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Europaudvalget
(Alm. del - bilag 464)
traktatændringer
(Offentligt)

Medlemmerne af Folketingets Europaudvalg
og deres stedfortrædere

Bilag	Journalnummer	Kontor
1	400.C.2-0	EU-sekr. 7. december 2000

Til underretning for Folketingets Europaudvalg vedlægges i forbindelse med regeringskonferencen formandskabets udkast til Nice-traktat, CONFER 4816/00.

Fransk version er oversendt til Folketingets Europaudvalg den 6. december 2000.

**CONFERENCE
OF THE REPRESENTATIVES
OF THE GOVERNMENTS
OF THE MEMBER STATES**

Brussels, 6 December 2000

(OR. fr)

CONFER 4816/00

DRAFT

TREATY OF NICE

Intergovernmental Conference on institutional reform

INTRODUCTION

In this document, the Presidency is presenting a draft Treaty of Nice revising the Treaties on which the European Union is founded. This draft is the outcome of the year-long proceedings of the Intergovernmental Conference on institutional reform, initiated by the Portuguese Presidency.

The origins of this Intergovernmental Conference lie in the Protocol on the institutions, annexed to the Treaty of Amsterdam. As the Treaty of Amsterdam was unable to resolve all the institutional issues regarded as prerequisites for enlargement, provision was made for convening a new IGC in order to carry out a comprehensive review, before the European Union had more than twenty members, of the provisions of the Treaties relating to the composition and functioning of the institutions. It was the European Council which decided in Cologne, in June 1999, to convene the IGC with the aim of completing its work by the end of 2000 to enable the Union to incorporate new Member States from the end of 2002. Its brief was confirmed by the European Council in Helsinki. The European Council in Feira considered that the provisions on closer cooperation introduced into the Treaty of Amsterdam should form part of the Conference's work, while respecting the need for coherence and solidarity in an enlarged Union.

The Conference began on 14 February 2000. Political responsibility for the negotiations was entrusted to the Ministers in the General Affairs Council. The preparatory work was carried out by a group of government representatives, with the participation of a Commission representative and two European Parliament observers. The proceedings were based on documents prepared by the Presidency with a view to shaping the debate and on contributions from Member States, institutions and bodies.

The Presidency would like to place emphasis on the importance of the contributions from the Commission and the European Parliament, with the latter having asserted its point of view through its resolutions and statements, through the constructive dialogue with its President and through the full participation of its observers in the discussions. For the sake of

transparency, all official documents of the Presidency, the Member States and the other institutions and bodies as well as the other official contributions to the proceedings of the Conference have been made available to the public via the Internet.

In accordance with the conclusions of the Helsinki European Council, the Presidency has organised meetings with representatives of the applicant countries in order to inform them of progress and to provide them with the opportunity to state their points of view on all the questions discussed by the Conference. Information on the progress of the Conference has also been provided to the Member States of the European Economic Area.

In presenting this draft, Treaty articles have been arranged in numerical order for ease of consultation. The table of contents shows the relevant articles for each of the main topics dealt with by the Conference.

The document comprises (1) a series of articles amending the current Treaties, (2) specific protocols annexed to Articles 93 and 133 and certain amendments to the protocols on the Court of Justice and (3) a protocol containing all the provisions in relation to future enlargements, together with a series of declarations on the subject. The Presidency considers that it is premature to bring forward compromise proposals on three issues which are politically highly sensitive: the weighting of votes in the Council, the size and composition of the Commission and the allocation of seats in the European Parliament. It considers that an overall compromise to resolve these issues and some articles for which there are two options for the move to a qualified majority can only be achieved after detailed preliminary discussion between Heads of State or Government.

The Presidency considers that the draft Treaty constitutes a fair and balanced basis for ensuring that the Union continues to have properly functioning, efficient and legitimate institutions after enlargement.

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*In this document existing Treaty texts are in normal font and proposed new provisions and substantially reworded texts are shown in **bold**.*

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FUNDAMENTAL RIGHTS

ARTICLE 7 TEU

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 qualified majority vote in favour cast by 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 the 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 concerned 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 situation on which its determination was based has not changed.

2.-3. Paragraphs 1 and 2 of the current Article 7 remain unchanged and become paragraphs 2 and 3 respectively.

*4. In the current paragraph 3, replace "paragraph 2" by "**paragraph 3**".*

5. The second sentence of the first subparagraph would read:

"Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2".

*In the second subparagraph replace "paragraph 2" by "**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.

ARTICLE 309 TEC

In paragraph 1 the reference should read "Article 7(3) of the Treaty on European Union"

In paragraph 2 the reference should read "Article 7(2) of that Treaty".

**Possible declaration to be included in the Final Act of the Conference
on security and defence**

for the record: To be discussed in Nice.

APPOINTMENT OF CFSP SPECIAL REPRESENTATIVES

ARTICLE 23 TEU

1. Paragraph 1 unchanged.

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

{{SPA}} when adopting joint actions, common positions or taking any other decision on the basis of a common strategy;

{{SPA}} when adopting any decision implementing a joint action or a common position;

{{SPA}} 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, acting by a qualified majority, may 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. Paragraph 3 unchanged.

CONCLUSION OF INTERNATIONAL AGREEMENTS IN CFSP/JHA FIELDS FOR WHICH A QUALIFIED MAJORITY IS REQUIRED FOR THE ADOPTION OF INTERNAL DECISIONS OR MEASURES

ARTICLE 24 TEU

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

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 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 applies 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 in this Article shall be binding on the institutions of the Union.

COMBATING CRIME {{SPA}} ROLE OF EUROJUST

ARTICLE 29 TEU

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:

{{SPA}} 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;

{{SPA}} 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**;

{{SPA}} approximation, where necessary, of rules on criminal matters in the Member States, in accordance with the provisions of Article 31(e).

COMBATING CRIME {{SPA}} ROLE OF EUROJUST

ARTICLE 31 TEU

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 promote 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 organised crime, taking account, in particular, of analyses carried out by Europol;
- (c) facilitating close cooperation between Eurojust and the European Judicial Network, in particular, in order to facilitate the execution of letters rogatory and extradition requests.

Declaration to be included in the Final Act of the Conference

on Article 31(2) TEU

The Conference recalls that:

the decision to set up a unit composed of national prosecutors and magistrates (or police officers of equivalent competence) detached from each Member State (Eurojust), having the task of facilitating proper coordination between national prosecuting authorities and of supporting criminal investigations in organised crime cases was provided for in the Presidency conclusions of the European Council at Tampere on 15 and 16 October 1999;

{{SPA}} **the European Judicial Network was set up by Joint Action 98/428/JHA adopted by the Council on 29 June 1998 (OJ L 191, 7.7.1998, p. 4).**

ENHANCED COOPERATION

GENERAL PRINCIPLES

CLAUSE A

General conditions

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 the Community, at protecting and serving its interests and at reinforcing its process of integration;

(b) respects the Treaties and the single institutional framework of the Union;

c. respects the *acquis communautaire* and the measures adopted under the other provisions of the Treaties;

(d) remains within the limits of the powers of the Union or of the European Community and does not cover areas falling 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 of trade between the Member States and does not distort competition between them;

(g) involves a minimum of eight Member States;

(h) does not affect the competences, rights and obligations of those Member States which do not participate therein;

(i) is without prejudice to 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 Clause C.

CLAUSE B

Last resort clause

Enhanced cooperation may be engaged in 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.

CLAUSE C

Participation of Member States

When enhanced cooperation is established, it shall be open to all Member States. It shall also be open to them at any time, in accordance with Clauses H, M and P, subject to compliance with the basic decision and with the decisions taken within that framework. The Commission and the Member States parties to enhanced cooperation shall ensure that as many Member States as possible are encouraged to take part.

CLAUSE D

Institutional procedures

1. For the purposes of the adoption of the acts and decisions necessary for the implementation of enhanced cooperation referred to in Clause A, 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 participating Member States 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 members of the Council 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 Clause K. 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 to which they are party. Such acts and decisions shall be binding only on those Member States which are party to such cooperation and shall be directly applicable only in those States. Member States which are not party to such cooperation shall not impede the implementation thereof by the participating Member States.

CLAUSE E

Financing

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.

CLAUSE F

Consistency of the Union's policies

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.

ENHANCED COOPERATION UNDER THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

CLAUSE G

Procedure for establishing enhanced cooperation

1. Member States which intend to establish enhanced cooperation between themselves in one of the areas referred to in the Treaty establishing the European Community 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 the enhanced cooperation referred to in paragraph 1 shall be granted, in compliance with Clauses A to F, by the Council, acting by a qualified majority on a proposal from the Commission after consulting the European Parliament. When enhanced cooperation relates to an area covered by the procedure referred to in Article 251, 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 before the Council takes a decision.

3. The acts and decisions necessary for the implementation of enhanced cooperation activities shall be subject to all the relevant provisions of the Treaty establishing the European Community, save as otherwise provided in this Clause and in Clauses A to F.

CLAUSE H

Procedure allowing other Member States to participate

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

ENHANCED COOPERATION UNDER TITLE V OF THE TEU

CLAUSE I

General objectives

1. Enhanced cooperation in any of the areas referred to in Title V 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;

consistency between all the Union's policies and its external activities.

2. The provisions of Articles 11 to 28 shall apply to the enhanced cooperation provided for in this Clause, save as otherwise provided in Clause K and Clauses A to F.

CLAUSE J

Object

Enhanced cooperation pursuant to Title V may relate solely to:

{{SPA}} implementation of joint action or a common position;

initiatives on armaments

{{SPA}} initiatives in the field of security and defence contributing to the acquisition of crisis management capabilities.

CLAUSE K

Procedure for establishing enhanced cooperation

1. Member States which intend to establish enhanced cooperation between themselves under Clause J shall address a request to the Council to that effect.

The request shall be forwarded to the Commission and to the European Parliament for information. The Commission shall give its opinion particularly on whether the enhanced cooperation proposed under paragraph 2 is consistent with Community policies.

2. Where the object of the request to establish enhanced cooperation is the implementation of a joint action or a common position, authorisation shall be granted by the Council, acting in accordance with the second and third subparagraphs of Article 23(2) and in compliance with Clauses A to F.

3. By way of derogation from paragraph 2, where the request to establish enhanced cooperation relates to issues covered by the second and third indents of Clause J, or where it comes under the first indent and has military implications or implications in the field of defence, authorisation shall be granted by the Council, acting unanimously, in compliance with Clauses A to F.

CLAUSE L

Role of the Secretary-General/High Representative

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

CLAUSE M

Procedure allowing other Member States to participate

Any Member State which wishes to become a party to enhanced cooperation established in accordance with Clause K shall notify its intention to the Council and inform the Commission. For the enhanced cooperation referred to in Clause K(2), the Commission shall give an opinion to the Council within three months of receipt of that notification. Within four months 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, 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 Clause, 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 laid down in the third subparagraph of Article 23(2) of this Treaty.

ENHANCED COOPERATION UNDER TITLE VI OF THE TEU

CLAUSE N

Objectives

1. Enhanced cooperation in any of the areas referred to in Title VI 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 Title VI.
2. The provisions of Articles 29 to 41 shall apply to the enhanced cooperation provided for by this Clause, save as otherwise provided in Clause O and in Clauses A to F.
3. The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice of the European Communities and the exercise of those powers shall apply to Clauses N to P.

CLAUSE O

Procedure for establishing enhanced cooperation

1. Member States which intend to establish enhanced cooperation between themselves under Clause N 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 cooperation concerned.
2. The authorisation referred to in paragraph 1 shall be granted by the Council, acting by a qualified majority after consulting the European Parliament on a proposal from the Commission or at the initiative of at least eight Member States, in compliance with Clauses A to F. 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 before the Council takes a decision.

CLAUSE P

Procedure allowing other Member States to participate

Any Member State which wishes to become a party to enhanced cooperation established in accordance with Clause O shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months 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 that notification. The decision shall be deemed approved unless the Council, acting by a qualified majority within the same period, decides to hold it in abeyance; in this case, the Council shall state the reasons for its decision and set a deadline for reexamining it. For the purposes of this Clause, the Council shall act under the conditions set out in Clause D(1).

INTERINSTITUTIONAL AGREEMENTS

The Conference recalls that the duty of sincere cooperation which is reflected in Article 10 of the Treaty establishing the European Community and governs relations between the Member States also governs relations between the Community institutions themselves. In relations between those institutions, when it proves necessary, in the context of that duty of cooperation, to facilitate the application of the provisions of the Treaty establishing the European Community, the European Parliament, the Council of the European Union and the Commission may conclude interinstitutional agreements. Such agreements may not amend or supplement the provisions of the treaties and may be concluded only with the agreement of the three institutions.

ANTI-DISCRIMINATION MEASURES

ARTICLE 13 TEC

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 this Article, it shall act in accordance with the procedure referred to in Article 251.**

PROVISIONS FACILITATING THE EXERCISE OF THE RIGHT OF CITIZENS OF THE UNION TO MOVE AND RESIDE WITHIN THE TERRITORY OF THE MEMBER STATES

ARTICLE 18 TEC

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; *[phrase deleted]* the Council shall act in accordance with the procedure referred to in Article 251. *[sentence deleted]*.**

Declaration to be included in the Final Act of the Conference on Article 18 TEC

Article 18(2) does not apply to provisions on social security or social protection.

REPLYING WITHIN A REASONABLE PERIOD TO WRITTEN REQUESTS MADE TO THE INSTITUTIONS AND BODIES OF THE UNION

Declaration to be included in the Final Act of the Conference

on the third paragraph of Article 21 TEC

The Conference calls upon the institutions and bodies referred to in the third paragraph of Article 21 or in Article 7 to ensure that the reply to any written request made by a citizen of the Union is made within a reasonable period.

MEASURES REQUIRED IN THE FIELD OF SOCIAL SECURITY TO PROVIDE FREEDOM OF MOVEMENT

Chapter 1a {{SPA}} Coordination of social security schemes

ARTICLE 42 TEC

1. 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 such **coordination** measures in the social security **field** as are necessary to provide freedom of movement of **persons**; to this end, it shall make arrangements to secure for **them** and for 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 the Member States.

2. By way of derogation from paragraph 1, the Council shall act **unanimously throughout the procedure referred to in Article 251, after consulting the Economic and Social Committee and the Committee of the Regions**, when it extends the material or personal field of application of Community regulations on the application of social security schemes to persons moving within the Community, as such regulations stand on the date of signature of the Treaty of Nice, to cover other social security benefits and other citizens of the Union and their dependants.

3. The measures referred to in paragraphs 1 and 2 may not significantly affect the overall financial equilibrium of Member States' social security schemes.

Declaration to be included in the Final Act of the Conference on Article 42 TEC

The Conference declares that the Community regulations on the application of social security schemes to persons moving within the Community referred to in Article 42(2) comprise Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, self-employed persons and their families moving within the Community, Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71, as amended since their adoption, and Directive 98/49/EC on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community. The personal and material field of application of Regulation (EEC) No 1408/71 is that referred to in Articles 2 and 4, and in Article 22 as regards the benefits provided for in Article 21(a) and (b).

The Conference considers that the measures provided for in Article 42 cannot cover the field of taxation.

The Conference requests the Parliament and the Council to be particularly careful to abide by Article 42(3) of the Treaty establishing the European Community, particularly when the Member States concerned claim that amendments to Community regulations relating to the application of social security schemes which concern, *inter alia*, family benefits or unemployment benefits would significantly affect the financial equilibrium of their social security schemes, particularly through a substantial transfer between Member States. The Conference also considers that the *pro rata temporis* principle should be maintained for the calculation of old-age and death benefits.

THE TAKING-UP AND PURSUIT OF ACTIVITIES AS SELF-EMPLOYED PERSONS

ARTICLE 47(2) TEC

2. For the same purpose, the Council, acting in accordance with the procedure referred to in Article 251, shall 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. *[Last two sentences deleted]*.

Declaration to be included in the Final Act of the Conference on Article 47(2) TEC

The Conference confirms that the principle enshrined in Article 150, whereby the Community fully respects the responsibility of the Member States for the content and organisation of vocational training, applies to Directives adopted pursuant to Article 47(2).

The Conference considers that the Directives adopted pursuant to Article 47(2) of the Treaty should not restrict existing rights of access to the legal professions in the Member States.

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

OPTION 1

ARTICLE 67 TEC

1. The Council, acting in accordance with the procedure referred to in Article 251, shall adopt the measures referred to in Articles 62(2)(a) *[procedures for checks on persons at external borders]*, 62(2)(b)(ii) and (iv) *[certain rules on visas]*, 62(3) *[conditions of freedom to travel for nationals of third countries]*, 63(1)(a), (b), (c) and (d) *[measures on asylum]*, 63(2)(a) *[minimum standards for giving temporary protection]*, 63(3)(b) *[measures on illegal immigration]* and 65(a), (b) and (c) *[judicial cooperation in civil matters]* [for the record: question of family law].

2. The Council, acting by a qualified majority after consulting the European Parliament, shall adopt the measures referred to in Article 62(2)(b)(i) and (iii) *[other rules on visas]* and Article 66 *[cooperation between the relevant departments of the administrations]*.

3. The Council shall adopt the measures referred to in Article 62(1) *[absence of any controls on persons when crossing internal borders]*, Article 63(2)(b) *[measures promoting a balance of effort between Member States in receiving refugees]*, Article 63(3)(a) *[measures on conditions of entry and residence]* and Article 63(4) *[residence of nationals of third countries in other Member States]* acting unanimously after consulting the European Parliament. **Before 1 May 2004**, 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 paragraph to be governed by the procedure referred to in Article 251.

4. In the areas covered by Articles 61 to 66, 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.

5. The Council, acting unanimously after consulting the European Parliament, **the Commission and the Court of Justice**, shall take a decision with a view to adapting the provisions in Article 68 relating to the powers of the Court of Justice.

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

OPTION 2

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:

{{SPA}} 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;

{{SPA}} 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.

Declaration to be included in the Final Act of the Conference on Article 67 TEC

The High Contracting Parties agree that, in the decision it is required to take pursuant to the second indent of Article 67(2) of the Treaty establishing the European Community, the Council will decide:

as from 1 May 2004, to act in accordance with the procedure referred to in Article 251 in order to adopt the measures referred to in Article 62(2)(a) and (3), Article 63(1), (2)(a) and (3)(b) and Article 65;

as from that date, to act by a qualified majority on a proposal from the Commission after consulting the European Parliament in order to adopt the measures referred to in Article 66.

The Council will, moreover, endeavour to make the procedure referred to in Article 251 applicable at that date or as soon as possible thereafter to the other areas covered by Title IV or to parts of them.

TAX PROVISIONS

OPTION 1

ARTICLE 93 TEC

1. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt:

provisions for the harmonisation of the laws and regulations of the Member States concerning turnover taxes, excise duties and other forms of indirect taxation;

provisions concerning the approximation of the laws and regulations of the Member States on direct taxation;

to the extent that such provisions are necessary to ensure the establishment and the functioning of the internal market.

2. **By way of derogation from paragraph 1, the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall adopt, in the area of indirect taxation:**

{{SPA}} technical updating measures for the sole purpose of simplifying existing Community rules or ensuring uniform, simple and transparent application of existing Community rules relating to turnover tax, excise duties and other forms of indirect taxation in the areas referred to in the Protocol annexed to this Treaty;

{{SPA}} measures for the sole purpose of preventing fraud, tax evasion and the circumvention of existing rules.

3. The measures referred to in paragraph 2 may not affect, either directly or indirectly:

{{SPA}} in the case of turnover tax, rules concerning the location of transactions, the reallocation of tax revenue between Member States, the basis of assessment or the fixing of rates;

{{SPA}} in the case of excise duties and other forms of indirect taxation, rules concerning the place of taxation, the basis of assessment or the fixing of rates.

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 provisions necessary for mutual assistance, exchanges of information, and cooperation between tax authorities within the Community with a view in particular to combating fraud and tax evasion and to recovering tax claims. These measures shall not concern the application of national criminal law or the administration of justice in the Member States.

5. The Protocol referred to in paragraph 2 may be amended by the Council, acting unanimously on a proposal from the Commission after consulting the European Parliament.

ARTICLE 94 TEC

Article deleted.

PROTOCOL TO BE ANNEXED

TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The High Contracting Parties

have agreed on the following provisions, which shall be annexed to the Treaty establishing the European Community.

The first indent of Article 93(2) shall apply in the following areas:

(a) with regard to turnover tax:

{{SPA}} refund arrangements/right to deduct;

{{SPA}} determination of the person liable for payment of tax;

determination and definition of concepts in common;

{{SPA}} fiscal procedures;

{{SPA}} derogations intended to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance;

(b) with regard to excise duties:

{{SPA}} structure of excise duties;

determination and definition of concepts in common;

uniform application of traffic and taxation rules;

TAX PROVISIONS

OPTION 2

ARTICLE 93 TEC

1. The Council, acting on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall **unanimously** adopt:

- provisions for the harmonisation of the laws and regulations of the Member States concerning turnover taxes **and** excise duties **covering:**

the fixing of rates, the determination of rate structures, the transition to definitive arrangements with regard to turnover taxes, and the place of taxation of transactions;

the fixing of rates and the determination of the place of taxation with regard to excise duties;

(b) provisions concerning the approximation of the laws and regulations of the Member States on direct taxation to the extent that such provisions are necessary to ensure the establishment and the functioning of the internal market.

2. The Council, acting in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee, shall adopt:

(a) provisions relating to the harmonisation of turnover taxes and excise duties other than those referred to in paragraph 1(a) and to cooperation between "tax authorities";

- the provisions referred to in paragraph 1(b) where they relate to:

the elimination of direct obstacles to the free movement of goods, persons, services or capital and, in particular, the prevention of situations involving discrimination, double taxation or double remission;

the elimination of harmful tax competition;

mutual assistance, exchanges of information, and cooperation between tax authorities within the Community with a view in particular to combating fraud and tax evasion and to recovering tax claims.

for the record: Provisions relating to energy taxation the main objective of which is to protect the environment.

COMMUNITY FINANCIAL ASSISTANCE, UNDER CERTAIN CONDITIONS,

TO A MEMBER STATE WHICH IS IN DIFFICULTIES OR IS

SERIOUSLY THREATENED WITH SEVERE DIFFICULTIES CAUSED BY EXCEPTIONAL OCCURRENCES BEYOND ITS CONTROL

ARTICLE 100 TEC

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. *[Sentence deleted]* The President of the Council shall inform the European Parliament of the decision taken.

Declaration to be included in the Final Act of the Conference on Article 100 TEC

The Conference recalls that decisions regarding financial assistance, such as are provided for in Article 100 and are compatible with the no bail-out rule laid down in Article 102 TEC, must comply with the prohibition on assuming commitments referred to in Article 103, with the 2000{{SPA}}2006 financial perspective, and in particular paragraph 11 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure, and with the corresponding provisions of future interinstitutional agreements and financial perspectives.

REPRESENTATION OF THE EUROPEAN COMMUNITY

AT INTERNATIONAL LEVEL IN THE EMU SPHERE

ARTICLE 111(4) TEC

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, *[phrase deleted]* on its representation in compliance with the allocation of powers laid down in Articles 99 and 105.

Declaration to be included in the Final Act of the Conference on Article 111 TEC

The Conference agrees that procedures must be such as to enable all the Member States in the euro area to be fully involved in each stage of preparing the position of the Community at international level as regards issues of particular relevance to economic and monetary union.

PROVISIONS RELATING TO THE OPERATION OF
THE GOVERNING COUNCIL OF THE ECB IN THE PROTOCOL ON
THE STATUTE OF THE EUROPEAN SYSTEM OF CENTRAL BANKS
AND OF THE EUROPEAN CENTRAL BANK

ARTICLE 10 OF THE STATUTE

Addition of a new paragraph 6

10.6 The provisions of paragraph 2 may be amended by the Council meeting in the composition of the Heads of State or Government, acting unanimously either on a recommendation from the ECB and after consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting

the European Parliament and the ECB. The Council shall recommend such amendments to the Member States for adoption in accordance with their respective constitutional requirements.

A recommendation made by the ECB under this paragraph shall require a decision by the Governing Council acting unanimously.

OTHER MEASURES NECESSARY FOR THE RAPID INTRODUCTION OF THE ECU

ARTICLE 123(4)

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 Member States without a derogation, on a proposal from the Commission and after consulting the ECB, shall [word deleted] take the other measures necessary for the rapid introduction of the ECU as the single currency of those Member States. The provisions of the second sentence of Article 122(5) shall apply.**

COMMON COMMERCIAL POLICY

OPTION 1

ARTICLE 133 TEC

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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.**

The Presidency may accompany the Commission if the Council considers it appropriate.

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 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. The provisions of paragraphs 1 to 4 shall also apply to the negotiation and conclusion of agreements relating to trade in services, and the commercial aspects of intellectual property, insofar as they are not covered by those paragraphs.

By way of derogation from paragraph 4, the Council shall act unanimously when negotiating and concluding an agreement in the field referred to in the first subparagraph where that agreement includes provisions:

{{SPA}} for which unanimity is required for the adoption of internal rules;

{{SPA}} for which the Community has not yet adopted internal rules;

{{SPA}} which seriously affects the ability of the Community and its Member States to promote cultural diversity.

The Council, acting by a qualified majority on a proposal from the Commission may authorise the Member States to conclude agreements with third countries or international organisations in the field referred to the first subparagraph, provided that such agreements are compatible with this Treaty.

The rights and obligations arising from agreements concluded in the field referred to in the first subparagraph before the date of signature of the Treaty of Nice between one or more Member States, of the one part, and one or more third countries or an international organisation, of the other part, shall not be affected by the provisions of this paragraph provided that such agreements are compatible with this Treaty. The Member State or Member States concerned shall use all appropriate means to remove any incompatibility if the Community decides to exercise its powers in the field covered by the abovementioned agreements.

6. An agreement may not be concluded by the Council if it includes provisions which would go beyond the Community's powers, in particular by leading to harmonisation of the laws or regulations of the Member States in an area for which the Treaty rules out such harmonisation.

COMMON COMMERCIAL POLICY

OPTION 2

ARTICLE 133 TEC

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 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 Presidency may accompany the Commission if the Council considers it appropriate.**

The relevant provisions of Article 300 shall apply.

4. The provisions of paragraphs 1 to 3 shall apply, within the limits laid down in the Protocol annexed to this Treaty, to the negotiation and conclusion of agreements relating to trade in services and the commercial aspects of intellectual property, insofar as they are not covered by those paragraphs. The Council, acting unanimously on a proposal from the Commission, and after consulting the European Parliament, may amend the provisions of the said Protocol within the limits of the field covered by this paragraph.

5. In exercising the powers conferred upon it by this Article, the Council shall act by a qualified majority. **It shall act unanimously for the negotiation and conclusion of an agreement that includes provisions for which unanimity is required for the adoption of internal rules or which seriously affects the ability of the Community and its Member States to promote cultural diversity.**

6. An agreement may not be concluded by the Council if it includes provisions which would go beyond the Community's powers, in particular by leading to harmonisation of the laws or regulations of the Member States in an area for which the Treaty rules out such harmonisation.

DRAFT PROTOCOL TO BE ANNEXED TO THE TEC

WITH REGARD TO ARTICLE 133(4) TEC

The High Contracting Parties

have agreed on the following provisions, which shall be annexed to the Treaty establishing the European Community.

1. Article 133(4) of the Treaty shall apply to:

(a) the sectors of services appearing on the schedule of specific commitments of the Community and its Member States as annexed to the General Agreement on Trade in Services (GATS) set out in Annex 1B to the Agreement of 15 April 1994 establishing the World Trade Organisation, as that schedule stands on the date of signature of this Protocol;

(b) the matters covered by the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) set out in Annex 1C to the Agreement of 15 April 1994 establishing the World Trade Organisation, as that Annex stands on the date of signature of this Protocol.

2. The provisions of this Protocol shall not apply to the negotiation and conclusion of international agreements in the field of sea transport which shall continue to be governed by the provisions of Title V and Article 300 of the Treaty.

**PARTICIPATION OF THE EUROPEAN COMMUNITY AND
ITS MEMBER STATES IN THE PROCEEDINGS OF
THE WORLD TRADE ORGANISATION (WTO)
DRAFT PROTOCOL TO BE ANNEXED TO THE TEC**

The High Contracting Parties

have agreed on the following provisions, which shall be annexed to the Treaty establishing the European Community.

Article 1

Participation by the European Community and its Member States in the proceedings of the World Trade Organisation (WTO) shall be governed by the rules in this Protocol.

Article 2

A single procedure shall apply in all cases, whether involving the exercise of Community powers, the exercise of Member States' powers or the exercise of powers shared between the Community and the Member States.

Article 3

1. The Commission shall act as the spokesman and sole negotiator for the European Community and its Member States and shall present the common position of the European Community and its Member States as established in accordance with this Protocol.

2. In negotiations, the Commission shall act on the basis of prior authorisation from the Council following recommendations presented to it by the Commission. The Council may at any time address negotiating directives to the Commission.

3. For the purposes of paragraph 2, the Council shall act by a qualified majority. It shall act unanimously when the draft agreement covers a field for which unanimity is required by Article 133. The common accord of the members of the Council shall be required when the field is one which comes within the competence of the Member States.

Article 4

- 1. The Commission may be accompanied in all WTO meetings either by the Council Presidency (assisted by the General Secretariat of the Council) if the Council considers it appropriate, or by the Member States where the matter under discussion is one which comes within their competence.**
- 2. The Commission shall ensure that the Member States and the Presidency are informed in sufficient time of all WTO meetings to be held.**
- 3. The Commission shall forward all documents available to it to the Member States and the Presidency without delay.**
- 4. The Commission shall at all times agree to a request by any Member State for consultation on a position stated or to be stated on behalf of the Community and its Member States. If need be, the Commission shall ask to have a meeting adjourned in order to meet such a request.**

Article 5

- 1. The common position to be stated by the Commission at the WTO on behalf of the European Community and its Member States shall be established by the Council. The Commission may submit drafts for that purpose.**
- 2. However, the Council may lay down particular procedures for establishing that common position where its purpose is to comment on WTO texts which have no legal effect for the Community or for the Member States.**

Article 6

The common positions of the European Community and its Member States referred to in Article 5 (1) and (2) shall be established in accordance with the provisions of Article 3(3).

Article 7

- 1. If a dispute settlement procedure is initiated at the WTO against one or more Member States, the unity of the representation of the Community and its Member States must be upheld.**
- 2. The Member States concerned shall be present at the procedure, including the procedure before the Appellate Body, or be represented by the Commission. The defence shall be prepared by common accord with the Commission, and the Council and the Committee referred to in Article 133 of the Treaty shall be kept fully informed. In the event of failure to reach agreement, the Council shall establish the position to be adopted in the procedure, including the procedure before the Appellate Body, in accordance with the provisions of Article 3(3).**
- 3. Where, in a field coming within the competence of the Member States, it is not possible to establish a common position, a Member State may prepare and conduct its defence on its own behalf. In that case, it shall cooperate closely with the Commission, keep the Council and the Committee referred to in Article 133 of the Treaty fully informed and make every effort to ensure that WTO procedures do not result in calling advantages enjoyed by the Community or by other Member States into question.◊**

Article 8

- 1. Where a dispute settlement procedure is to be initiated against a third country belonging to the WTO, the Commission, after consulting the Committee referred to in Article 133 of the Treaty, shall hold the consultations provided for in the WTO Understanding on Rules and Procedures governing the Settlement of Disputes.**
- 2. Decisions to request that the WTO establish a panel or to appeal against the report of such a panel shall be taken by the Council. The Council, acting unanimously, may delegate that power to the Committee referred to in Article 133 of the Treaty. The decisions referred to in this paragraph shall be taken in accordance with the provisions of Article 3(3).**

3. Where, in a field coming within the competence of the Member States, it is not possible to establish a common position in order to request the establishment of a panel at the WTO, a Member State may make the request on its own behalf. In that case, it shall cooperate closely with the Commission, keep the Council and the Committee referred to in Article 133 of the Treaty fully informed and make every effort to ensure that WTO procedures do not result in calling advantages enjoyed by the Community or by other Member States into question.

SOCIAL PROVISIONS

ARTICLE 137 TEC

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.

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) and (g), where the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament and the abovementioned 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) and (g).**

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:

{{SPA}} 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;

{{SPA}} 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.

Declaration to be included in the Final Act of the Conference on Article 137 TEC

The Conference agrees that any expenditure incurred by virtue of Article 137 of the Treaty establishing the European Community will be charged to heading 3 of the financial perspective.

LEGAL BASIS FOR ESTABLISHING A SOCIAL PROTECTION COMMITTEE

This text replaces the present text of Article 144 TEC.

NEW ARTICLE 144 TEC

The Council, after consulting the European Parliament, shall establish a Social Protection Committee with advisory status to promote cooperation between Member States and with the Commission on social protection policies. The tasks of the Committee shall be:

{{SPA}} to monitor the social situation and the development of social protection policies in the Member States and the Community;

{{SPA}} to promote exchanges of information, experience and good practice between Member States and with the Commission;

{{SPA}} without prejudice to Article 207, to prepare reports, formulate opinions or undertake other work in the area of its 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.

INCENTIVE MEASURES IN THE CULTURAL FIELD, EXCLUDING ANY HARMONISATION OF THE LAWS AND REGULATIONS OF THE MEMBER STATES

ARTICLE 151 TEC

Paragraphs 1 to 3 unchanged.

4. **In defining and implementing its policies**, the Community shall take cultural aspects into account [*phrase deleted*], 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:

{{SPA}} 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 [*sentence deleted*];

{{SPA}} acting **by a qualified majority** on a proposal from the Commission, shall adopt recommendations.

MEASURES SUPPORTING THE ACTION OF MEMBER STATES

IN THE INDUSTRIAL SPHERE

ARTICLE 157 TEC

Paragraphs 1 and 2 unchanged.

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.**

SPECIFIC ACTIONS FOR ECONOMIC AND SOCIAL COHESION

OUTSIDE THE STRUCTURAL FUNDS

ARTICLE 159, THIRD PARAGRAPH, TEC

First and second paragraphs unchanged.

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.

RULES APPLICABLE TO THE STRUCTURAL FUNDS

AND TO THE COHESION FUND

ARTICLE 161 TEC

Without prejudice to Article 162, 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 define the tasks, the 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 the m 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.

PROVISIONS ON THE ENVIRONMENT

ARTICLE 175(2) TEC

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 **measures significantly affecting**:

- town and country planning;
- **quantitative** management of water resources **directly or indirectly affecting the availability of those resources**;
- land use with the exception of waste management [*phrase deleted*];
- 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.

PROVISIONS ON THE ENVIRONMENT WHICH ARE PRIMARILY OF A FISCAL NATURE

OPTION 1

Addition of a new second subparagraph in Article 175(1) TEC

Acting in accordance with the same procedure, the Council shall adopt provisions of a primarily fiscal nature whose principal object is to deal with environmental problems concerning several Member States

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OPTION 2

Retention of point (a) in paragraph 2, as follows:

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;

(b) ...

ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION

WITH THIRD COUNTRIES

Draft new Title XXI {{SPA}} Relations with third countries

NEW 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 that 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.

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.

Declaration to be included in the Final Act of the Conference on Article 181a TEC

The Conference confirms that, without prejudice to other provisions of the Treaty establishing the European Community, balance-of-payments aid to third countries falls outside the scope of Article 181a of this Treaty.

ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

ARTICLE 187 TEC

The Council, acting by a qualified majority, 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.

APPROVAL OF THE STATUTE FOR MEMBERS OF THE EUROPEAN PARLIAMENT

ARTICLE 190(5) TEC

Paragraphs 1 to 4 unchanged.

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.

POLITICAL PARTIES AT EUROPEAN LEVEL

ARTICLE 191 TEC

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.

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.

Declaration to be included in the Final Act of the Conference on Article 191 TEC

The Conference recalls that the provisions of Article 191 do not imply any transfer of competence to the European Community and do not affect the application of the relevant national constitutional rules.

The funding for political parties at European level provided out of the Community budget may not be used to fund, either directly or indirectly, political parties at national level.

APPOINTMENT OF THE SECRETARY-GENERAL AND THE DEPUTY SECRETARY-GENERAL OF THE COUNCIL

ARTICLE 207(2) TEC

1. *Unchanged.*

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. *Unchanged.*

SALARIES, ALLOWANCES AND PENSIONS OF THE MEMBERS AND REGISTRAR OF THE COURT OF FIRST INSTANCE

ARTICLE 210 TEC

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.

PROVISIONS IN THE EVENT OF THE RESIGNATION OF MEMBERS OF THE COMMISSION

ARTICLE 215 TEC

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 death or resignation** shall be filled for the remainder of the Member's term of office by a new Member appointed by common accord of the governments of the Member States. 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 not to fill a vacancy as provided for in the second paragraph.**

ORGANISING THE COMMISSION AND INCREASING ITS

PRESIDENT'S POWERS

ARTICLE 217 TEC

- 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 collective responsibility.**
- 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.**
- 3. After obtaining the collective approval of the Commission, the President shall appoint Vice-Presidents from among its Members.**
- 4. After obtaining the collective approval of the Commission, the President may request one of its Members to resign.**

ARTICLE 219 TEC

[First paragraph deleted]

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.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 220 TEC

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 TEC

The Court of Justice shall consist of one judge from each 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 in plenary session.

ARTICLE 222 TEC

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.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 223 TEC

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. The President of the Court of Justice 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. These shall require the approval of the Council, acting by qualified majority.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 224 TEC

The Court of First Instance shall comprise at least one judge from each 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. The President of the Court of First Instance 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 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.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 225 TEC

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.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 225a TEC

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court 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.

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 qualified majority.

Unless the Decision establishing the judicial panels provides otherwise, the provisions of the Treaty relating to the Court of Justice and the provisions of the Statute of the Court of Justice shall apply to the judicial panels.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 229a TEC

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.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 230 TEC

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 *[four words deleted]* 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.

COURT OF JUSTICE AND COURT OF FIRST INSTANCE

ARTICLE 245 TEC

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.

THE COURT OF AUDITORS

ARTICLE 247 TEC

1. The Court of Auditors shall consist of one **national from each Member State**.
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.

Paragraphs 4 to 9 unchanged.

Declaration to be included in the Final Act of the Conference on the Court of Auditors

The Conference invites the Court of Auditors and the national audit institutions to improve the framework and conditions for cooperation between them, while maintaining the autonomy of each. To that end, the President of the Court of Auditors may set up a contact committee with the chairmen of the national audit institutions.

THE COURT OF AUDITORS

ARTICLE 248 TEC

1. *[First subparagraph unchanged]*

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 a specific assessment for each major area of Community activity.**

[Paragraphs 2 and 3 unchanged]

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*.

[Second subparagraph unchanged]

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.

NAME OF THE OFFICIAL JOURNAL

ARTICLE 254 TEC

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 twentieth 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 twentieth day following that of their publication.

[Paragraph 3 unchanged]

ECONOMIC AND SOCIAL COMMITTEE

ARTICLE 257 TEC

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 public.

ARTICLE 258 TEC

The number of members of the Economic and Social Committee shall not exceed three hundred and fifty.

The number of members shall be as follows:

Table = present-day EU of 15

[Second paragraph deleted]

Third and fourth paragraphs unchanged.

ARTICLE 259(1) TEC

1. The members of the Committee shall be appointed for four years, on proposals from the Member States. Their term of office shall be renewable. The Council, acting by a qualified majority, shall adopt the list of members drawn up in accordance with the proposals made by the Member States.

THE COMMITTEE OF THE REGIONS

ARTICLE 263 TEC

A Committee, 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**, hereinafter referred to as "the Committee of the Regions", is hereby established with advisory status.

The number of members of the Committee of the Regions shall not exceed three hundred and fifty. The number of members of the Committee of the Regions **proposed by each Member State** shall be as follows:

[Table = present-day EU of 15]

The members of the Committee and an equal number of alternate members shall be appointed for four years *[phrase deleted]*, on proposals from the *[word deleted]* 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 the Member States. When the mandate on the basis of which they were proposed comes to an end, the term of office of members of the Committee of the Regions 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.

Fourth paragraph unchanged

PROCEDURE FOR AMENDING THE STATUTE OF THE EIB

ARTICLE 266, THIRD PARAGRAPH, TEC

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.**

**FINANCIAL REGULATIONS AND LAYING DOWN OF RULES
CONCERNING THE RESPONSIBILITY OF FINANCIAL CONTROLLERS,
AUTHORISING OFFICERS AND ACCOUNTING OFFICERS**

ARTICLE 279 TEC

1. The Council, acting **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, 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.

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.

RULES GOVERNING THE LANGUAGES OF THE COURT OF JUSTICE

ARTICLE 290 TEC

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.

**ESTABLISHMENT OF THE COMMUNITY POSITION
IN A BODY SET UP BY AN AGREEMENT WITH
THIRD COUNTRIES WHICH IS CALLED UPON TO ADOPT
DECISIONS HAVING LEGAL EFFECTS**

**DRAFT AMENDMENT TO THE SECOND AND THIRD SUBPARAGRAPHS
OF ARTICLE 300(2) TEC**

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 [*phrase deleted*], 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 *[phrase deleted]*.

**ENABLING THE EUROPEAN PARLIAMENT TO OBTAIN THE OPINION
OF THE COURT OF JUSTICE AS TO WHETHER AN AGREEMENT
ENVISAGED IS COMPATIBLE WITH THE PROVISIONS OF THE TEC**

ARTICLE 300(6) TEC

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.

ANNEX I

**PROTOCOL
ON THE ENLARGEMENT
OF THE EUROPEAN UNION
AND
DECLARATION
ON THE ENLARGEMENT
OF THE EUROPEAN UNION TO BE INCLUDED
IN THE FINAL ACT OF THE CONFERENCE**

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 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, the first subparagraph of Article 190(2) of the Treaty establishing the European Community shall be amended as follows:

"The number of representatives elected in each Member State shall be as follows:

Belgium *[17-20]*

Denmark *[11-13]*

Germany *[77-104]*

Greece *[20-17]*

Spain *[50-52]*

France *[69-77]*

Ireland *[9-12]*

Italy *[69-75]*

Luxembourg *[5-6]*

Netherlands *[23-25]*

Austria *[14-17]*

Portugal *[16-20]*

Finland *[10-13]*

Sweden *[15-18]*

United Kingdom *[69-77]* ".

2. Subject to the application of paragraph 3, the total number of representatives in the European Parliament for a given term shall be equal to the number of representatives specified in Article 190(2) of the Treaty establishing the European Community plus the number of representatives of the new Member States resulting from the accession treaties signed by 1 January of the year in which the term in question begins.

3. If the total number of members described in paragraph 2 is less than seven hundred, 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 seven hundred, without such a correction leading to the number of representatives to be elected in each Member State being higher than that provided for by Article 190(2) for the 1999-2004 term.

The Council shall adopt a decision to this effect.

4. By derogation from the second paragraph of Article 189 of the Treaty establishing the European Community, in the event of the entry into force of accession treaties after the adoption of the Council decision referred to in paragraph 3, the number of members of the European Parliament may temporarily exceed seven hundred for the period in which that decision is applied. The correction referred to in the first subparagraph of paragraph 3 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:

(i) Article 205(2) of the Treaty establishing the European Community shall be amended as follows:

"2. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as follows:

Belgium x

Denmark x

Germany x

Greece x

Spain x

France x

Ireland x

Italy x

Luxembourg x

Netherlands x

Austria x

Portugal x

Finland x

Sweden x

United Kingdom x

For their adoption, acts of the Council shall require at least:

[[SPA]] [y] votes in favour where this Treaty requires them to be adopted on a proposal from the Commission *[for the record: problem of number of Member States]*,

[[SPA]] [y] votes in favour, cast by at least **two thirds of the members**, in other cases."

(ii) Corresponding amendments shall be made to the third subparagraph of Article 23(2) and to Article 34 (3) of the Treaty on European Union.

2. At the time of each accession, the threshold referred to in the second subparagraph of Article 205(2) shall be calculated in such a way that the qualified majority corresponds to *[[NEL]]*.

Article 4

Provisions concerning the Commission

1. On 1 January 2005, Article 213(1) of the Treaty establishing the European Community shall be amended as follows:

"1. The Commission shall consist of {{NEL}}..

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 the end of the latter's term of office.

2. On 1 January 2010, Article 213(1) of the Treaty establishing the European Community shall be amended as follows:

"1. The Commission shall consist of {{NEL}}

DECLARATION ON THE ENLARGEMENT OF THE EUROPEAN UNION TO BE INCLUDED IN THE FINAL ACT OF THE CONFERENCE

The common position to be adopted by the Member States of the European Union at the accession conferences, as regards the distribution of seats at the European Parliament, the weighting of votes in the Council, the composition of the Economic and Social Committee and the composition of the Committee of the Regions will correspond to the following tables for a Union of 27 Member States.

1. THE EUROPEAN PARLIAMENT

MEMBER STATES	EP SEATS EU of 27
Germany	[77 {{SPA}} 104]
United Kingdom	[69 {{SPA}} 77]
France	[69 {{SPA}} 77]
Italy	[69 {{SPA}} 75]
Spain	[50 {{SPA}} 52]
Poland	[50 {{SPA}} 52]
Romania	[32 {{SPA}} 35]
Netherlands	[23 {{SPA}} 25]
Greece	[17 {{SPA}} 20]
Czech Republic	[17 {{SPA}} 20]
Belgium	[17 {{SPA}} 20]
Hungary	[16 {{SPA}} 20]

Portugal	[16 {{SPA}} 20]
Sweden	[15 {{SPA}} 18]
Bulgaria	[14 {{SPA}} 17]
Austria	[14 {{SPA}} 17]
Slovakia	[11 {{SPA}} 13]
Denmark	[11 {{SPA}} 13]
Finland	[10 {{SPA}} 13]
Ireland	[9 {{SPA}} 12]
Lithuania	[9 {{SPA}} 12]
Latvia	[7 {{SPA}} 8]
Slovenia	[6 {{SPA}} 7]
Estonia	[5 {{SPA}} 6]
Cyprus	[5 {{SPA}} 6]
Luxembourg	[5 {{SPA}} 6]
Malta	[4 {{SPA}} 6]
TOTAL EU of 27	700

2. THE WEIGHTING OF VOTES IN THE COUNCIL

MEMBERS OF THE COUNCIL	WEIGHTED VOTES
Germany	
United Kingdom	
France	
Italy	
Spain	
Poland	
Romania	
Netherlands	
Greece	
Czech Republic	
Belgium	
Hungary	
Portugal	

Sweden	
Bulgaria	
Austria	
Slovakia	
Denmark	
Finland	
Ireland	
Lithuania	
Latvia	
Slovenia	
Estonia	
Cyprus	
Luxembourg	
Malta	
TOTAL	

3. THE ECONOMIC AND SOCIAL COMMITTEE

MEMBER STATES	MEMBERS
Germany	[24]
United Kingdom	[24]
France	[24]
Italy	[24]
Spain	[21]
Poland	[21]
Romania	[15]
Netherlands	[12]
Greece	[12]
Czech Republic	[12]
Belgium	[12]
Hungary	[12]
Portugal	[12]
Sweden	[12]
Bulgaria	[12]
Austria	[12]

Slovakia	[9]
Denmark	[9]
Finland	[9]
Ireland	[9]
Lithuania	[9]
Latvia	[7]
Slovenia	[7]
Estonia	[7]
Cyprus	[6]
Luxembourg	[6]
Malta	[5]
TOTAL	[344]

4. THE COMMITTEE OF THE REGIONS

MEMBER STATES	MEMBERS
Germany	[24]
United Kingdom	[24]
France	[24]
Italy	[24]
Spain	[21]
Poland	[21]
Romania	[15]
Netherlands	[12]
Greece	[12]
Czech Republic	[12]
Belgium	[12]
Hungary	[12]
Portugal	[12]
Sweden	[12]
Bulgaria	[12]
Austria	[12]
Slovakia	[9]
Denmark	[9]
Finland	[9]
Ireland	[9]
Lithuania	[9]
Latvia	[7]
Slovenia	[7]
Estonia	[7]

Cyprus	[6]
Luxembourg	[6]
Malta	[5]
TOTAL EU	[344]

ANNEX II

PROTOCOL
ON THE STATUTE
OF THE
COURT OF JUSTICE

THE HIGH CONTRACTING PARTIES

DESIRING to lay down the Statute of the Court 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, of the Treaty establishing the European Community, of the Treaty establishing the European Atomic Energy Community and of this Statute.

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 in plenary session, 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 of Justice, 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 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 Grand Chamber shall consist of eleven 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 Rules of Procedure shall also form part of the Grand Chamber.

The Grand Chamber shall sit when a Member State or a Community institution that is party to the proceedings so requests.

The Court of Justice shall sit in plenary session where cases are brought before it pursuant to Articles 195(2), 213, 216 or 247 (7) of the Treaty establishing the European Community.

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 plenary session.

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 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 eleven 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 States and the institutions of the Community 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 Community 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 judged 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, Article 234 of the EC Treaty and 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 aforesaid 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 in pursuance of Article 243 of the EC Treaty or Article 158 of the EAEC Treaty, or to suspend enforcement in accordance with the last paragraph of Article 256 of the EC Treaty or the last 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 Community 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 Community or between Member States and institutions of the Community.

Without prejudice to the preceding 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 of 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 Community 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 Community 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 Community 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 Community. 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, Article 14, Article 15, Article 17(1), (2), (4) and (5) and Article 18 of this Statute 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 of this Statute 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 in plenary session or be constituted by a single Judge.

The Rules of Procedure may also provide that the Grand Chamber may sit 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 the corresponding Article of the EAEC Treaty, the Court of Justice shall have jurisdiction in actions brought by the institutions of the European Community, by the European Central Bank and by the Member States.

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 of this Statute.

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 of this Statute in order to take account of the specific features of litigation in the field of intellectual property.

Notwithstanding the fourth paragraph of Article 20 of this Statute, 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 Community institutions 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 Community institutions 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 Community and its servants, an appeal may also be brought by Member States and Community institutions 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 Articles 242 or 243 or the fourth paragraph of 256 of the EC Treaty or Articles 157 or 158 or the third paragraph of 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 of this Statute.

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, 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 a Community institution, 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 the corresponding Articles 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 according to the procedure adopted for amending this Statute.

DRAFT TRANSITIONAL PROVISION TO BE ADDED TO THE TREATY OF NICE

- Articles 1 to 20, Article 44, Article 45, Article 46, second and third paragraphs, Articles 47 to 49 and Articles 51, 52, 54 and 55 of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community are hereby repealed.
- Without prejudice to the Articles of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community which remain in force, the provisions of the Protocol on the Statute of the Court of Justice annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community shall apply when the Court of Justice exercises its powers pursuant to the provisions of the Treaty establishing the European Coal and Steel Community.

DRAFT FINAL PROVISION TO BE ADDED TO THE TREATY OF NICE

1. The Protocols on the Statute of the Court of Justice annexed to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community are hereby repealed and replaced by the Statute of the Court of Justice annexed by this Treaty to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community.
2. Council Decision 88/591/ECSC, EEC, Euratom of 24 October 1988 establishing a Court of First Instance of the European Communities, as amended, is hereby repealed, with the exception of Article 3 insofar as the Court of First Instance exercises, pursuant to that Article, the jurisdiction conferred on the Court of Justice under the Treaty establishing the European Coal and Steel Community.

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ANNEX III

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PROTOCOL
ON PRIVILEGES AND IMMUNITIES

AMENDMENT TO ARTICLE 21 OF THE PROTOCOL

Article 21

Articles 12 to 15 and Article 18 shall apply to the Judges, the Advocates-General, the Registrar and the Assistant Rapporteurs of the Court of Justice **and to the Members and Registrar of the Court of First Instance**, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice relating to immunity from legal proceedings of Judges and Advocates-General.

ANNEX IV

DRAFT PROTOCOL
ON THE FINANCIAL CONSEQUENCES
OF THE EXPIRY OF THE ECSC TREATY
AND THE ESTABLISHMENT AND MANAGEMENT
OF 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 the necessity therefore 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 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 multiannual 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 acts adopted on the basis hereof, the provisions of the Treaty establishing the European Community shall apply.

This Protocol shall apply from 24 July 2002.

Declaration to be included in the Final Act of the Conference

The Conference invites the Council to provide, under Article 2 of the Protocol, for the prolongation of the ECSC statistics system after the expiry of the ECSC Treaty until 31 December 2002 and to invite the Commission to make the appropriate proposals.