commission may adopt European regulations relating to the categories of State aid that the Council has, pursuant to Article III-169, determined may be exempted from the procedure provided for by paragraph 3 of this Article.

Article III-169

The Council, on a proposal from the Commission, may adopt European regulations for the application of Articles III-167 and III-168 and for determining in particular the conditions in which Article III-168(3) shall apply and the categories of aid exempted from the procedure provided for in Article 168(3). It shall act after consulting the European Parliament.

SECTION 6

FISCAL PROVISIONS

Article III-170

1. No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.

2. Where products are exported by a Member State to the territory of another Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.

3. In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the provisions contemplated have been previously approved for a limited period by a European decision adopted by the Council on a proposal from the Commission.

Article III-171

A European law or framework law of the Council shall establish measures for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation provided that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.

SECTION 7

COMMON PROVISIONS

Article III-172

1. Save where otherwise provided in the Constitution, this Article shall apply for the achievement of the objectives set out in Article III-130. European laws or framework laws shall establish measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

Such laws shall be adopted after consultation of the Economic and Social Committee.

2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons or to those relating to the rights and interests of employed persons.

3. The Commission, in its proposals submitted under paragraph 1 concerning health, safety, environmental protection and consumer protection, shall take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council shall also seek to achieve this objective.

4. If, after the adoption of a harmonisation measure by means of a European law or framework law or by means of a European regulation of the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article III-154, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by means of a European law or framework law or by means of a European regulation of the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions and the reasons for them.

6. The Commission shall, within six months of the notifications referred to in paragraphs 4 and 5, adopt a European decision approving or rejecting the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger to human health, the Commission may notify the Member State concerned that the period referred to in this paragraph will be extended for a further period of up to six months.

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures.

9. By way of derogation from the procedure laid down in Articles III-360 and III-361, the Commission and any Member State may bring the matter directly before the Court of Justice of the European Union if it considers that another Member State is making improper use of the powers provided for in this Article.

10. The harmonisation measures referred to in this Article shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article III-154, provisional measures subject to a Union control procedure.

Article III-173

Without prejudice to Article III-172, a European framework law of the Council shall establish measures for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market. The Council shall act unanimously after consulting the European Parliament and the Economic and Social Committee.

Article III-174

Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

If such consultation does not result in agreement, European framework laws shall establish the measures necessary to eliminate the distortion in question. Any other appropriate measures provided for in the Constitution may be adopted.

Article III-175

1. Where there is reason to fear that the adoption or amendment of a provision laid down by law, regulation or administrative action of a Member State may cause distortion within the meaning of Article III-174, a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall address to the Member States concerned a recommendation on such measures as may be appropriate to avoid the distortion in question.

2. If a Member State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, pursuant to Article III-174, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, Article III-174 shall not apply.

Article III-176

In the context of the establishment and functioning of the internal market, European laws or framework laws shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

A European law of the Council shall establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament.

CHAPTER II

ECONOMIC AND MONETARY POLICY

Article III-177

For the purposes set out in Article I-3, the activities of the Member States and the Union shall include, as provided in the Constitution, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.

Concurrently with the foregoing, and as provided in the Constitution and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, and the definition and conduct of a single monetary policy and exchange-rate policy, the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support general economic policies in the Union, in accordance with the principle of an open market economy with free competition.

These activities of the Member States and the Union shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a stable balance of payments.

SECTION 1

ECONOMIC POLICY

Article III-178

Member States shall conduct their economic policies in order to contribute to the achievement of the Union's objectives, as defined in Article I-3, and in the context of the broad guidelines referred to in Article III-179(2). The Member States and the Union shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-177.

Article III-179

1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with Article III-178.
2. The Council, on a recommendation from the Commission, shall formulate a draft for the broad guidelines of the economic policies of the Member States and of the Union, and shall report its findings to the European Council.

The European Council, on the basis of the report from the Council, shall discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Union. On the basis of this conclusion, the Council shall adopt a recommendation setting out these broad guidelines. It shall inform the European Parliament of its recommendation.

3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council, on the basis of reports submitted by the Commission, shall monitor economic developments in each of the Member States and in the Union, as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and shall regularly carry out an overall assessment.

For the purpose of this multilateral surveillance, Member States shall forward information to the Commission on important measures taken by them in the field of their economic policy and such other information as they deem necessary.

4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned. The Council, on a proposal from the Commission, may decide to make its recommendations public.

Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority shall be defined as at least 55 % of the other members of the Council, representing Member States comprising at least 65 % of the population of the participating Member States.

A blocking minority must include at least the minimum number of these other Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

5. The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

6. European laws may lay down detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4.

Article III-180

1. Without prejudice to any other procedures provided for in the Constitution, the Council, on a proposal from the Commission, may adopt a European decision laying down measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products.

2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may adopt a European decision granting, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision adopted.

Article III-181

1. Overdraft facilities or any other type of credit facility with the European Central Bank or with the central banks of the Member States (hereinafter referred to as 'national central banks') in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the European Central Bank or national central banks of debt instruments.

2. Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the European Central Bank as private credit institutions.

Article III-182

Any measure or provision, not based on prudential considerations, establishing privileged access by Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions shall be prohibited.

Article III-183

1. The Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.

2. The Council, on a proposal from the Commission, may adopt European regulations or decisions specifying definitions for the application of the prohibitions laid down in Articles III-181 and III-182 and in this Article. It shall act after consulting the European Parliament.

Article III-184

1. Member States shall avoid excessive government deficits.

2. The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States in order to identify gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:

- (a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:
 - (i) either the ratio has declined substantially and continuously and reached a level that comes close to the reference value, or

- (ii) alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;
- (b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is diminishing sufficiently and approaching the reference value at a satisfactory pace.

The reference values are specified in the Protocol on the excessive deficit procedure.

3. If a Member State does not fulfil the requirements under one or both of these criteria, the Commission shall prepare a report. The Commission's report shall also take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State.

The Commission may also prepare a report if, notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion that there is a risk of an excessive deficit in a Member State.

4. The Economic and Financial Committee set up under Article III-192 shall formulate an opinion on the Commission's report.

5. If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.

6. The Council shall, on a proposal from the Commission, having considered any observations which the Member State concerned may wish to make and after an overall assessment, decide whether an excessive deficit exists. In that case it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to paragraph 8, those recommendations shall not be made public.

Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority shall be defined as at least 55 % of the other members of the Council, representing Member States comprising at least 65 % of the population of the participating Member States.

A blocking minority must include at least the minimum number of these other Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

7. The Council, on a recommendation from the Commission, shall adopt the European decisions and recommendations referred to in paragraphs 8 to 11.

It shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority shall be defined as at least 55 % of the other members of the Council, representing Member States comprising at least 65 % of the population of the participating Member States.

A blocking minority must include at least the minimum number of these other Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

8. Where it adopts a European decision establishing that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.

9. If a Member State persists in failing to put the Council's recommendations into practice, the Council may adopt a European decision giving notice to the Member State to take, within a specified time-limit, measures for the deficit reduction which the Council judges necessary to remedy the situation.

In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.

10. As long as a Member State fails to comply with a European decision adopted in accordance with paragraph 9, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:

- (a) require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities;
- (b) invite the European Investment Bank to reconsider its lending policy towards the Member State concerned;
- (c) require the Member State concerned to make a non-interest-bearing deposit of an appropriate size with the Union until the Council considers that the excessive deficit has been corrected;
- (d) impose fines of an appropriate size.

The President of the Council shall inform the European Parliament of the measures adopted.

11. The Council shall repeal some or all of the measures referred to in paragraph 6 and paragraphs 8, 9 and 10 if it considers the excessive deficit in the Member State concerned to have been corrected. If the Council has previously made public recommendations, it shall state publicly, as soon as the European decision referred to in paragraph 8 has been repealed, that there is no longer an excessive deficit in the Member State concerned.

12. The rights to bring actions provided for in Articles III-360 and III-361 shall not be exercised within the framework of paragraphs 1 to 6 or paragraphs 8 and 9.

13. Further provisions relating to the implementation of the procedure laid down in this Article are set out in the Protocol on the excessive deficit procedure.

A European law of the Council shall lay down the appropriate measures to replace the said Protocol. The Council shall act unanimously after consulting the European Parliament and the European Central Bank.

Subject to the other provisions of this paragraph, the Council, on a proposal from the Commission, shall adopt European regulations or decisions laying down detailed rules and definitions for the application of the said Protocol. It shall act after consulting the European Parliament.

SECTION 2

MONETARY POLICY

Article III-185

1. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to this objective, the European System of Central Banks shall support the general economic policies in the Union in order to contribute to the achievement of its objectives as laid down in Article I-3. The European System of Central Banks shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article III-177.

2. The basic tasks to be carried out through the European System of Central Banks shall be:

- (a) to define and implement the Union's monetary policy;
- (b) to conduct foreign-exchange operations consistent with Article III-326;
- (c) to hold and manage the official foreign reserves of the Member States;
- (d) to promote the smooth operation of payment systems.

3. Paragraph 2(c) shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

4. The European Central Bank shall be consulted:

- (a) on any proposed Union act in areas within its powers;
- (b) by national authorities regarding any draft legislative provision in areas within its powers, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article III-187(4).

The European Central Bank may submit opinions to the Union institutions, bodies, offices or agencies or to national authorities on matters within its powers.

5. The European System of Central Banks shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

6. A European law of the Council may confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings. The Council shall act unanimously after consulting the European Parliament and the European Central Bank.

Article III-186

1. The European Central Bank shall have the exclusive right to authorise the issue of euro bank notes in the Union. The European Central Bank and the national central banks may issue such notes. Only the bank notes issued by the European Central Bank and the national central banks shall have the status of legal tender within the Union.

2. Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue.

The Council, on a proposal from the Commission, may adopt European regulations laying down measures to harmonise the denominations and technical specifications of coins intended for circulation to the extent necessary to permit their smooth circulation within the Union. The Council shall act after consulting the European Parliament and the European Central Bank.

Article III-187

1. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank, which shall be the Governing Council and the Executive Board.

2. The Statute of the European System of Central Banks is laid down in the Protocol on the Statute of the European System of Central Banks and of the European Central Bank.

3. Article 5(1), (2) and (3), Articles 17 and 18, Article 19(1), Articles 22, 23, 24 and 26, Article 32(2), (3), (4) and (6), Article 33(1)(a) and Article 36 of the Statute of the European System of Central Banks and of the European Central Bank may be amended by European laws:

- (a) either on a proposal from the Commission and after consultation of the European Central Bank;
- (b) or on a recommendation from the European Central Bank and after consultation of the Commission.

4. The Council shall adopt the European regulations and decisions laying down the measures referred to in Article 4, Article 5(4), Article 19(2), Article 20, Article 28(1), Article 29(2), Article 30(4) and Article 34(3) of the Statute of the European System of Central Banks and of the European Central Bank. It shall act after consulting the European Parliament:

- (a) either on a proposal from the Commission and after consulting the European Central Bank;
- (b) or on a recommendation from the European Central Bank and after consulting the Commission.

Article III-188

When exercising the powers and carrying out the tasks and duties conferred upon them by the Constitution and the Statute of the European System of Central Banks and of the European Central Bank, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.

Article III-189

Each Member State shall ensure that its national legislation, including the statutes of its national central bank, is compatible with the Constitution and the Statute of the European System of Central Banks and of the European Central Bank.

Article III-190

1. In order to carry out the tasks entrusted to the European System of Central Banks, the European Central Bank shall, in accordance with the Constitution and under the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank, adopt:

- (a) European regulations to the extent necessary to implement the tasks defined in Article 3(1)(a), Article 19(1), Article 22 and Article 25(2) of the Statute of the European System of Central Banks and of the European Central Bank and in cases which shall be laid down in European regulations and decisions as referred to in Article III-187(4);
- (b) European decisions necessary for carrying out the tasks entrusted to the European System of Central Banks under the Constitution and the Statute of the European System of Central Banks and of the European Central Bank;
- (c) recommendations and opinions.

2. The European Central Bank may decide to publish its European decisions, recommendations and opinions.

3. The Council shall, under the procedure laid down in Article III-187(4), adopt the European regulations establishing the limits and conditions under which the European Central Bank shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its European regulations and decisions.

Article III-191

Without prejudice to the powers of the European Central Bank, European laws or framework laws shall lay down the measures necessary for use of the euro as the single currency. Such laws or framework laws shall be adopted after consultation of the European Central Bank.

SECTION 3

INSTITUTIONAL PROVISIONS

Article III-192

1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, an Economic and Financial Committee is hereby set up.
2. The Committee shall have the following tasks:
 - (a) to deliver opinions at the request of the Council or of the Commission, or on its own initiative, for submission to those institutions;
 - (b) to keep under review the economic and financial situation of the Member States and of the Union and to report on it regularly to the Council and to the Commission, in particular with regard to financial relations with third countries and international institutions;
 - (c) without prejudice to Article III-344, to contribute to the preparation of the work of the Council referred to in Article III-159, Article III-179(2), (3), (4) and (6), Articles III-180, III-183 and III-184, Article III-185(6), Article III-186(2), Article III-187(3) and (4), Articles III-191 and III-196, Article III-198(2) and (3), Article III-201, Article III-202(2) and (3) and Articles III-322 and III-326, and to carry out other advisory and preparatory tasks assigned to it by the Council;
 - (d) to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of the Constitution and of Union acts; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

The Member States, the Commission and the European Central Bank shall each appoint no more than two members of the Committee.

3. The Council, on a proposal from the Commission, shall adopt a European decision laying down detailed provisions concerning the composition of the Economic and Financial Committee. It shall act after consulting the European Central Bank and the Committee. The President of the Council shall inform the European Parliament of that decision.

4. In addition to the tasks referred to in paragraph 2, if and as long as there are Member States with a derogation as referred to in Article III-197, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly to the Council and to the Commission on the matter.

Article III-193

For matters within the scope of Article III-179(4), Article III-184 with the exception of paragraph 13, Articles III-191, III-196, Article III-198(3) and Article III-326, the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.

SECTION 4

PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO

Article III-194

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Constitution, the Council shall, in accordance with the relevant procedure from among those referred to in Articles III-179 and III-184, with the exception of the procedure set out in Article III-184(13), adopt measures specific to those Member States whose currency is the euro:

- (a) to strengthen the coordination and surveillance of their budgetary discipline;
- (b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority shall be defined as at least 55 % of these members of the Council, representing Member States comprising at least 65 % of the population of the participating Member States.

A blocking minority must include at least the minimum number of these Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

Article III-195

Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.

Article III-196

1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a European decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority shall be defined as at least 55 % of these members of the Council, representing Member States comprising at least 65 % of the population of the participating Member States.

A blocking minority must include at least the minimum number of these Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

SECTION 5

TRANSITIONAL PROVISIONS

Article III-197

1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as 'Member States with a derogation'.

2. The following provisions of the Constitution shall not apply to Member States with a derogation:

- (a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article III-179(2));
- (b) coercive means of remedying excessive deficits (Article III-184(9) and (10));
- (c) the objectives and tasks of the European System of Central Banks (Article III-185(1), (2), (3) and (5));
- (d) issue of the euro (Article III-186);
- (e) acts of the European Central Bank (Article III-190);

- (f) measures governing the use of the euro (Article III-191);
- (g) monetary agreements and other measures relating to exchange-rate policy (Article III-326);
- (h) appointment of members of the Executive Board of the European Central Bank (Article III-382 (2));
- (i) European decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article III-196(1));
- (j) measures to ensure unified representation within the international financial institutions and conferences (Article III-196(2)).

In the Articles referred to in points (a) to (j), 'Member States' shall therefore mean Member States whose currency is the euro.

3. Under Chapter IX of the Statute of the European System of Central Banks and of the European Central Bank, Member States with a derogation and their national central banks are excluded from rights and obligations within the European System of Central Banks.

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

- (a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article III-179(4));
- (b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article III-184(6), (7), (8) and (11)).

A qualified majority shall be defined as at least 55 % of the other members of the Council, representing Member States comprising at least 65 % of the population of the participating Member States.

A blocking minority must include at least the minimum number of these other Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

Article III-198

1. At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles III-188 and III-189 and the Statute of the European System of Central Banks and of the European Central Bank. The reports shall also examine whether a high degree of sustainable convergence has been achieved, by analysing how far each of these Member States has fulfilled the following criteria:

- (a) the achievement of a high degree of price stability; this is apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability;
- (b) the sustainability of the government financial position; this is apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article III-184(6);
- (c) the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European monetary system, for at least two years, without devaluing against the euro;
- (d) the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism, being reflected in the long-term interest-rate levels.

The four criteria laid down in this paragraph and the relevant periods over which they are to be respected are developed further in the protocol on the convergence criteria. the reports from the commission and the european central bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2. After consulting the European Parliament and after discussion in the European Council, the Council, on a proposal from the Commission, shall adopt a European decision establishing which Member States with a derogation fulfil the necessary conditions on the basis of the criteria laid down in paragraph 1, and shall abrogate the derogations of the Member States concerned.

The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority referred to in the second subparagraph shall be defined as at least 55 % of these members of the Council, representing Member States comprising at least 65 % of the population of the participating Member States. A blocking minority must include at least the minimum number of these Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

3. If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, the Council shall, on a proposal from the Commission, adopt the European regulations or decisions irrevocably fixing the rate at which the euro is to be substituted for the currency of the Member State concerned, and laying down the other measures necessary for the introduction of the euro as the single currency in that Member State. The Council shall act with the unanimous agreement of the members representing Member States whose currency is the euro and the Member State concerned, after consulting the European Central Bank.

Article III-199

1. If and as long as there are Member States with a derogation, and without prejudice to Article III-187(1), the General Council of the European Central Bank referred to in Article 45 of the Statute of the European System of Central Banks and of the European Central Bank shall be constituted as a third decision-making body of the European Central Bank.

2. If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:

- (a) strengthen cooperation between the national central banks;
- (b) strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability;
- (c) monitor the functioning of the exchange-rate mechanism;
- (d) hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets;
- (e) carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.

Article III-200

Each Member State with a derogation shall treat its exchange-rate policy as a matter of common interest. In so doing, it shall take account of the experience acquired in cooperation within the framework of the exchange-rate mechanism.

Article III-201

1. Where a Member State with a derogation is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the internal market or the implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the Constitution. The Commission shall state what measures it recommends the Member State concerned to adopt.

If the action taken by a Member State with a derogation and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Economic and Financial Committee, recommend to the

Council the granting of mutual assistance and appropriate methods.

The Commission shall keep the Council regularly informed of the situation and of how it evolves.

2. The Council shall adopt European regulations or decisions granting such mutual assistance and laying down the conditions and details of such assistance, which may take such forms as:

- (a) a concerted approach to or within any other international organisations to which Member States with a derogation may have recourse;
- (b) measures needed to avoid deflection of trade where the Member State with a derogation, which is in difficulties, maintains or reintroduces quantitative restrictions against third countries;
- (c) the granting of limited credits by other Member States, subject to their agreement.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorise the Member State with a derogation, which is in difficulties, to take protective measures, the conditions and details of which the Commission shall determine.

Such authorisation may be revoked and such conditions and details may be changed by the Council.

Article III-202

1. Where a sudden crisis in the balance of payments occurs and a European decision as referred to in Article III-201(2) is not immediately adopted, a Member State with a derogation may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of the protective measures referred to in paragraph 1 not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article III-201.

3. The Council, acting on a recommendation from the Commission and after consulting the Economic and Financial Committee may adopt a European decision stipulating that the Member State concerned shall amend, suspend or abolish the protective measures referred to in paragraph 1.

CHAPTER III

POLICIES IN OTHER AREAS

SECTION 1

EMPLOYMENT

Article III-203

The Union and the Member States shall, in accordance with this Section, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives referred to in Article I-3.

Article III-204

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article III-203 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Union adopted pursuant to Article III-179(2).
2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with article III-206.

Article III-205

1. The Union shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.
2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Union policies and activities.

Article III-206

1. The European Council shall each year consider the employment situation in the Union and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.
2. On the basis of the conclusions of the European Council, the Council, on a proposal from the Commission, shall each year adopt guidelines which the Member States shall take into account in their employment policies. It shall act after consulting the European Parliament, the Committee of the Regions, the Economic and Social Committee and the Employment Committee.

These guidelines shall be consistent with the broad guidelines adopted pursuant to Article III-179(2).

3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.

4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, on a recommendation from the Commission, may adopt recommendations which it shall address to Member States.

5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Union and on the implementation of the guidelines for employment.

Article III-207

European laws or framework laws may establish incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such European laws or framework laws shall not include harmonisation of the laws and regulations of the Member States.

Article III-208

The Council shall, by a simple majority, adopt a European decision establishing an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. It shall act after consulting the European Parliament.

The tasks of the Committee shall be:

- (a) to monitor the employment situation and employment policies in the Union and the Member States;
- (b) without prejudice to Article III-344, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article III-206.

In fulfilling its mandate, the Committee shall consult management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

SECTION 2

SOCIAL POLICY

Article III-209

The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Union and the Member States shall act taking account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Constitution and from the approximation of provisions laid down by law, regulation or administrative action of the Member States.

Article III-210

1. With a view to achieving the objectives of Article III-209, the Union shall support and complement the activities of the Member States in the following fields:

- (a) improvement in particular of the working environment to protect workers' health and safety;
- (b) working conditions;
- (c) social security and social protection of workers;
- (d) protection of workers where their employment contract is terminated;
- (e) the information and consultation of workers;
- (f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;
- (g) conditions of employment for third-country nationals legally residing in Union territory;
- (h) the integration of persons excluded from the labour market, without prejudice to Article III-283;
- (i) equality between women and men with regard to labour market opportunities and treatment at work;
- (j) the combating of social exclusion;

(k) the modernisation of social protection systems without prejudice to point (c).

2. For the purposes of paragraph 1:

- (a) European laws or framework laws may establish measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;
- (b) in the fields referred to in paragraph 1(a) to (i), European framework laws may establish minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such European framework laws shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

In all cases, such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

3. By way of derogation from paragraph 2, in the fields referred to in paragraph 1(c), (d), (f) and (g), European laws or framework laws shall be adopted by the Council acting unanimously after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee.

The Council may, on a proposal from the Commission, adopt a European decision making the ordinary legislative procedure applicable to paragraph 1(d), (f) and (g). It shall act unanimously after consulting the European Parliament.

4. A Member State may entrust management and labour, at their joint request, with the implementation of European framework laws adopted pursuant to paragraphs 2 and 3 or, where appropriate, with the implementation of European regulations or decisions adopted in accordance with Article III-212.

In this case, it shall ensure that, no later than the date on which a European framework law must be transposed, or a European regulation or decision implemented, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that framework law, regulation or decision.

5. The European laws and framework laws adopted pursuant to this Article:

- (a) shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium of such systems;
- (b) shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Constitution.

6. This Article shall not apply to pay, the right of association, the right to strike or the right to impose lockouts.

Article III-211

1. The Commission shall promote the consultation of management and labour at Union level and shall adopt any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.
2. For the purposes of paragraph 1, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.
3. If, after the consultation referred to in paragraph 2, the Commission considers Union action desirable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.
4. On the occasion of the consultation referred to in paragraphs 2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article III-212(1). The duration of this process shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article III-212

1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.
2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article III-210, at the joint request of the signatory parties, by European regulations or decisions adopted by the Council on a proposal from the Commission. The European Parliament shall be informed.

Where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article III-210(3), the Council shall act unanimously.

Article III-213

With a view to achieving the objectives of Article III-209 and without prejudice to the other provisions of the Constitution, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this Section, particularly in matters relating to:

- (a) employment;
- (b) labour law and working conditions;
- (c) basic and advanced vocational training;
- (d) social security;
- (e) prevention of occupational accidents and diseases;

- (f) occupational hygiene;
- (g) the right of association and collective bargaining between employers and workers.

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

Article III-214

1. Each Member State shall ensure that the principle of equal pay for female and male workers for equal work or work of equal value is applied.
2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

- (a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
 - (b) that pay for work at time rates shall be the same for the same job.
3. European laws or framework laws shall establish measures to ensure the application of the principle of equal opportunities and equal treatment of women and men in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value. They shall be adopted after consultation of the Economic and Social Committee.
 4. With a view to ensuring full equality in practice between women and men in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity, or to prevent or compensate for disadvantages in professional careers.

Article III-215

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

Article III-216

The Commission shall draw up a report each year on progress in achieving the objectives of Article III-209, including the demographic situation within the Union. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

Article III-217

The Council shall, by a simple majority, adopt a European decision establishing a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The Council shall act after consulting the European Parliament.

The tasks of the Committee shall be:

- (a) to monitor the social situation and the development of social protection policies in the Member States and within the Union;
- (b) to promote exchanges of information, experience and good practice between Member States and with the Commission;
- (c) without prejudice to Article III-344, to prepare reports, formulate opinions or undertake other work within the scope of its powers, at the request of either the Council or the Commission or on its own initiative.

In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

Article III-218

The Commission shall include a separate chapter on social developments within the Union in its annual report to the European Parliament.

The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.

Article III-219

1. In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Union, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.

2. The Commission shall administer the Fund. It shall be assisted in this task by a Committee presided over by a member of the Commission and composed of representatives of Member States, trade unions and employers' organisations.

3. European laws shall establish implementing measures relating to the Fund. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

SECTION 3

ECONOMIC, SOCIAL AND TERRITORIAL COHESION

Article III-220

In order to promote its overall harmonious development, the Union shall develop and pursue its action leading to the strengthening of its economic, social and territorial cohesion.

In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.

Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.

Article III-221

Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article III-220. The formulation and implementation of the Union's policies and action and the implementation of the internal market shall take into account those objectives and shall contribute to their achievement. The Union shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing financial instruments.

The Commission shall submit a report to the European Parliament, the Council, the Committee of the Regions and the Economic and Social Committee every three years on the progress made towards achieving economic, social and territorial cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals.

European laws or framework laws may establish any specific measure outside the Funds, without prejudice to measures adopted within the framework of the Union's other policies. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Article III-222

The European Regional Development Fund is intended to help to redress the main regional imbalances in the Union through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.

Article III-223

1. Without prejudice to article III-224, European laws shall define the tasks, the priority objectives and the organisation of the structural funds, which may involve grouping the Funds, the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing Financial Instruments.

A Cohesion Fund set up by a European law shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

In all cases, such European laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

2. The first provisions on the Structural Funds and the Cohesion Fund to be adopted following those in force on the date on which the Treaty establishing a Constitution for Europe is signed shall be established by a European law of the Council. The Council shall act unanimously after obtaining the consent of the European Parliament.

Article III-224

European laws shall establish implementing measures relating to the European Regional Development Fund. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

With regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, and the European Social Fund, Articles III-231 and III-219(3) respectively shall apply.

*SECTION 4**AGRICULTURE AND FISHERIES**Article III-225*

The Union shall define and implement a common agriculture and fisheries policy.

‘Agricultural products’ means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products. References to the common agricultural policy or to agriculture, and the use of the term ‘agricultural’, shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector.

Article III-226

1. The internal market shall extend to agriculture and trade in agricultural products.
2. Save as otherwise provided in articles III-227 to III-232, the rules laid down for the establishment and functioning of the internal market shall apply to agricultural products.
3. The products listed in Annex I shall be subject to Articles III-227 to III-232.
4. The operation and development of the internal market for agricultural products must be accompanied by a common agricultural policy.

Article III-227

1. The objectives of the common agricultural policy shall be:
 - (a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;
 - (b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
 - (c) to stabilise markets;
 - (d) to assure the availability of supplies;
 - (e) to ensure that supplies reach consumers at reasonable prices.
2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:
 - (a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;
 - (b) the need to effect the appropriate adjustments by degrees;
 - (c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.

Article III-228

1. In order to attain the objectives set out in Article III-227, a common organisation of agricultural markets shall be established.

This organisation shall take one of the following forms, depending on the product concerned:

- (a) common rules on competition;

(b) compulsory coordination of the various national market organisations;

(c) a European market organisation.

2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article III-227, in particular regulation of prices, aids for the production and marketing of the various products, storage and carryover arrangements and common machinery for stabilising imports or exports.

The common organisation shall be limited to pursuit of the objectives set out in Article III-227 and shall exclude any discrimination between producers or consumers within the Union.

Any common price policy shall be based on common criteria and uniform methods of calculation.

3. In order to enable the common organisation referred to in paragraph 1 to attain its objectives, one or more agricultural guidance and guarantee funds may be set up.

Article III-229

To enable the objectives set out in Article III-227 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:

(a) an effective coordination of efforts in the spheres of vocational training, of research and of the dissemination of agricultural knowledge; this may include joint financing of projects or institutions;

(b) joint measures to promote consumption of certain products.

Article III-230

1. The Section relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by European laws or framework laws in accordance with Article III-231(2), having regard to the objectives set out in Article III-227.

2. The Council, on a proposal from the Commission, may adopt a European regulation or decision authorising the granting of aid:

(a) for the protection of enterprises handicapped by structural or natural conditions;

(b) within the framework of economic development programmes.

Article III-231

1. The Commission shall submit proposals for working out and implementing the common agricultural policy, including the replacement of the national organisations by one of the forms of common organisation provided for in Article III-228(1), and for implementing the measures referred to in this Section.

These proposals shall take account of the interdependence of the agricultural matters referred to in this Section.

2. European laws or framework laws shall establish the common organisation of the market provided for in Article III-228(1) and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy. They shall be adopted after consultation of the Economic and Social Committee.

3. The Council, on a proposal from the Commission, shall adopt the European regulations or decisions on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.

4. In accordance with paragraph 2, the national market organisations may be replaced by the common organisation provided for in Article III-228(1) if:

- (a) the common organisation offers Member States which are opposed to this measure and which have an organisation of their own for the production in question equivalent safeguards for the employment and standard of living of the producers concerned, account being taken of the adjustments that will be possible and the specialisation that will be needed with the passage of time, and
- (b) such an organisation ensures conditions for trade within the Union similar to those existing in a national market.

5. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw materials as are used for processed products intended for export to third countries may be imported from outside the Union.

Article III-232

Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.

The Commission shall adopt European regulations or decisions fixing the amount of these charges at the level required to redress the balance. It may also authorise other measures, the conditions and details of which it shall determine.

SECTION 5

ENVIRONMENT

Article III-233

1. Union policy on the environment shall contribute to the pursuit of the following objectives:

- (a) preserving, protecting and improving the quality of the environment;
- (b) protecting human health;
- (c) prudent and rational utilisation of natural resources;
- (d) promoting measures at international level to deal with regional or worldwide environmental problems.

2. Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional steps, for non-economic environmental reasons, subject to a procedure of inspection by the Union.

3. In preparing its policy on the environment, the Union shall take account of:

- (a) available scientific and technical data;
- (b) environmental conditions in the various regions of the Union;
- (c) the potential benefits and costs of action or lack of action;
- (d) the economic and social development of the Union as a whole and the balanced development of its regions.

4. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for the Union's cooperation may be the subject of agreements between the Union and the third parties concerned.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

Article III-234

1. European laws or framework laws shall establish what action is to be taken in order to achieve the objectives referred to in Article III-233. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

2. By way of derogation from paragraph 1 and without prejudice to Article III-172, the Council shall unanimously adopt European laws or framework laws establishing:

- (a) provisions primarily of a fiscal nature;
- (b) measures affecting:
 - (i) town and country planning;
 - (ii) quantitative management of water resources or affecting, directly or indirectly, the availability of those resources;
 - (iii) land use, with the exception of waste management;
- (c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.

The Council, on a proposal from the Commission, may unanimously adopt a European decision making the ordinary legislative procedure applicable to the matters referred to in the first subparagraph .

In all cases, the Council shall act after consulting the European Parliament, the Committee of the Regions and the Economic and Social Committee.

3. European laws shall establish general action programmes which set out priority objectives to be attained. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.

4. Without prejudice to certain measures adopted by the Union, the Member States shall finance and implement the environment policy.

5. Without prejudice to the principle that the polluter should pay, if a measure based on paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, such measure shall provide in appropriate form for:

- (a) temporary derogations, and/or
- (b) financial support from the Cohesion Fund.

6. The protective measures adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Constitution. They shall be notified to the Commission.

SECTION 6

CONSUMER PROTECTION

Article III-235

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

2. The Union shall contribute to the attainment of the objectives referred to in paragraph 1 through:

(a) measures adopted pursuant to Article III-172 in the context of the establishment and functioning of the internal market;

(b) measures which support, supplement and monitor the policy pursued by the Member States.

3. European laws or framework laws shall establish the measures referred to in paragraph 2(b). Such laws shall be adopted after consultation of the Economic and Social Committee.

4. Acts adopted pursuant to paragraph 3 shall not prevent any Member State from maintaining or introducing more stringent protective provisions. Such provisions must be compatible with the Constitution. They shall be notified to the Commission.

SECTION 7

TRANSPORT

Article III-236

1. The objectives of the Constitution shall, in matters governed by this Section, be pursued within the framework of a common transport policy.

2. European laws or framework laws shall implement paragraph 1, taking into account the distinctive features of transport. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such European laws or framework laws shall establish:

(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;

- (b) the conditions under which non-resident carriers may operate transport services within a Member State;
- (c) measures to improve transport safety;
- (d) any other appropriate measure.

3. When the European laws or framework laws referred to in paragraph 2 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.

Article III-237

Until the European laws or framework laws referred to in Article III-236(2) have been adopted, no Member State may, unless the Council has unanimously adopted a European decision granting a derogation, make the various provisions governing the subject on 1 January 1958 or, for acceding States, the date of their accession less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State.

Article III-238

Aids shall be compatible with the Constitution if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

Article III-239

Any measures adopted within the framework of the Constitution in respect of transport rates and conditions shall take account of the economic circumstances of carriers.

Article III-240

1. In the case of transport within the Union, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the Member State of origin or of destination of the goods in question shall be prohibited.
2. Paragraph 1 shall not prevent the adoption of other European laws or framework laws pursuant to Article III-236(2).
3. The Council, on a proposal from the Commission, shall adopt European regulations or decisions for implementing paragraph 1. It shall act after consulting the European Parliament and the Economic and Social Committee.

The Council may in particular adopt the European regulations and decisions needed to enable the institutions to secure compliance with the rule laid down in paragraph 1 and to ensure that users benefit from it to the full.

4. The Commission, acting on its own initiative or on application by a Member State, shall investigate any cases of discrimination falling within paragraph 1 and, after consulting any Member State concerned, adopt the necessary European decisions within the framework of the European regulations and decisions referred to in paragraph 3.

Article III-241

1. The imposition by a Member State, in respect of transport operations carried out within the Union, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by a European decision of the Commission.

2. The Commission, acting on its own initiative or on application by a Member State, shall examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.

After consulting each Member State concerned, the Commission shall adopt the necessary European decisions.

3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

Article III-242

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs.

The Commission may make recommendations to Member States for the application of this Article.

Article III-243

The provisions of this Section shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing this Article.

Article III-244

An Advisory Committee consisting of experts designated by the governments of the Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters.

Article III-245

1. This Section shall apply to transport by rail, road and inland waterway.
2. European laws or framework laws may lay down appropriate measures for sea and air transport. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

SECTION 8

TRANS-EUROPEAN NETWORKS

Article III-246

1. To help achieve the objectives referred to in Articles III-130 and III-220 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.
2. Within the framework of a system of open and competitive markets, action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Union.

Article III-247

1. In order to achieve the objectives referred to in Article III-246, the Union:
 - (a) shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest;
 - (b) shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation;
 - (c) may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in point (a), particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Union may also contribute, through the Cohesion Fund, to the financing of specific projects in Member States in the area of transport infrastructure.

The Union's activities shall take into account the potential economic viability of the projects.

2. European laws or framework laws shall establish the guidelines and other measures referred to in paragraph 1. Such laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Guidelines and projects of common interest which relate to the territory of a Member State shall require the agreement of that Member State.

3. Member States shall, in liaison with the Commission, coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article III-246. The Commission may, in close cooperation with the Member States, take any useful initiative to promote such coordination.

4. The Union may cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.

SECTION 9

RESEARCH AND TECHNOLOGICAL DEVELOPMENT AND SPACE

Article III-248

1. The Union shall aim to strengthen its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encourage it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Constitution.

2. For the purposes referred to in paragraph 1 the Union shall, throughout the Union, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality. It shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.

3. All the Union's activities in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with this Section.

Article III-249

In pursuing the objectives referred to in Article III-248, the Union shall carry out the following activities, complementing the activities carried out in the Member States:

- (a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;
- (b) promotion of cooperation in the field of the Union's research, technological development and demonstration with third countries and international organisations;

- (c) dissemination and optimisation of the results of activities in the Union's research, technological development and demonstration;
- (d) stimulation of the training and mobility of researchers in the Union.

Article III-250

1. The Union and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and the Union's policy are mutually consistent.
2. In close cooperation with the Member States, the Commission may take any useful initiative to promote the coordination referred to in paragraph 1, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

Article III-251

1. European laws shall establish a multiannual framework programme, setting out all the activities financed by the Union. Such laws shall be adopted after consultation of the Economic and Social Committee.

The framework programme shall:

- (a) establish the scientific and technological objectives to be achieved by the activities provided for in Article III-249 and lay down the relevant priorities;
 - (b) indicate the broad lines of such activities;
 - (c) lay down the maximum overall amount and the detailed rules for the Union's financial participation in the framework programme and the respective shares in each of the activities provided for.
2. The multiannual framework programme shall be adapted or supplemented as the situation changes.
 3. A European law of the Council shall establish specific programmes to implement the multiannual framework programme within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, shall not exceed the overall maximum amount fixed for the framework programme and each activity. Such a law shall be adopted after consulting the European Parliament and the Economic and Social Committee.
 4. As a complement to the activities planned in the multiannual framework programme, European laws shall establish the measures necessary for the implementation of the European research area. Such laws shall be adopted after consulting the Economic and Social Committee.

Article III-252

1. For the implementation of the multiannual framework programme, European laws or framework laws shall establish:

- (a) the rules for the participation of undertakings, research centres and universities;
- (b) the rules governing the dissemination of research results.

Such European laws or framework laws shall be adopted after consultation of the Economic and Social Committee.

2. In implementing the multiannual framework programme, European laws may establish supplementary programmes involving the participation of certain Member States only, which shall finance them subject to possible participation by the Union.

Such European laws shall determine the rules applicable to supplementary programmes, particularly as regards the dissemination of knowledge as well as access by other Member States. They shall be adopted after consultation of the Economic and Social Committee and with the agreement of the Member States concerned.

3. In implementing the multiannual framework programme, European laws may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

Such European laws shall be adopted after consultation of the Economic and Social Committee.

4. In implementing the multiannual framework programme the Union may make provision for cooperation in the Union's research, technological development and demonstration with third countries or international organisations.

The detailed arrangements for such cooperation may be the subject of agreements between the Union and the third parties concerned.

Article III-253

The Council, on a proposal from the Commission, may adopt European regulations or decisions to set up joint undertakings or any other structure necessary for the efficient execution of the Union's research, technological development and demonstration programmes. It shall act after consulting the European Parliament and the Economic and Social Committee.

Article III-254

1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.

2. To contribute to attaining the objectives referred to in paragraph 1, European laws or framework laws shall establish the necessary measures, which may take the form of a European space programme.
3. The Union shall establish any appropriate relations with the European Space Agency.

Article III-255

At the beginning of each year the Commission shall send a report to the European Parliament and the Council. The report shall include information on activities relating to research, technological development and the dissemination of results during the previous year, and the work programme for the current year.

SECTION 10

ENERGY

Article III-256

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim to:
 - (a) ensure the functioning of the energy market;
 - (b) ensure security of energy supply in the Union, and
 - (c) promote energy efficiency and energy saving and the development of new and renewable forms of energy.
 2. Without prejudice to the application of other provisions of the Constitution, the objectives in paragraph 1 shall be achieved by measures enacted in European laws or framework laws. Such laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.
- Such European laws or framework laws shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article III-234(2)(c).
3. By way of derogation from paragraph 2, a European law or framework law of the Council shall establish the measures referred to therein when they are primarily of a fiscal nature. The Council shall act unanimously after consulting the European Parliament.

CHAPTER IV

AREA OF FREEDOM, SECURITY AND JUSTICE

SECTION 1

GENERAL PROVISIONS

Article III-257

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Chapter, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

Article III-258

The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.

Article III-259

National Parliaments shall ensure that the proposals and legislative initiatives submitted under Sections 4 and 5 of this Chapter comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.

Article III-260

Without prejudice to Articles III-360 to III-362, the Council may, on a proposal from the Commission, adopt European regulations or decisions laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Chapter by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

Article III-261

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article III-344, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

Article III-262

This Chapter shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

Article III-263

The Council shall adopt European regulations to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Chapter, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article III-264, and after consulting the European Parliament.

Article III-264

The acts referred to in Sections 4 and 5, together with the European regulations referred to in Article III-263 which ensure administrative cooperation in the areas covered by these Sections, shall be adopted:

- (a) on a proposal from the Commission, or
- (b) on the initiative of a quarter of the Member States.

SECTION 2

POLICIES ON BORDER CHECKS,
ASYLUM AND IMMIGRATION

Article III-265

1. The Union shall develop a policy with a view to:
 - (a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
 - (b) carrying out checks on persons and efficient monitoring of the crossing of external borders;
 - (c) the gradual introduction of an integrated management system for external borders.

2. For the purposes of paragraph 1, European laws or framework laws shall establish measures concerning:

- (a) the common policy on visas and other short-stay residence permits;
- (b) the checks to which persons crossing external borders are subject;
- (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;
- (d) any measure necessary for the gradual establishment of an integrated management system for external borders;
- (e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

3. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

Article III-266

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, European laws or framework laws shall lay down measures for a common European asylum system comprising:

- (a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
- (b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
- (c) a common system of temporary protection for displaced persons in the event of a massive inflow;
- (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt European regulations or decisions comprising provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

Article III-267

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, European laws or framework laws shall establish measures in the following areas:

- (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;
- (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
- (c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;
- (d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4. European laws or framework laws may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

Article III-268

The policies of the Union set out in this Section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Section shall contain appropriate measures to give effect to this principle.

SECTION 3

JUDICIAL COOPERATION IN CIVIL MATTERS

Article III-269

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.

2. For the purposes of paragraph 1, European laws or framework laws shall establish measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:

- (a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;
- (b) the cross-border service of judicial and extrajudicial documents;
- (c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;
- (d) cooperation in the taking of evidence;
- (e) effective access to justice;
- (f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;
- (g) the development of alternative methods of dispute settlement;
- (h) support for the training of the judiciary and judicial staff.

3. Notwithstanding paragraph 2, a European law or framework law of the Council shall establish measures concerning family law with cross-border implications. The Council shall act unanimously after consulting the European Parliament.

The Council, on a proposal from the Commission, may adopt a European decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

SECTION 4

JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article III-270

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article III-271.

European laws or framework laws shall establish measures to:

- (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) support the training of the judiciary and judicial staff;
- (d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, European framework laws may establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

- (a) mutual admissibility of evidence between Member States;
- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council has identified in advance by a European decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.

3. Where a member of the Council considers that a draft European framework law as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, the procedure referred to in Article III-396 shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396, or
- (b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and at least one third of the Member States wish to establish enhanced cooperation on the basis of the draft framework law concerned, they shall notify the European Parliament, the Council and the Commission accordingly.

In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles I-44(2) and III-419(1) shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Article III-271

1. European framework laws may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

On the basis of developments in crime, the Council may adopt a European decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, European framework laws may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such framework laws shall be adopted by the same procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article III-264.

3. Where a member of the Council considers that a draft European framework law as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, where the procedure referred to in Article III-396 is applicable, it shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

- (a) refer the draft back to the Council, which shall terminate the suspension of the procedure referred to in Article III-396 where it is applicable, or
- (b) request the Commission or the group of Member States from which the draft originates to submit a new draft; in that case, the act originally proposed shall be deemed not to have been adopted.

4. If, by the end of the period referred to in paragraph 3, either no action has been taken by the European Council or if, within 12 months from the submission of a new draft under paragraph 3(b), the European framework law has not been adopted, and at least one third of the Member States wish to establish enhanced cooperation on the basis of the draft framework law concerned, they shall notify the European Parliament, the Council and the Commission accordingly.

In such a case, the authorisation to proceed with enhanced cooperation referred to in Articles I-44(2) and III-419(1) shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Article III-272

European laws or framework laws may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

Article III-273

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

In this context, European laws shall determine Eurojust's structure, operation, field of action and tasks. Those tasks may include:

- (a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;
- (b) the coordination of investigations and prosecutions referred to in point (a);
- (c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

European laws shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article III-274, formal acts of judicial procedure shall be carried out by the competent national officials.

Article III-274

1. In order to combat crimes affecting the financial interests of the Union, a European law of the Council may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the European law provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The European law referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

4. The European Council may, at the same time or subsequently, adopt a European decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission.

SECTION 5

POLICE COOPERATION

Article III-275

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

2. For the purposes of paragraph 1, European laws or framework laws may establish measures concerning:

- (a) the collection, storage, processing, analysis and exchange of relevant information;
- (b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;
- (c) common investigative techniques in relation to the detection of serious forms of organised crime.

3. A European law or framework law of the Council may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

Article III-276

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. European laws shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

- (a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;
- (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

European laws shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

Article III-277

A European law or framework law of the Council shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles III-270 and III-275 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.

CHAPTER V

AREAS WHERE THE UNION MAY TAKE COORDINATING, COMPLEMENTARY OR SUPPORTING ACTION

SECTION 1

PUBLIC HEALTH

Article III-278

1. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.

Action by the Union, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover:

- (a) the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education;
- (b) monitoring, early warning of and combating serious cross-border threats to health.

The Union shall complement the Member States' action in reducing drug-related health damage, including information and prevention.

2. The Union shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action. It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. By way of derogation from Article I-12(5) and Article I-17(a) and in accordance with Article I-14 (2)(k), European laws or framework laws shall contribute to the achievement of the objectives referred to in this Article by establishing the following measures in order to meet common safety concerns:

- (a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;
- (b) measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;
- (c) measures setting high standards of quality and safety for medicinal products and devices for medical use;
- (d) measures concerning monitoring, early warning of and combating serious cross-border threats to health.

Such European laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

5. European laws or framework laws may also establish incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, as well as measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

6. For the purposes of this Article, the Council, on a proposal from the Commission, may also adopt recommendations.

7. Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.

SECTION 2

INDUSTRY

Article III-279

1. The Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

- (a) speeding up the adjustment of industry to structural changes;
- (b) encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings;
- (c) encouraging an environment favourable to cooperation between undertakings;
- (d) fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

3. The Union shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of the Constitution. European laws or framework laws may establish specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Economic and Social Committee.

This Section shall not provide a basis for the introduction by the Union of any measure which could lead to distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons.

SECTION 3

CULTURE

Article III-280

1. The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

2. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and complementing their action in the following areas:

- (a) improvement of the knowledge and dissemination of the culture and history of the European peoples;
- (b) conservation and safeguarding of cultural heritage of European significance;
- (c) non-commercial cultural exchanges;
- (d) artistic and literary creation, including in the audiovisual sector.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.

4. The Union shall take cultural aspects into account in its action under other provisions of the Constitution, in particular in order to respect and to promote the diversity of its cultures.

5. In order to contribute to the achievement of the objectives referred to in this Article:

- (a) European laws or framework laws shall establish incentive measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions;
- (b) the Council, on a proposal from the Commission, shall adopt recommendations.

SECTION 4

TOURISM

Article III-281

1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.

To that end, Union action shall be aimed at:

- (a) encouraging the creation of a favourable environment for the development of undertakings in this sector;
- (b) promoting cooperation between the Member States, particularly by the exchange of good practice;

2. European laws or framework laws shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.

SECTION 5

EDUCATION, YOUTH, SPORT
AND VOCATIONAL TRAINING*Article III-282*

1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and complementing their action. It shall fully respect the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.

Union action shall be aimed at:

- (a) developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;
 - (b) encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;
 - (c) promoting cooperation between educational establishments;
 - (d) developing exchanges of information and experience on issues common to the education systems of the Member States;
 - (e) encouraging the development of youth exchanges and of exchanges of socio-educational instructors and encouraging the participation of young people in democratic life in Europe;
 - (f) encouraging the development of distance education;
 - (g) developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.
2. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education and sport, in particular the Council of Europe.
3. In order to contribute to the achievement of the objectives referred to in this Article:
- (a) European laws or framework laws shall establish incentive measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;
 - (b) the Council, on a proposal from the Commission, shall adopt recommendations.

Article III-283

1. The Union shall implement a vocational training policy which shall support and complement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

Union action shall aim to:

- (a) facilitate adaptation to industrial change, in particular through vocational training and retraining;
- (b) improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;
- (c) facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people;
- (d) stimulate cooperation on training between educational or training establishments and firms;
- (e) develop exchanges of information and experience on issues common to the training systems of the Member States.

2. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

3. In order to contribute to the achievement of the objectives referred to in this Article:

- (a) European laws or framework laws shall establish the necessary measures, excluding any harmonisation of the laws and regulations of the Member States. They shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee;
- (b) the Council, on a proposal from the Commission, shall adopt recommendations.

*SECTION 6**CIVIL PROTECTION**Article III-284*

1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters.

Union action shall aim to:

- (a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or

man-made disasters within the Union;

- (b) promote swift, effective operational cooperation within the Union between national civil-protection services;
- (c) promote consistency in international civil-protection work.

2. European laws or framework laws shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.

SECTION 7

ADMINISTRATIVE COOPERATION

Article III-285

1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.
2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. European laws shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.
3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Constitution providing for administrative cooperation among the Member States and between them and the Union.

TITLE IV

ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

Article III-286

1. The non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom shall be associated with the Union. These countries and territories, hereinafter called the 'countries and territories', are listed in Annex II.

This title shall apply to Greenland, subject to the specific provisions of the Protocol on special arrangements for Greenland.

2. The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union.

Association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.

Article III-287

Association shall have the following objectives:

- (a) Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to the Constitution;
- (b) each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which it has special relations;
- (c) Member States shall contribute to the investments required for the progressive development of these countries and territories;
- (d) for investments financed by the Union, participation in tenders and supplies shall be open on equal terms to all natural and legal persons who are nationals of a Member State or of one of the countries and territories;
- (e) in relations between Member States and the countries and territories, the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions of Subsection 2 of Section 2 of Chapter I of Title III relating to the freedom of establishment and under the procedures laid down in that Subsection, and on a non-discriminatory basis, subject to any acts adopted pursuant to Article III-291.

Article III-288

1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be prohibited in conformity with the prohibition of customs duties between Member States provided for in the Constitution.

2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be prohibited in accordance with Article III-151(4).

3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.

The duties referred to in the first subparagraph shall not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.

4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff.

5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.

Article III-289

If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when Article III-288(1) has been applied, to cause deflections of trade to the detriment of any Member State, the latter may request the Commission to propose to the other Member States that they take the necessary measures to remedy the situation.

Article III-290

Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries and territories for workers from Member States, shall be regulated by acts adopted in accordance with Article III-291.

Article III-291

The Council, on a proposal from the Commission, shall adopt unanimously, on the basis of the experience acquired under the association of the countries and territories with the Union, European laws, framework laws, regulations and decisions as regards the detailed rules and the procedure for the association of the countries and territories with the Union. These laws and framework laws shall be adopted after consultation of the European Parliament.

TITLE V

THE UNION'S EXTERNAL ACTION

CHAPTER I

PROVISIONS HAVING GENERAL APPLICATION

Article III-292

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;
- (g) assist populations, countries and regions confronting natural or man-made disasters;
- (h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the Union Minister for Foreign Affairs, shall ensure that consistency and shall cooperate to that effect.

Article III-293

1. On the basis of the principles and objectives set out in Article III-292, the European Council shall identify the strategic interests and objectives of the Union.

European decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.

The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. European decisions of the European Council shall be implemented in accordance with the procedures provided for in the Constitution.

2. The Union Minister for Foreign Affairs, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council.

CHAPTER II

COMMON FOREIGN AND SECURITY POLICY

SECTION 1

COMMON PROVISIONS

Article III-294

1. In the context of the principles and objectives of its external action, the Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy.

2. The Member States shall support the common foreign and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity.

The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.

The Council and the Union Minister for Foreign Affairs shall ensure that these principles are complied with.

3. The Union shall conduct the common foreign and security policy by:

(a) defining the general guidelines;

(b) adopting European decisions defining:

(i) actions to be undertaken by the Union;

(ii) positions to be taken by the Union;

(iii) arrangements for the implementation of the European decisions referred to in points (i) and (ii);

(c) strengthening systematic cooperation between Member States in the conduct of policy.

Article III-295

1. The European Council shall define the general guidelines for the common foreign and security policy, including for matters with defence implications.

If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.

2. The Council shall adopt the European decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines and strategic lines defined by the European Council.

Article III-296

1. The Union Minister for Foreign Affairs, who shall chair the Foreign Affairs Council, shall contribute through his or her proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the European decisions adopted by the European Council and the Council.

2. The Minister for Foreign Affairs shall represent the Union for matters relating to the common foreign and security policy. He or she shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

3. In fulfilling his or her mandate, the Union Minister for Foreign Affairs shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a European decision of the Council. The Council shall act on a proposal from the Union Minister for Foreign Affairs after consulting the European Parliament and after obtaining the consent of the Commission.

Article III-297

1. Where the international situation requires operational action by the Union, the Council shall adopt the necessary European decisions. Such decisions shall lay down the objectives, the scope, the means to be made available to the Union, if necessary the duration, and the conditions for implementation of the action.

If there is a change in circumstances having a substantial effect on a question subject to such a European decision, the Council shall review the principles and objectives of that decision and adopt the necessary European decisions.

2. The European decisions referred to in paragraph 1 shall commit the Member States in the positions they adopt and in the conduct of their activity.
3. Whenever there is any plan to adopt a national position or take national action pursuant to a European decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow, if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of such a decision.
4. In cases of imperative need arising from changes in the situation and failing a review of the European decision pursuant to the second subparagraph of paragraph 1, Member States may take the necessary measures as a matter of urgency, having regard to the general objectives of that decision. The Member State concerned shall inform the Council immediately of any such measures.
5. Should there be any major difficulties in implementing a European decision as referred to in this Article, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the action or impair its effectiveness.

Article III-298

The Council shall adopt European decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the positions of the Union.

Article III-299

1. Any Member State, the Union Minister for Foreign Affairs, or that Minister with the Commission's support, may refer any question relating to the common foreign and security policy to the Council and may submit to it initiatives or proposals as appropriate.
2. In cases requiring a rapid decision, the Union Minister for Foreign Affairs, of the Minister's own motion or at the request of a Member State, shall convene an extraordinary meeting of the Council within forty-eight hours or, in an emergency, within a shorter period.

Article III-300

1. The European decisions referred to in this Chapter shall be adopted by the Council acting unanimously.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration. In that case, it shall not be obliged to apply the European decision, but shall accept that the latter commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.

2. By way of derogation from paragraph 1, the Council shall act by a qualified majority:
- (a) when adopting European decisions defining a Union action or position on the basis of a European decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article III-293(1);
 - (b) when adopting a European decision defining a Union action or position, on a proposal which the Union Minister for Foreign Affairs has presented following a specific request to him or her from the European Council, made on its own initiative or that of the Minister;
 - (c) when adopting a European decision implementing a European decision defining a Union action or position;
 - (d) when adopting a European decision concerning the appointment of a special representative in accordance with Article III-302.

If a member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a European decision to be adopted by a qualified majority, a vote shall not be taken. The Union Minister for Foreign Affairs will, in close consultation with the Member State involved, search for a solution acceptable to it. If he or she does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a European decision by unanimity.

3. In accordance with Article I-40(7) the European Council may unanimously adopt a European decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2 of this Article.

4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.

Article III-301

1. When the European Council or the Council has defined a common approach of the Union within the meaning of Article I-40(5), the Union Minister for Foreign Affairs and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

2. The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach referred to in paragraph 1.

Article III-302

The Council may appoint, on a proposal from the Union Minister for Foreign Affairs, a special representative with a mandate in relation to particular policy issues. The special representative shall carry out his or her mandate under the Minister's authority.

Article III-303

The Union may conclude agreements with one or more States or international organisations in areas covered by this Chapter.

Article III-304

1. The Union Minister for Foreign Affairs shall consult and inform the European Parliament in accordance with Article I-40(8) and Article I-41(8). He or she shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.

2. The European Parliament may ask questions of the Council and of the Union Minister for Foreign Affairs or make recommendations to them. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the common security and defence policy.

Article III-305

1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the Union's positions in such fora. The Union Minister for Foreign Affairs shall organise this coordination.

In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the Union's positions.

2. In accordance with Article I-16(2), Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter, as well as the Union Minister for Foreign Affairs, informed of any matter of common interest.

Member States which are also members of the United Nations Security Council shall concert and keep the other Member States and the Union Minister for Foreign Affairs fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the United Nations Charter.

When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the Union Minister for Foreign Affairs be asked to present the Union's position.

Article III-306

The diplomatic and consular missions of the Member States and the Union delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that the European decisions defining Union positions and actions adopted pursuant to this Chapter are complied with and implemented. They shall step up cooperation by exchanging information and carrying out joint assessments.

They shall contribute to the implementation of the right of European citizens to protection in the territory of third countries as referred to in Article I-10(2)(c) and the measures adopted pursuant to Article III-127.

Article III-307

1. Without prejudice to Article III-344, a Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the latter, or of the Union Minister for Foreign Affairs, or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the powers of the Union Minister for Foreign Affairs.

2. Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the Union Minister for Foreign Affairs, the political control and strategic direction of the crisis management operations referred to in Article III-309.

The Council may authorise the Committee, for the purpose and for the duration of a crisis management operation, as determined by the Council, to take the relevant measures concerning the political control and strategic direction of the operation.

Article III-308

The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences referred to in Articles I-13 to I-15 and I-17.

Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Constitution for the exercise of the Union competences under this Chapter.

SECTION 2

THE COMMON SECURITY AND DEFENCE POLICY

Article III-309

1. The tasks referred to in Article I-41(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council shall adopt European decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The Union Minister for Foreign Affairs, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

Article III-310

1. Within the framework of the European decisions adopted in accordance with Article III-309, the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the Union Minister for Foreign Affairs, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the European decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary European decisions.

Article III-311

1. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency), established by Article I-41(3) and subject to the authority of the Council, shall have as its task to:

- (a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;
- (b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;
- (c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;
- (d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;
- (e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a European decision defining the Agency's statute, seat and operational rules. That decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

Article III-312

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article I-41(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation shall notify their intention to the Council and to the Union Minister for Foreign Affairs.

2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a European decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the Union Minister for Foreign Affairs.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the Union Minister for Foreign Affairs.

The Council shall adopt a European decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the Union Minister for Foreign Affairs. Only members of the Council representing the participating Member States shall take part in the vote.

A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a European decision suspending the participation of the Member State concerned.

The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.

A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The European decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only.

SECTION 3

FINANCIAL PROVISIONS

Article III-313

1. Administrative expenditure which the implementation of this Chapter entails for the institutions shall be charged to the Union budget.

2. Operating expenditure to which the implementation of this Chapter gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council decides otherwise.

In cases where expenditure is not charged to the Union budget it shall be charged to the Member States in accordance with the gross national product scale, unless the Council decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article III-300(1), second subparagraph, shall not be obliged to contribute to the financing thereof.

3. The Council shall adopt a European decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article I-41(1) and Article III-309. It shall act after consulting the European Parliament.

Preparatory activities for the tasks referred to in Article I-41(1) and Article III-309 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority, on a proposal from the Union Minister for Foreign Affairs, European decisions establishing:

- (a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- (b) the procedures for administering the start-up fund;
- (c) the financial control procedures.

When the task planned in accordance with Article I-41(1) and Article III-309 cannot be charged to the Union budget, the Council shall authorise the Union Minister for Foreign Affairs to use the fund. The Union Minister for Foreign Affairs shall report to the Council on the implementation of this remit.

CHAPTER III

COMMON COMMERCIAL POLICY

Article III-314

By establishing a customs union in accordance with Article III-151, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

Article III-315

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. European laws shall establish the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article III-325 shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act

unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

- (a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;
- (b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Section 7 of Chapter III of Title III and to Article III-325.

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States insofar as the Constitution excludes such harmonisation.

CHAPTER IV

COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID

SECTION 1

DEVELOPMENT COOPERATION

Article III-316

1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States shall complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.

2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

Article III-317

1. European laws or framework laws shall establish the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.

2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Articles III-292 and III-316.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

Article III-318

1. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations.

SECTION 2

ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES

Article III-319

1. Without prejudice to the other provisions of the Constitution, and in particular Articles III-316 to III-318, the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's measures and those of the Member States shall complement and reinforce each other.

2. European laws or framework laws shall establish the measures necessary for the implementation of paragraph 1.

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

Article III-320

When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary European decisions on a proposal from the Commission.

SECTION 3

HUMANITARIAN AID

Article III-321

1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's operations and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination.

3. European laws or framework laws shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article III-292.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. European laws shall determine the rules and procedures for the operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system.

CHAPTER V

RESTRICTIVE MEASURES

Article III-322

1. Where a European decision, adopted in accordance with Chapter II, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the Union Minister for Foreign Affairs and the Commission, shall adopt the necessary European regulations or decisions. It shall inform the European Parliament thereof.
2. Where a European decision adopted in accordance with Chapter II so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.
3. The acts referred to in this Article shall include necessary provisions on legal safeguards.

CHAPTER VI

INTERNATIONAL AGREEMENTS

Article III-323

1. The Union may conclude an agreement with one or more third countries or international organisations where the Constitution so provides or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Constitution, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.
2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.

Article III-324

The Union may conclude an association agreement with one or more third countries or international organisations in order to establish an association involving reciprocal rights and obligations, common actions and special procedures.

Article III-325

1. Without prejudice to the specific provisions laid down in Article III-315, agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.
2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

3. The Commission, or the Union Minister for Foreign Affairs where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a European decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union's negotiating team.

4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

5. The Council, on a proposal by the negotiator, shall adopt a European decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.

6. The Council, on a proposal by the negotiator, shall adopt a European decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the European decision concluding the agreement:

(a) after obtaining the consent of the European Parliament in the following cases:

(i) association agreements;

(ii) Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(iii) agreements establishing a specific institutional framework by organising cooperation procedures;

(iv) agreements with important budgetary implications for the Union;

(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

(b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by a qualified majority throughout the procedure.

However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article III-319 with the States which are candidates for accession.

9. The Council, on a proposal from the Commission or the Union Minister for Foreign Affairs, shall adopt a European decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The European Parliament shall be immediately and fully informed at all stages of the procedure.

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Constitution. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the Constitution is revised.

Article III-326

1. By way of derogation from Article III-325, the Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may conclude formal agreements on an exchange-rate system for the euro in relation to the currencies of third States. The Council shall act unanimously after consulting the European Parliament and in accordance with the procedure provided for in paragraph 3.

The Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more currencies of third States as referred to in paragraph 1, the Council, acting either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article III-325, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more third States or international organisations, the Council, acting on a recommendation from the Commission and after consulting the European Central Bank, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.

4. Without prejudice to Union competence and Union agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude agreements.

CHAPTER VII

THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS

Article III-327

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

The Union shall also maintain such relations as are appropriate with other international organisations.

2. The Union Minister for Foreign Affairs and the Commission shall be instructed to implement this Article.

Article III-328

1. Union delegations in third countries and at international organisations shall represent the Union.

2. Union delegations shall be placed under the authority of the Union Minister for Foreign Affairs. They shall act in close cooperation with Member States' diplomatic and consular missions.

CHAPTER VIII

IMPLEMENTATION OF THE SOLIDARITY CLAUSE

Article III-329

1. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

2. The arrangements for the implementation by the Union of the solidarity clause referred to in Article I-43 shall be defined by a European decision adopted by the Council acting on a joint proposal by the Commission and the Union Minister for Foreign Affairs. The Council shall act in accordance with Article III-300(1) where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article III-344, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article

III-261; the two committees shall, if necessary, submit joint opinions.

3. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.

TITLE VI

THE FUNCTIONING OF THE UNION

CHAPTER I

PROVISIONS GOVERNING THE INSTITUTIONS

SECTION 1

THE INSTITUTIONS

Subsection 1

The European Parliament

Article III-330

1. A European law or framework law of the Council shall establish the necessary measures for the election of the Members of the European Parliament by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council shall act unanimously on initiative from, and after obtaining the consent of, the European Parliament, which shall act by a majority of its component members. This law or framework law shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements.

2. A European law of the European Parliament shall lay down the regulations and general conditions governing the performance of the duties of its Members. The European Parliament shall act on its own initiative after seeking an opinion from the Commission and after obtaining the consent of the Council. The Council shall act unanimously on all rules or conditions relating to the taxation of Members or former Members.

Article III-331

European laws shall lay down the regulations governing the political parties at European level referred to in Article I-46(4), and in particular the rules regarding their funding.

Article III-332

The European Parliament may, by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Constitution. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons.

Article III-333

In the course of its duties, the European Parliament may, at the request of a quarter of its component Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by the Constitution on other institutions or bodies, alleged contraventions or maladministration in the implementation of Union law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on submission of its report.

A European law of the European Parliament shall lay down the detailed provisions governing the exercise of the right of inquiry. The European Parliament shall act on its own initiative after obtaining the consent of the Council and of the Commission.

Article III-334

In accordance with Article I-10(2)(d), any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.

Article III-335

1. The European Parliament shall elect a European Ombudsman. In accordance with Articles I-10(2)(d) and I-49, he or she shall be empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Union's institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role.

In accordance with his or her duties, the Ombudsman shall conduct inquiries for which he or she finds grounds, either on his or her own initiative or on the basis of complaints submitted to him or her direct or through a member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he or she shall refer the matter to the institution, body, office or agency concerned, which shall have a period of three months in which to inform him or her of its views. The European Ombudsman shall then forward a report to the European Parliament and the institution, body, office or agency concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his or her inquiries.

2. The Ombudsman shall be elected after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he or she no longer fulfils the conditions required for the performance of his or her duties or if he or she is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his or her duties. In the performance of those duties he or she shall neither seek nor take instructions from any institution, body, office or agency. The Ombudsman shall not, during his or her term of office, engage in any other occupation, whether gainful or not.

4. A European law of the European Parliament shall lay down the regulations and general conditions governing the performance of the Ombudsman's duties. The European Parliament shall act on its own initiative after seeking an opinion from the Commission and after obtaining the consent of the Council.

Article III-336

The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.

The European Parliament may meet in extraordinary part-session at the request of a majority of its component members or at the request of the Council or of the Commission.

Article III-337

1. The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council.

2. The Commission may attend all the meetings of the European Parliament and shall, at its request, be heard. It shall reply orally or in writing to questions put to it by the European Parliament or by its members.

3. The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.

Article III-338

Save as otherwise provided in the Constitution, the European Parliament shall act by a majority of the votes cast. Its Rules of Procedure shall determine the quorum.

Article III-339

The European Parliament shall adopt its Rules of Procedure, by a majority of its component members.

The proceedings of the European Parliament shall be published in the manner laid down in the Constitution and the Rules of Procedure of the European Parliament.

Article III-340

If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and shall do so only by open vote.

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Articles I-26 and I-27. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.

*Subsection 2***The European Council***Article III-341*

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

*Subsection 3***The Council of Ministers***Article III-342*

The Council shall meet when convened by its President on his or her own initiative, or at the request of one of its members or of the Commission.

Article III-343

1. Where a vote is taken, any member of the Council may act on behalf of not more than one other member.

2. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.

3. Abstentions by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

Article III-344

1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council .

The Council shall decide on the organisation of the General Secretariat by a simple majority.

3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.

Article III-345

The Council, by a simple majority, may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit any appropriate proposals to it. If the Commission does not submit a proposal, it shall inform the Council of the reasons.

Article III-346

The Council shall adopt European decisions laying down the rules governing the committees provided for in the Constitution. It shall act by a simple majority after consulting the Commission.

Subsection 4

The European Commission

Article III-347

The members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.

The members of the Commission shall not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council, acting by a simple majority, or the Commission, rule that the person concerned be, according to the circumstances, either compulsorily retired in accordance with Article III-349 or deprived of his or her right to a pension or other benefits in its stead.

Article III-348

1. Apart from normal replacement, or death, the duties of a member of the Commission shall end when he or she resigns or is compulsorily retired.

2. A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in Article I-26(4).

The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.

3. In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his or her term of office in accordance with Article I-27(1).

4. In the event of resignation, compulsory retirement or death, the Union Minister for Foreign Affairs shall be replaced, for the remainder of his or her term of office, in accordance with Article I-28(1).

5. In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, for the remainder of their term of office, in accordance with Articles I-26 and I-27.

Article III-349

If any member of the Commission no longer fulfils the conditions required for the performance of his or her duties or if he or she has been guilty of serious misconduct, the Court of Justice may, on application by the Council, acting by a simple majority, or by the Commission, compulsorily retire him or her.

Article III-350

Without prejudice to Article I-28(4), the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article I-27(3). The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The members of the Commission shall carry out the duties devolved upon them by the President under his or her authority.

Article III-351

The Commission shall act by a majority of its members. Its Rules of Procedure shall determine the quorum.

Article III-352

1. The Commission shall adopt its Rules of Procedure so as to ensure both its own operation and that of its departments. It shall ensure that these rules are published.

2. The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union.

Subsection 5

The Court of Justice of the European Union

Article III-353

The Court of Justice shall sit in chambers, as a Grand Chamber or as a full Court, in accordance with the Statute of the Court of Justice of the European Union.

Article III-354

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council may, acting unanimously, adopt a European decision to increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require his or her involvement.

Article III-355

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States after consultation of the panel provided for in Article III-357.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice of the European Union.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He or she may be re-elected.

The Court of Justice shall adopt its Rules of Procedure. Those Rules shall require the consent of the Council.

Article III-356

The number of Judges of the General Court shall be determined by the Statute of the Court of Justice of the European Union. The Statute may provide for the General Court to be assisted by Advocates-General.

The members of the General Court shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States after consultation of the panel provided for in Article III-357.

The membership of the General Court shall be partially renewed every three years.

The Judges shall elect the President of the General Court from among their number for a term of three years. He or she may be re-elected.

The General Court shall establish its Rules of Procedure in agreement with the Court of Justice. The Rules shall be subject to the consent of the Council.

Unless the Statute provides otherwise, the provisions of the Constitution relating to the Court of Justice shall apply to the General Court.

Article III-357

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles III-355 and III-356.

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a European decision establishing the panel's operating rules and a European decision appointing its members. It shall act on the initiative of the President of the Court of Justice.

Article III-358

1. The General Court shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles III-365, III-367, III-370, III-372 and III-374, with the exception of those assigned to a specialised court set up under Article III-359 and those reserved in the Statute of the Court of Justice of the European Union for the Court of Justice. The Statute may provide for the General Court to have jurisdiction for other classes of action or proceeding.

Decisions given by the General Court under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The General Court shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the specialised courts.

Decisions given by the General Court under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute of the Court of Justice of the European Union, where there is a serious risk of the unity or consistency of Union law being affected.

3. The General Court shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article III-369, in specific areas laid down by the Statute of the Court of Justice of the European Union.

Where the General Court considers that the case requires a decision of principle likely to affect the unity or consistency of Union law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the General Court on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Union law being affected.

Article III-359

1. European laws may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. They shall be adopted either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.
2. The European law establishing a specialised court shall lay down the rules on the organisation of the court and the extent of the jurisdiction conferred upon it.
3. Decisions given by specialised courts may be subject to a right of appeal on points of law only or, when provided for in the European law establishing the specialised court, a right of appeal also on matters of fact, before the General Court.
4. The members of the specialised courts shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.
5. The specialised courts shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the consent of the Council.
6. Unless the European law establishing the specialised court provides otherwise, the provisions of the Constitution relating to the Court of Justice of the European Union and the provisions of the Statute of the Court of Justice of the European Union shall apply to the specialised courts. Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.

Article III-360

If the Commission considers that a Member State has failed to fulfil an obligation under the Constitution, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

Article III-361

A Member State which considers that another Member State has failed to fulfil an obligation under the Constitution may bring the matter before the Court of Justice of the European Union.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under the Constitution, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court.

Article III-362

1. If the Court of Justice of the European Union finds that a Member State has failed to fulfil an obligation under the Constitution, that State shall be required to take the necessary measures to comply with the judgment of the Court.

2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment referred to in paragraph 1, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article III-361.

3. When the Commission brings a case before the Court of Justice of the European Union pursuant to Article III-360 on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a European framework law, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.

Article III-363

European laws and regulations of the Council may give the Court of Justice of the European Union unlimited jurisdiction with regard to the penalties provided for in them.

Article III-364

Without prejudice to the other provisions of the Constitution, a European law may confer on the Court of Justice of the European Union, to the extent that it shall determine, jurisdiction in disputes relating to the application of acts adopted on the basis of the Constitution which create European intellectual property rights.

Article III-365

1. The Court of Justice of the European Union shall review the legality of European laws and framework laws, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European

Council intended to produce legal effects vis-à-vis third parties. It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.

2. For the purposes of paragraph 1, the Court of Justice of the European Union shall have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Constitution or of any rule of law relating to its application, or misuse of powers.

3. The Court of Justice of the European Union shall have jurisdiction under the conditions laid down in paragraphs 1 and 2 in actions brought by the Court of Auditors, by the European Central Bank and by the Committee of the Regions for the purpose of protecting their prerogatives.

4. Any natural or legal person may, under the conditions laid down in paragraphs 1 and 2, institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.

5. Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.

6. The proceedings provided for in this Article shall be instituted within two months of the publication of the act, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the plaintiff's knowledge, as the case may be.

Article III-366

If the action is well founded, the Court of Justice of the European Union shall declare the act concerned to be void.

However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.

Article III-367

Should the European Parliament, the European Council, the Council, the Commission or the European Central Bank, in infringement of the Constitution, fail to act, the Member States and the other institutions of the Union may bring an action before the Court of Justice of the European Union to have the infringement established. This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.

The action shall be admissible only if the institution, body, office or agency concerned has first been called upon to act. If, within two months of being so called upon, the institution, body, office or agency concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the first and second paragraphs, complain to the Court that an institution, body, office or agency of the Union has failed to address to that person any act other than a recommendation or an opinion.

Article III-368

The institution, body, office or agency whose act has been declared void, or whose failure to act has been declared contrary to the Constitution, shall be required to take the necessary measures to comply with the judgment of the Court of Justice of the European Union.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article III-431.

Article III-369

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:

- a) the interpretation of the Constitution;
- b) the validity and interpretation of acts of the institutions, bodies, offices and agencies of the Union.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.

If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court shall act with the minimum of delay.

Article III-370

The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for damage provided for in the second and third paragraphs of Article III-431.

Article III-371

The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article I-59 solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.

Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request.

Article III-372

The Court of Justice of the European Union shall have jurisdiction in any dispute between the Union and its servants within the limits and under the conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.

Article III-373

The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:

- (a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article III-360;
- (b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article III-365;
- (c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article III-365, and solely on the grounds of non-compliance with the procedure provided for in Article 19(2), (5), (6) and (7) of the Statute of the Bank;
- (d) the fulfilment by national central banks of obligations under the Constitution and the Statute of the European System of Central Banks and of the European Central Bank. In this connection, the powers of the Governing Council of the European Central Bank in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article III-360. If the Court of Justice of the European Union finds that a national central bank has failed to fulfil an obligation under the Constitution, that bank shall be required to take the necessary measures to comply with the judgment of the Court.

Article III-374

The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Union, whether that contract be governed by public or private law.

Article III-375

1. Save where jurisdiction is conferred on the Court of Justice of the European Union by the Constitution, disputes to which the Union is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.
2. Member States undertake not to submit a dispute concerning the interpretation or application of the Constitution to any method of settlement other than those provided for therein.
3. The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject-matter of the Constitution if the dispute is submitted to it under a special agreement between the parties.

Article III-376

The Court of Justice of the European Union shall not have jurisdiction with respect to Articles I-40 and I-41 and the provisions of Chapter II of Title V concerning the common foreign and security policy and Article III-293 insofar as it concerns the common foreign and security policy.

However, the Court shall have jurisdiction to monitor compliance with Article III-308 and to rule on proceedings, brought in accordance with the conditions laid down in Article III-365(4), reviewing the legality of European decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V.

Article III-377

In exercising its powers regarding the provisions of Sections 4 and 5 of Chapter IV of Title III relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

Article III-378

Notwithstanding the expiry of the period laid down in Article III-365(6), any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article III-365(2) in order to invoke before the Court of Justice of the European Union the inapplicability of that act.

Article III-379

1. Actions brought before the Court of Justice of the European Union shall not have suspensory effect. The Court may, however, if it considers that circumstances so require, order that application of the contested act be suspended.
2. The Court of Justice of the European Union may in any cases before it prescribe any necessary interim measures.

Article III-380

The judgments of the Court of Justice of the European Union shall be enforceable under the conditions laid down in Article III-401.

Article III-381

The Statute of the Court of Justice of the European Union shall be laid down in a Protocol.

A European law may amend the provisions of the Statute, with the exception of Title I and Article 64. It shall be adopted either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice.

*Subsection 6***The European Central Bank***Article III-382*

1. The Governing Council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Member States without a derogation as referred to in Article III-197.

2. The Executive Board shall comprise the President, the Vice-President and four other members.

The President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council and after consulting the European Parliament and the Governing Council of the European Central Bank.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board.

Article III-383

1. The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the European Central Bank.

The President of the Council may submit a motion for deliberation to the Governing Council of the European Central Bank.

2. The President of the European Central Bank shall be invited to participate in meetings of the Council when it is discussing matters relating to the objectives and tasks of the European System of Central Banks.

3. The European Central Bank shall address an annual report on the activities of the European System of Central Banks and on the monetary policy of both the previous and the current year to the European Parliament, the European Council, the Council and the Commission. The President of the European Central Bank shall present this report to the European Parliament, which may hold a general debate on that basis, and to the Council.

The President of the European Central Bank and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent bodies of the European Parliament.

*Subsection 7***The Court of Auditors***Article III-384*

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Union. It shall also examine the accounts of all revenue and expenditure of any body, office or agency set up by the Union insofar as the instrument establishing that body, office or agency does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Union*. This statement may be supplemented by specific assessments for each major area of Union activity.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

The audit of revenue shall be carried out on the basis of the amounts established as due and the amounts actually paid to the Union.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions, or on the premises of any body, office or agency which manages revenue or expenditure on behalf of the Union and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions, any bodies, offices or agencies managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Union revenue and expenditure, rights of access by the Court of Auditors to information held by the Bank shall be governed by an agreement between the Court of Auditors, the Bank and the Commission. In the absence of an agreement, the Court of Auditors shall nevertheless have access to information necessary for the audit of Union expenditure and revenue managed by the Bank.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions.

It shall adopt its annual reports, special reports or opinions by a majority of its component members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

It shall adopt its Rules of Procedure. Those rules shall require the consent of the Council .

Article III-385

1. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

2. The members of the Court of Auditors shall be appointed for a term of six years. Their term of office shall be renewable. The Council shall adopt a European decision establishing the list of members drawn up in accordance with the proposals made by each Member State. It shall act after consulting the European Parliament.

The members of the Court of Auditors shall elect their President from among their number for a term of three years. He or she may be re-elected.

3. In the performance of their duties, members of the Court of Auditors shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

4. Members of the Court of Auditors shall not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

5. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he or she resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 6.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

6. A member of the Court of Auditors may be deprived of his or her office or of his or her right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he or she no longer fulfils the requisite conditions or meets the obligations arising from his or her office.

SECTION 2

THE UNION'S ADVISORY BODIES

Subsection 1

The Committee of the Regions

Article III-386

The number of members of the Committee of the Regions shall not exceed 350. The Council, acting unanimously on a proposal from the Commission, shall adopt a European decision determining the Committee's composition.

The members of the Committee and an equal number of alternate members shall be appointed for five years. Their term of office shall be renewable. No member of the Committee shall at the same time be a member of the European Parliament.

The Council shall adopt the European decision establishing the list of members and alternate members drawn up in accordance with the proposals made by each Member State.

When the mandate referred to in Article I-32(2) on the basis of which they were proposed comes to an end, the term of office of members of the Committee shall terminate automatically and they shall then be replaced for the remainder of the said term of office in accordance with the same procedure.

Article III-387

The Committee of the Regions shall elect its chairman and officers from among its members for a term of two and a half years.

It shall be convened by its chairman at the request of the European Parliament, of the Council or of the Commission. It may also meet on its own initiative.

It shall adopt its Rules of Procedure.

Article III-388

The Committee of the Regions shall be consulted by the European Parliament, by the Council or by the Commission where the Constitution so provides and in all other cases in which one of these institutions considers it appropriate, in particular those which concern cross-border cooperation.

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time-limit which shall not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.

Where the Economic and Social Committee is consulted, the Committee of the Regions shall be informed by the European Parliament, the Council or the Commission of the request for an opinion. Where it considers that specific regional interests are involved, the Committee of the Regions may issue an opinion on the matter. It may also issue an opinion on its own initiative.

The opinion of the Committee, together with a record of its proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

Subsection 2

The Economic and Social Committee

Article III-389

The number of members of the Economic and Social Committee shall not exceed 350. The Council, acting unanimously on a proposal from the Commission, shall adopt a European decision determining the Committee's composition.

Article III-390

The members of the Economic and Social Committee shall be appointed for five years. Their term of office shall be renewable.

The Council shall adopt the European decision establishing the list of members drawn up in accordance with the proposals made by each Member State.

The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern.

Article III-391

The Economic and Social Committee shall elect its chairman and officers from among its members for a term of two and a half years.

It shall be convened by its chairman at the request of the European Parliament, of the Council or of the Commission. It may also meet on its own initiative.

It shall adopt its Rules of Procedure.

Article III-392

The Economic and Social Committee shall be consulted by the European Parliament, by the Council or by the Commission where the Constitution so provides. It may be consulted by these institutions in all cases in which they consider it appropriate. It may also issue an opinion on its own initiative.

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time-limit which shall not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time-limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee, together with a record of its proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

*SECTION 3**THE EUROPEAN INVESTMENT BANK**Article III-393*

The European Investment Bank shall have legal personality.

Its members shall be the Member States.

The Statute of the European Investment Bank is laid down in a Protocol.

A European law of the Council may amend the Statute of the European Investment Bank. The Council shall act unanimously, either at the request of the European Investment Bank and after consulting the European Parliament and the Commission, or on a proposal from the Commission and after consulting the European Parliament and the European Investment Bank.

Article III-394

The task of the European Investment Bank shall be to contribute, by having recourse to the capital markets and utilising its own resources, to the balanced and steady development of the internal market in the Union's interest. For this purpose the European Investment Bank shall, operating on a non-profit-making basis, in particular grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

- (a) projects for developing less-developed regions
- (b) projects for modernising or converting undertakings or for developing fresh activities called for by the establishment or functioning of the internal market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;

- (c) projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.

In carrying out its task, the European Investment Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Union financial instruments.

SECTION 4

PROVISIONS COMMON TO UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

Article III-395

1. Where, pursuant to the Constitution, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously, except in the cases referred to in Articles I-55, I-56, III-396(10) and (13), III-404 and III-405(2).
2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Union act.

Article III-396

1. Where, pursuant to the Constitution, European laws or framework laws are adopted under the ordinary legislative procedure, the following provisions shall apply.
2. The Commission shall submit a proposal to the European Parliament and the Council.

First reading

3. The European Parliament shall adopt its position at first reading and communicate it to the Council.
4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.
5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.
6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

Second reading

7. If, within three months of such communication, the European Parliament:
- (a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;
 - (b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;
 - (c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.
8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:
- (a) approves all those amendments, the act in question shall be deemed to have been adopted;
 - (b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.
9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

Conciliation

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.
11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.
12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

Third reading

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.
14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Special provisions

15. Where, in the cases provided for in the Constitution, a law or framework law is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.

Article III-397

The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Constitution, conclude interinstitutional agreements which may be of a binding nature.

Article III-398

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.
2. In compliance with the Staff Regulations and the Conditions of employment adopted on the basis of Article III-427, European laws shall establish provisions to that end.

Article III-399

1. The institutions, bodies, offices and agencies of the Union shall ensure transparency in their work and shall, pursuant to Article I-50, determine in their rules of procedure specific provisions for public access to their documents. The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to the provisions of Article I-50(3) and to this Article only when exercising their administrative tasks.
2. The European Parliament and the Council shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the European law referred to in Article I-50(3).

Article III-400

1. The Council shall adopt European regulations and decisions determining:
 - (a) the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the Union Minister for Foreign Affairs, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council;

(b) the conditions of employment, in particular the salaries, allowances and pensions, of the President and members of the Court of Auditors;

(c) any payment to be made instead of remuneration to the persons referred to in points (a) and (b).

2. The Council shall adopt European regulations and decisions determining the allowances of the members of the Economic and Social Committee.

Article III-401

Acts of the Council, of the Commission or of the European Central Bank which impose a pecuniary obligation on persons other than Member States shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the Member State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and the Court of Justice of the European Union.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement by bringing the matter directly before the competent authority, in accordance with the national law.

Enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

CHAPTER II

FINANCIAL PROVISIONS

SECTION 1

THE MULTIANNUAL FINANCIAL FRAMEWORK

Article III-402

1. The multiannual financial framework shall be established for a period of at least five years in accordance with Article I-55.

2. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.

3. The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no European law of the Council determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that law is adopted.

5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure.

SECTION 2

THE UNION'S ANNUAL BUDGET

Article III-403

The financial year shall run from 1 January to 31 December.

Article III-404

European laws shall establish the Union's annual budget in accordance with the following provisions:

1. Each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, the European Parliament:

- (a) approves the position of the Council, the European law establishing the budget shall be adopted;
- (b) has not taken a decision, the European law establishing the budget shall be deemed to have been adopted
- (c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.

5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

- (a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the European law establishing the budget shall be deemed to be definitively adopted in accordance with the joint text, or
- (b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or
- (c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or
- (d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The European law establishing the budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the European law establishing the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Constitution and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.

Article III-405

1. If at the beginning of a financial year no European law establishing the budget has been definitively adopted, a sum equivalent to not more than one twelfth of the budget appropriations entered in the chapter in question of the budget for the preceding financial year may be spent each month in respect of any chapter in accordance with the European law referred to in Article III-412; that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.

2. The Council, on a proposal by the Commission and in compliance with the other conditions laid down in paragraph 1, may adopt a European decision authorising expenditure in excess of one twelfth, in accordance with the European law referred to in Article III-412. The Council shall forward the decision immediately to the European Parliament.

The European decision shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the European laws referred to in Article I-54(3) and (4).

It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit.

Article III-406

In accordance with the conditions laid down by the European law referred to in Article III-412, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the European law referred to in Article III-412.

The expenditure of:

- the European Parliament,
- the European Council and the Council,
- the Commission, and
- the Court of Justice of the European Union

shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.

SECTION 3

IMPLEMENTATION OF THE BUDGET AND DISCHARGE

Article III-407

The Commission shall implement the budget in cooperation with the Member States, in accordance with the European law referred to in Article III-412, on its own responsibility and within the limits of the appropriations allocated, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with those principles.

The European law referred to in Article III-412 shall establish the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. It shall establish the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budget the Commission may, subject to the limits and conditions laid down by the European law referred to in Article III-412, transfer appropriations from one chapter to another or from one subdivision to another.

Article III-408

The Commission shall submit annually to the European Parliament and to the Council the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the Union's assets and liabilities.

The Commission shall also submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in particular in relation to the indications given by the European Parliament and the Council pursuant to Article III-409.

Article III-409

1. The European Parliament, on a recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts, the financial statement and the evaluation report referred to in Article III-408, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in the second subparagraph of Article III-384(1) and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

4. At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.

SECTION 4

COMMON PROVISIONS

Article III-410

The multiannual financial framework and the annual budget shall be drawn up in euro.

Article III-411

The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of the Constitution. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

The Commission shall deal with each Member State concerned through the authority designated by that State. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

Article III-412

1. European laws shall establish:

- (a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.

Such European laws shall be adopted after consultation of the Court of Auditors.

2. The Council shall, on a proposal from the Commission, adopt a European regulation laying down the methods and procedure whereby the budget revenue provided under the arrangements relating to the Union's own resources shall be made available to the Commission, and the measures to be applied, if need be, to meet cash requirements. The Council shall act after consulting the European Parliament and the Court of Auditors.

3. The Council shall act unanimously until 31 December 2006 in all the cases referred to by this Article.

Article III-413

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

Article III-414

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Chapter.

SECTION 5

COMBATING FRAUD

Article III-415

1. The Union and the Member States shall counter fraud and any other illegal activities affecting the Union's financial interests through measures taken in accordance with this Article. These measures shall act as a deterrent and be such as to afford effective protection in the Member States and in all the Union's institutions, bodies, offices and agencies.
2. Member States shall take the same measures to counter fraud affecting the Union's financial interests as they take to counter fraud affecting their own financial interests.
3. Without prejudice to other provisions of the Constitution, the Member States shall coordinate their action aimed at protecting the Union's financial interests against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.
4. European laws or framework laws shall lay down the necessary measures in the fields of the prevention of and fight against fraud affecting the Union's financial interests with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies. They shall be adopted after consultation of the Court of Auditors.
5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this Article.

CHAPTER III

ENHANCED COOPERATION

Article III-416

Any enhanced cooperation shall comply with the Constitution and the law of the Union.

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

Article III-417

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

Article III-418

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the European authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the Union Minister for Foreign Affairs shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

Article III-419

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Constitution, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council, which shall act on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the Union Minister for Foreign Affairs, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the

enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council acting unanimously.

Article III-420

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article III-419(1) shall notify its intention to the Council and the Commission.

The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article I-44(3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the Union Minister for Foreign Affairs and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the Union Minister for Foreign Affairs and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the Union Minister for Foreign Affairs, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.

For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article I-44(3).

Article III-421

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

Article III-422

1. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may adopt a European decision stipulating that it will act by a qualified majority.
2. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt European laws or framework laws under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may adopt a European decision stipulating that it will act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.
3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

Article III-423

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end.

TITLE VII

COMMON PROVISIONS

Article III-424

Taking account of the structural economic and social situation of Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, on a proposal from the Commission, shall adopt European laws, framework laws, regulations and decisions aimed, in particular, at laying down the conditions of application of the Constitution to those regions, including common policies. It shall act after consulting the European Parliament.

The acts referred to in the first paragraph concern in particular areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programmes.

The Council shall adopt the acts referred to in the first paragraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Union legal order, including the internal market and common policies.

Article III-425

The Constitution shall in no way prejudice the rules in Member States governing the system of property ownership.

Article III-426

In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Union shall be represented by the Commission. However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation.

Article III-427

The Staff Regulations of officials and the Conditions of employment of other servants of the Union shall be laid down by a European law. It shall be adopted after consultation of the institutions concerned.

Article III-428

The Commission may, within the limits and under conditions laid down by a European regulation or decision adopted by a simple majority by the Council, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

Article III-429

1. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, measures for the production of statistics shall be laid down by a European law or framework law where necessary for the performance of the Union's activities.
2. The production of statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality. It shall not entail excessive burdens on economic operators.

Article III-430

The members of the Union's institutions, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Article III-431

The Union's contractual liability shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Union shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties.

The personal liability of its servants towards the Union shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.

Article III-432

The seat of the Union's institutions shall be determined by common accord of the governments of the Member States.

Article III-433

The Council shall adopt unanimously a European regulation laying down the rules governing the languages of the Union's institutions, without prejudice to the Statute of the Court of Justice of the European Union.

Article III-434

The Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union.

Article III-435

The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the Constitution.

To the extent that such agreements are not compatible with the Constitution, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under the Constitution by each Member State form an integral part of the Union and are thereby inseparably linked with the creation of institutions on which powers have been conferred by the Constitution and the granting of identical advantages by all the other Member States.

Article III-436

1. The Constitution shall not preclude the application of the following rules:

- (a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;

- (b) any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the internal market regarding products which are not intended for specifically military purposes.
2. The Council, on a proposal from the Commission, may unanimously adopt a European decision making changes to the list of 15 April 1958 of the products to which the provisions of paragraph 1 (b) apply.

PART IV

GENERAL AND FINAL PROVISIONS

Article IV-437

Repeal of earlier Treaties

1. This Treaty establishing a Constitution for Europe shall repeal the Treaty establishing the European Community, the Treaty on European Union and, under the conditions laid down in the Protocol on the acts and treaties having supplemented or amended the Treaty establishing the European Community and the Treaty on European Union, the acts and treaties which have supplemented or amended them, subject to paragraph 2 of this Article.

2. The Treaties on the Accession:

- (a) of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland;
- (b) of the Hellenic Republic;
- (c) of the Kingdom of Spain and the Portuguese Republic;
- (d) of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, and
- (e) of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic,

shall be repealed.

Nevertheless:

- the provisions of the Treaties referred to in points (a) to (d) and set out or referred to in the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden shall remain in force and their legal effects shall be preserved in accordance with that Protocol,
- the provisions of the Treaty referred to in point (e) and which are set out or referred to in the Protocol on the Treaty and Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic shall remain in force and their legal effects shall be preserved in accordance with that Protocol.

*Article IV-438***Succession and legal continuity**

1. The European Union established by this Treaty shall be the successor to the European Union established by the Treaty on European Union and to the European Community.
2. Until new provisions have been adopted in implementation of this Treaty or until the end of their term of office, the institutions, bodies, offices and agencies existing on the date of the entry into force of this Treaty shall, subject to Article IV-439, exercise their powers within the meaning of this Treaty in their composition on that date.
3. The acts of the institutions, bodies, offices and agencies adopted on the basis of the treaties and acts repealed by Article IV-437 shall remain in force. Their legal effects shall be preserved until those acts are repealed, annulled or amended in implementation of this Treaty. The same shall apply to agreements concluded between Member States on the basis of the treaties and acts repealed by Article IV-437.

The other components of the *acquis* of the Community and of the Union existing at the time of the entry into force of this Treaty, in particular the interinstitutional agreements, decisions and agreements arrived at by the Representatives of the Governments of the Member States, meeting within the Council, the agreements concluded by the Member States on the functioning of the Union or of the Community or linked to action by the Union or by the Community, the declarations, including those made in the context of intergovernmental conferences, as well as the resolutions or other positions adopted by the European Council or the Council and those relating to the Union or to the Community adopted by common accord by the Member States, shall also be preserved until they have been deleted or amended.

4. The case-law of the Court of Justice of the European Communities and of the Court of First Instance on the interpretation and application of the treaties and acts repealed by Article IV-437, as well as of the acts and conventions adopted for their application, shall remain, *mutatis mutandis*, the source of interpretation of Union law and in particular of the comparable provisions of the Constitution.
5. Continuity in administrative and legal procedures commenced prior to the date of entry into force of this Treaty shall be ensured in compliance with the Constitution. The institutions, bodies, offices and agencies responsible for those procedures shall take all appropriate measures to that effect.

*Article IV-439***Transitional provisions relating to certain institutions**

The transitional provisions relating to the composition of the European Parliament, to the definition of a qualified majority in the European Council and in the Council, including those cases where not all members of the European Council or Council vote, and to the composition of the Commission, including the Union Minister for Foreign Affairs, shall be laid down in the Protocol on the transitional provisions relating to the institutions and bodies of the Union.

*Article IV-440***Scope**

1. This Treaty shall apply to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. This Treaty shall apply to Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands in accordance with Article III-424.

3. The special arrangements for association set out in Title IV of Part III shall apply to the overseas countries and territories listed in Annex II.

This Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. This Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. This Treaty shall apply to the Åland Islands with the derogations which originally appeared in the Treaty referred to in Article IV-437(2)(d) and which have been incorporated in Section 5 of Title V of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding paragraphs 1 to 5:

(a) this Treaty shall not apply to the Faeroe Islands;

(b) this Treaty shall apply to Akrotiri and Dhekelia, the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, only to the extent necessary to ensure the implementation of the arrangements originally provided for in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession which is an integral part of the Treaty referred to in Article IV-437(2)(e), and which have been incorporated in Title III of Part II of the Protocol on the Treaty and Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;

(c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to in Article IV-437(2)(a), and which have been incorporated in Section 3 of Title II of

the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

7. The European Council may, on the initiative of the Member State concerned, adopt a European decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 2 and 3. The European Council shall act unanimously after consulting the Commission.

Article IV-441

Regional unions

This Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the said Treaty.

Article IV-442

Protocols and Annexes

The Protocols and Annexes to this Treaty shall form an integral part thereof.

Article IV-443

Ordinary revision procedure

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of this Treaty. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in paragraph 3.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

3. A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

4. If, two years after the signature of the treaty amending this Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

Article IV-444

Simplified revision procedure

1. Where Part III provides for the Council to act by unanimity in a given area or case, the European Council may adopt a European decision authorising the Council to act by a qualified majority in that area or in that case.

This paragraph shall not apply to decisions with military implications or those in the area of defence.

2. Where Part III provides for European laws and framework laws to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a European decision allowing for the adoption of such European laws or framework laws in accordance with the ordinary legislative procedure.

3. Any initiative taken by the European Council on the basis of paragraphs 1 or 2 shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the European decision referred to in paragraphs 1 or 2 shall not be adopted. In the absence of opposition, the European Council may adopt the decision.

For the adoption of the European decisions referred to in paragraphs 1 and 2, the European Council shall act by unanimity after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

Article IV-445

Simplified revision procedure concerning internal Union policies and action

1. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Title III of Part III on the internal policies and action of the Union.

2. The European Council may adopt a European decision amending all or part of the provisions of Title III of Part III. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area.

Such a European decision shall not come into force until it has been approved by the Member States in accordance with their respective constitutional requirements.

3. The European decision referred to in paragraph 2 shall not increase the competences conferred on the Union in this Treaty.

Article IV-446

Duration

This Treaty is concluded for an unlimited period.

Article IV-447

Ratification and entry into force

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. This Treaty shall enter into force on 1 November 2006, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.

Article IV-448

Authentic texts and translations

1. This Treaty, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.