

SPECIAL EDITION



EUROPEAN PARLIAMENT

ACTIVITIES



EUROPEAN COUNCIL
Edinburgh,
11-12 December 1992

3/S-92

EUROPEAN COUNCIL IN EDINBURGH
11-12 DECEMBER, 1992

CONCLUSIONS OF THE PRESIDENCY

PART A

SN 456/92
PART A

ld

EN

Introduction

1. The European Council met in Edinburgh on 11-12 December 1992 to discuss the central problems on the Community's agenda. The meeting was preceded by an exchange of views between the members of the European Council and the President of the European Parliament on the various issues of the agenda.

2. The European Council agreed on solutions to a very wide range of issues which are essential to progress in Europe. This paves the way for a return to confidence by its citizens in European construction which will contribute to the recovery of the European economy.

In particular the European Council reached agreement on the following major issues:

- The problems raised by Denmark in the light of the outcome of the Danish referendum on 2nd June 1992 on the Maastricht Treaty,
- Guidelines to implement the subsidiarity principle and measures to increase transparency and openness in the decision making process of the Community,
- The financing of Community action and policies during the rest of this decade,
- The launching of enlargement negotiation with a number of EFTA countries,
- The establishment of a plan of action by the Member States and the Community to promote growth and to combat unemployment.

Treaty on European Union - state of the ratification process

3. The members of the European Council reaffirmed their commitment to the Treaty on European Union. Ratification is necessary to make progress towards European Union and for the Community to remain an anchor of stability in a rapidly changing continent, building on its success over the last four decades.

4. Having reviewed the state of the ratification process the European Council agreed to the texts set out in Part B of these Conclusions concerning the issues raised by Denmark in its memorandum "Denmark in Europe" of 30 October 1992. This will create the basis for the Community to develop together, on the basis of the Maastricht Treaty, while respecting, as the Treaty does, the identity and diversity of Member States.

Subsidiarity

5. On the basis of a report from Foreign Ministers the European Council agreed the overall approach, set out in Annex 1, to the application of the subsidiarity principle and the new Article 3b. The European Council invited the Council to seek an inter-institutional agreement between the European Parliament, the Council and the Commission on the effective application of Article 3b by all institutions. The European Council discussed this aspect with the President of the European Parliament. It welcomed the ideas in the draft of an Inter-Institutional Agreement presented by the European Parliament.

6. The European Council received a report from the President of the Commission on the first fruits of the Commission's review of existing and proposed legislation in the light of the subsidiarity principle. These examples are set out in Annex 2. The European Council noted the Commission's intention to withdraw or amend certain proposals and to make proposals for the amendment of items of existing legislation. It looks forward to the final report on the review of existing legislation, which the Commission will prepare for the European Council in December 1993.

Openness and transparency

7. The European Council reaffirmed its commitment at Birmingham to a more open Community and adopted the specific measures set out in annex 3.

The conclusion with regard to access to the work of the Council will be reviewed at the end of 1994.

The European Council welcomed the measures the Commission has recently decided to take in the field of transparency. These include producing the annual work programme in October, to allow for wider debate including in national parliaments; seeking closer consultation with the Council on the annual legislative programme; wider consultation before making proposals, including the use of green papers; making Commission documents public in all Community languages; and attaching higher priority to consolidation and codification of legal texts.

The European Council reconfirmed its invitation at Birmingham for the Commission to complete by early next year its work resulting from the declaration in the Maastricht Treaty on improving access to the information available to it and to other Community Institutions.

Accession of new Member States to the Union

8. The European Council in Lisbon agreed that official negotiations with EFTA countries seeking membership of the Union will be opened immediately after the Treaty on European Union is ratified and the agreement has been achieved on the Delors II package.

Given the agreement reached on future financing and the prospects for early ratification of the Treaty on European Union by all Member States, the European Council agreed that enlargement negotiations will start with Austria, Sweden and Finland at the beginning of 1993. These negotiations will be based on the general negotiation framework of which the General Affairs Council took note on 7 December. They will be transformed into negotiations under Article 0 of the Treaty on European Union once it enters into force, and can only be concluded once the Treaty on European Union has been ratified by all Member States. The conditions of admission will be based on the acceptance in full of the Treaty on European Union and the "acquis", subject to possible transitional measures to be agreed in the negotiations. The European Council invited the Council of Ministers to take decisions on the opening of negotiations on the same basis with Norway as soon as the Commission's opinion on its application is available. Negotiations will to the extent possible be conducted in parallel.

It invited the Commission, in preparing its Opinion on the Swiss application, to take into account the views of the Swiss authorities following the 6 December referendum on the EEA agreement. It welcomes the contacts now underway with the EFTA countries to identify the next steps in proceeding with the agreement.

GATT

9. The European Council welcomed the resumption of negotiations in Geneva on the GATT Uruguay Round. It reaffirmed its commitment at Birmingham to an early, comprehensive and balanced agreement and called on all the parties to complete the negotiations accordingly. It noted that the final package must be judged as a whole.

Promoting Economic Recovery in Europe

10. The European Council heard a report from the President of the Commission about the economic situation. It discussed the prospects for growth and the rise in unemployment. It agreed to carry forward the action and initiatives set out in the declaration in Annex 4.

Internal Market

11. The European Council noted with particular satisfaction that the White Paper programme for creating the Internal Market will in all essential respects be successfully completed by 31 December 1992. This is a historic moment for the Community, marking the fulfilment of one of the fundamental objectives of the Treaty of Rome. The large Single Market is an irreversible achievement. It will offer consumers more choice and lower prices; it will help job creation and will sharpen the international competitiveness of business in Europe. The Community will remain open to world trade and investment.

12. The European Council noted that since 1985 over 500 internal market measures have been agreed, including nearly all those in the original White Paper. It paid tribute to the vital role played by the Commission in initiating this programme and to the constructive cooperation on it between the Council and the European Parliament. The decision-making procedures introduced by the Single European Act have proved indispensable for the timely completion of the programme.

13. Work on the Single Market programme has covered a wide canvas opening up public purchasing, liberalising transport and financial services, improving Community-wide acceptance of product standards removing non-tariff barriers, and making it easier for people to work throughout the Community.

14. The European Council welcomed the agreements recently reached on indirect tax measures, investment services and cultural goods and airport slot allocation, as well as the commitment by all Member States to abolish systematic frontier controls on goods by 1 January 1993, respecting Article 28 of the European Single Act. The European Council recognized that the internal market will remain a dynamic process, and that it must be adapted and improved to keep pace with changing circumstances.

15. The European Council considered that accurate and timely transposition of Community measures by Member States is essential to secure the full benefits of the internal market.

16. Recalling its Lisbon conclusions, the European Council stressed the need to ensure that the internal market works to the benefit of all the Community's citizens and enterprises. It therefore welcomed the Resolutions adopted at the 10 November Internal Market Council and the 24 November Industry Council identifying the priorities and practical steps necessary to ensure that the internal market works fairly and effectively and without undue burdens on business, notably small and medium-sized enterprises. It also welcomed the Commission's recent response to the important recommendations of the high level group under Mr Peter Sutherland. It invited the Council to continue to urge work on these issues.

Free Movement of Persons

17. The European Council has had to take note of the fact that free movement of persons within the Community, in accordance with Article 8a of the Treaty of Rome, cannot be completely assured on 1st January 1993.

18. The work necessary to achieve this result without creating dangers for public security and compromising the fight against illegal immigration, although having progressed, is still under way. Further progress is needed in particular to complete the ratification process of the Dublin Asylum Convention, to conclude the External Frontiers Convention and to complete negotiations on a Convention on the European Information System.

19. However, noticeable changes benefitting travellers will occur during the course of next year:

- thus, the Member States of Schengen will put into effect this agreement during 1993, as soon as the preconditions for its implementation are fulfilled. In this group of States, the abolition of controls will be effective from that date at internal land, maritime and air frontiers;
- other Member States have made known their intention to take various measures to lighten controls at borders on nationals of Member States of the Community.

20. Reaffirming its commitment to the full and rapid implementation of Article 8a, the European Council has invited the competent Ministers to accelerate their work and has decided to come back to this issue at the next meeting of the European Council on the basis of a report from the Ministers.

Justice and Home Affairs

21. The European Council noted the work of the co-ordinators' Group on the implementation of the justice and home affairs pillar of the Treaty on European Union. It requested the Group to ensure that detailed plans are taken forward for the development of communication systems and other preparations.

22. The European Council welcomed the progress made by the Ministers with responsibility for Immigration under the work programme on immigration and asylum, and in particular the agreement in principle at their London meeting of Resolutions on Manifestly Unfounded Asylum Applications, and on Host Third Countries.

23. The European Council noted with approval the report of CELAD on its past work, and its report on the co-ordination of drugs issues and its future role.

24. The European Council noted the Report of the Trevi Ministers and looked forward to the early establishment of the Europol Drugs Unit.

Migration

25. Deeply concerned by the intensification of episodes of intolerance, which it has strongly condemned, the European Council has underlined that there must be no room for racism and xenophobia in today's Europe, and has reiterated its determination to oppose such attitudes with renewed vigour.

The European Council stressed the importance of protecting all immigrants from racist attacks and implementing fully their policies for integrating legal immigrants. It expressed its deep concern at acts of aggression against foreign immigrants. It deplored the fact that, precisely at a time when the divisions in Europe are ceasing to exist, the general trend towards the greater unity of our continent is

marred by such acts. It is convinced that vigorous and effective measures must be taken, throughout Europe, to combat this phenomenon, both through education and legislation.

The European Council agreed the declaration in Annex 5.

Size of the European Parliament

26. The European Council agreed - based on the proposal of the European Parliament - on the following numbers of members of the European Parliament, from 1994, to reflect German unification and in the perspective of enlargement:

Belgium	25
Denmark	16
Germany	99
Greece	25
Spain	64
France	87
Ireland	15
Italy	87
Luxembourg	6
Netherlands	31
Portugal	25
United Kingdom	87

TOTAL	567
-------	-----

The necessary legal texts will be prepared for adoption in due course.

Seats of the Institutions

27. On the occasion of the European Council Member States reached agreement on the seats of the European Parliament, the Council, the Commission, the Court of Justice and the Court of First Instance, the Economic and Social Committee, the Court of Auditors, and the European Investment Bank. The formal decision is set out in Annex 6.

OVERALL APPROACH TO THE APPLICATION BY THE COUNCIL
OF THE SUBSIDIARITY PRINCIPLE AND ARTICLE 3b OF
THE TREATY ON EUROPEAN UNION

I. BASIC PRINCIPLES

European Union rests on the principle of subsidiarity, as is made clear in Articles A and B of title I of the Treaty on European Union. This principle contributes to the respect for the national identities of Member States and safeguards their powers. It aims at decisions within the European Union being taken as closely as possible to the citizen.

1. Article 3b of the EC Treaty ¹⁾ covers three main elements:

- a strict limit on Community action (first paragraph);
- a rule (second paragraph) to answer the question "Should the Community act?". This applies to areas which do not fall within the Community's exclusive competence;
- a rule (third paragraph) to answer the question: "What should be the intensity or nature of the Community's action?". This applies whether or not the action is within the Community's exclusive competence.

(1) Article 3b, as introduced in the EC Treaty by the Treaty on European Union, reads as follows:

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

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

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

2. The three paragraphs cover three distinct legal concepts which have historical antecedents in existing Community Treaties or in the case-law of the Court of Justice:

- i) The principle that the Community can only act where given the power to do so - implying that national powers are the rule and the Community's the exception - has always been a basic feature of the Community legal order (The principle of attribution of powers).
- ii) The principle that the Community should only take action where an objective can better be attained at the level of the Community than at the level of the individual Member States is present in embryonic or implicit form in some provisions of the ECSC Treaty and the EEC Treaty; the Single European Act spelled out the principle in the environment field. (The principle of subsidiarity in the strict legal sense).
- iii) The principle that the means to be employed by the Community should be proportional to the objective pursued is the subject of a well-established case-law of the Court of Justice which, however, has been limited in scope and developed without the support of a specific article in the Treaty. (The principle of proportionality or intensity).

3. The Treaty on European Union defines these principles in explicit terms and gives them a new legal significance
 - by setting them out in Article 3b as general principles of Community law;
 - by setting out the principle of subsidiarity as a basic principle of the European Union; ¹⁾
 - by reflecting the idea of subsidiarity in the drafting of several new Treaty articles. ²⁾

4. The implementation of Article 3b should respect the following basic principles
 - Making the principle of subsidiarity and Article 3b work is an obligation for all the Community institutions, without affecting the balance between them.

1) See Articles A and B of the Treaty on European Union.
2) Articles 118a, 126, 127, 128, 129, 129a, 129b, 130 and 130g of the EC Treaty, Article 2 of the Agreement on social policy.
Furthermore, Article K.3(2)b directly incorporates the principle of subsidiarity.

An agreement shall be sought to this effect between the European Parliament, the Council and the Commission, in the framework of the interinstitutional dialogue which is taking place among these Institutions.

- The principle of subsidiarity does not relate to and cannot call into question the powers conferred on the European Community by the Treaty as interpreted by the Court. It provides a guide as to how those powers are to be exercised at the Community level, including in the application of Article 235. The application of the principle shall respect the general provisions of the Maastricht Treaty, including the "maintaining in full of the *acquis communautaire*", and it shall not affect the primacy of Community law nor shall it call into question the principle set out in Article F(3) of the Treaty on European Union, according to which the Union shall provide itself with the means necessary to attain its objectives and carry through its policies.
- Subsidiarity is a dynamic concept and should be applied in the light of the objectives set out in the Treaty. It allows Community action to be expanded where circumstances so require, and conversely, to be restricted or discontinued where it is no longer justified.
- Where the application of the subsidiarity test excludes Community action, Member States would still be required in their action to comply with the general rules laid down in Article 5 of the Treaty, by taking all appropriate measures to ensure fulfilment of their obligations under the Treaty and by abstaining from any measure which could jeopardize the attainment of the objectives of the Treaty.
- The principle of subsidiarity cannot be regarded as having direct effect; however, interpretation of this principle, as well as review of compliance with it by the Community institutions are subject to control by the Court of Justice, as far as matters falling within the Treaty establishing the European Community are concerned.

- Paragraphs 2 and 3 of Article 3b apply only to the extent that the Treaty gives to the institution concerned the choice whether to act and/or a choice as to the nature and extent of the action. The more specific the nature of a Treaty requirement, the less scope exists for applying subsidiarity. The Treaty imposes a number of specific obligations upon the Community institutions, for example concerning the implementation and enforcement of Community law, competition policy and the protection of Community funds. These obligations are not affected by Article 3b: in particular the principle of subsidiarity cannot reduce the need for Community measures to contain adequate provision for the Commission and the Member States to ensure that Community law is properly enforced and to fulfil their obligations to safeguard Community expenditures.

- Where the Community acts in an area falling under shared powers the type of measures to apply has to be decided on a case by case basis in the light of the relevant provisions of the Treaty.¹⁾

1) The new Articles 126 to 129 of EC Treaty in the area of education, vocational training and youth, culture and public health will explicitly rule out harmonisation of laws and regulations of Member States. It follows that the use of article 235 for harmonisation measures in pursuit of the specific objectives laid down in Articles 126 to 129 will be ruled out. This does not mean that the pursuit of other Community objectives through Treaty articles other than 126 to 129 might not produce effects in these areas. Where Articles 126, 128 and 129 refer to "incentive measures", the Council considers that this expression refers to Community measures designed to encourage cooperation between Member States or to support or supplement their action in the areas concerned, including where appropriate through financial support for Community programmes or national or cooperative measures designed to achieve the objectives of these articles.

II. GUIDELINES

In compliance with the basic principles set out above, the following guidelines - specific to each paragraph of Article 3b - should be used in examining whether a proposal for a Community measure conforms to the provisions of Article 3b.

First paragraph (Limit on Community action)

Compliance with the criteria laid down in this paragraph is a condition for any Community action.

In order to apply this paragraph correctly the institutions need to be satisfied that the proposed action is within the limits of the powers conferred by the Treaty and is aimed at meeting one or more of its objectives. The examination of the draft measure should establish the objective to be achieved and whether it can be justified in relation to an objective of the Treaty and that the necessary legal basis for its adoption exists.

Second paragraph (Should the Community act?)

- i) This paragraph does not apply to matters falling within the Community's exclusive competence.

For Community action to be justified the Council must be satisfied that both aspects of the subsidiarity criterion are met: the objectives of the proposed action cannot be sufficiently achieved by Member States' action and they can therefore be better achieved by action on the part of the Community.

- ii) The following guidelines should be used in examining whether the above-mentioned condition is fulfilled:
- the issue under consideration has transnational aspects which cannot be satisfactorily regulated by action by Member States; and/or
 - actions by Member States alone or lack of Community action would conflict with the requirements of the Treaty (such as the need to correct distortion of competition or avoid disguised restrictions on trade or strengthen economic and social cohesion) or would otherwise significantly damage Member States' interests; and/or
 - the Council must be satisfied that action at Community level would produce clear benefits by reason of its scale or effects compared with action at the level of the Member States.
- iii) The Community should only take action involving harmonisation of national legislation, norms or standards where this is necessary to achieve the objectives of the Treaty.
- iv) The objective of presenting a single position of the Member States vis-à-vis third countries is not in itself a justification for internal Community action in the area concerned.
- v) The reasons for concluding that a Community objective cannot be sufficiently achieved by the Member States but can be better achieved by the Community must be substantiated by qualitative or, wherever possible, quantitative indicators.

Third paragraph (Nature and extent of Community action)

- i) This paragraph applies to all Community action, whether or not within exclusive competence.
- ii) Any burdens, whether financial or administrative, falling upon the Community, national governments, local authorities, economic operators and citizens, should be minimised and should be proportionate to the objective to be achieved;
- iii) Community measures should leave as much scope for national decision as possible, consistent with securing the aim of the measure and observing the requirements of the Treaty. While respecting Community law, care should be taken to respect well established national arrangements and the organisation and working of Member States' legal systems. Where appropriate and subject to the need for proper enforcement, Community measures should provide Member States with alternative ways to achieve the objectives of the measures.
- iv) Where it is necessary to set standards at Community level, consideration should be given to setting minimum standards, with freedom for Member States to set higher national standards, not only in the areas where the treaty so requires (118a, 130t) but also in other areas where this would not conflict with the objectives of the proposed measure or with the Treaty.

- v) The form of action should be as simple as possible, consistent with satisfactory achievement of the objective of the measure and the need for effective enforcement. The Community should legislate only to the extent necessary. Other things being equal, directives should be preferred to ~~regulations and framework~~ directives to detailed measures. Non-binding measures such as recommendations should be preferred where appropriate. Consideration should also be given where appropriate to the use of voluntary codes of conduct.

- vi) Where appropriate under the Treaty, and provided this is sufficient to achieve its objectives, preference in choosing the type of Community action should be given to encouraging cooperation between Member States, coordinating national action or to complementing, supplementing or supporting such action.

- vii) Where difficulties are localised and only certain Member States are affected, any necessary Community action should not be extended to other Member States unless this is necessary to achieve an objective of the Treaty.

III. PROCEDURES AND PRACTICES

The Treaty on European Union obliges all institutions to consider, when examining a Community measure, whether the provisions of Article 3b are observed.

For this purpose, the following procedures and practices will be applied in the framework of the basic principles set out under paragraph II and without prejudice to a future interinstitutional agreement.

a) Commission

The Commission has a crucial role to play in the effective implementation of Article 3b, given its right of initiative under the Treaty, which is not called into question by the application of this article.

The Commission has indicated that it will consult more widely before proposing legislation, which could include consultation with all the Member States and a more systematic use of consultation documents (green papers). Consultation could include the subsidiarity aspects of a proposal. The Commission has also made it clear that, from now on and according to the procedure it already established in accordance with the commitment taken at the European Council in Lisbon, it will justify in a recital the relevance of its initiative with regard to the principle of subsidiarity. Whenever necessary, the explanatory memorandum accompanying the proposal will give details on the considerations of the Commission in the context of Article 3b.

The overall monitoring by the Commission of the observance of the provisions of Article 3b in all its activities is essential and measures have been taken by the Commission in this respect. The Commission will submit an annual report to the European Council and the European Parliament through the General Affairs Council on the application of the Treaty in this area. This report will be of value in the debate on the annual report which the European Council has to submit to the European Parliament on progress achieved by the Union (see Article D in the Treaty on European Union).

b) Council

The following procedure will be applied by the Council from the entry into force of the Treaty. In the meantime they will guide the work of the Council.

The examination of the compliance of a measure with the provisions of Article 3b should be undertaken on a regular basis; it should become an integral part of the overall examination of any Commission proposal and be based on the substance of the proposal. The relevant existing Council rules, including those on voting, apply to such examination¹⁾. This examination includes the Council's own evaluation of whether the Commission proposal is totally or partially in conformity with the provisions of Article 3b (taking as a starting point for the examination the Commission's recital and explanatory memorandum) and whether any change in the proposal envisaged by the Council is in conformity with those provisions. The Council decision on the subsidiarity aspects shall be taken at the same time as the decision on substance and according to the voting requirements set out in the Treaty. Care should be taken not to impede decision-making in the Council and to avoid a system of preliminary or parallel decision-making.

The Article 3b examination and debate will take place in the Council responsible for dealing with the matter. The General Affairs Council will have responsibility for general questions relating to the application of Article 3b. In this context the General Affairs Council will accompany the annual report from the Commission (see 2 a) above) with any appropriate considerations on the application of this Article by the Council.

-
- 1) In the course of this examination, any Member State has the right to require that the examination of a proposal which raises Article 3b issues be inscribed on the provisional agenda of a Council in accordance with Article 2 of the Council's rules of procedure. If such examination, which will include all relevant points of substance covered by the Commission proposal, shows that the majority required for the adoption of the act does not exist, the possible outcomes include amendments of the proposal by the Commission, continued examination by the Council with a view to putting it into conformity with Article 3b or a provisional suspension of discussion of the proposal. This does not prejudice Member States or Commission rights under Article 2 of the Council's rules of procedure nor the Council obligation to consider the opinion of the European Parliament.

Various practical steps to ensure the effectiveness of the Article 3b examination will be put into effect including:

- ° working group reports and COREPER reports on a given proposal will, where appropriate, describe how Article 3b has been applied,
 - ° in all cases of implementation of the Article 189b and 189c procedure, the European Parliament will be fully informed of the Council's position concerning the observance of Article 3b, in the explanatory memorandum which the Council has to produce according to the provisions of the Treaty. The Council will likewise inform the Parliament if it partially or totally rejects a Commission proposal on the ground that it does not comply with the principle of Article 3b.
-

SUBSIDIARITY

**EXAMPLES OF THE REVIEW OF PENDING PROPOSALS
AND EXISTING LEGISLATION**

The Birmingham European Council agreed that, to flesh out the subsidiarity principle, it would examine at Edinburgh the initial outcome of a Commission review of existing Community legislation, with examples.

The Commission has proceeded along three lines:

- in October it gave the other institutions the fruits of its reflections on subsidiarity in the form of a political, technical and legal analysis;
 - it proposed broad lines for an interinstitutional agreement, which was substantially accepted by Parliament and well received by the Member States. The subsidiarity principle has an impact on all the three Institutions involved in their respective ways in the decision-making and legislative process;
 - the Commission, for its part, embarked on a review of pending proposals, an initial analysis of existing legislation, and deeper reflection on a number of initiatives that it was planning. In accordance with the conclusions of the Lisbon European Council the Commission will supplement this with a report to the December 1993 European Council on the results of its review of certain Community rules with a view to adapting them to the subsidiarity principle.
1. The Commission's first priority was to review all proposals pending before the Council and Parliament in the light of the subsidiarity principle.

It reviewed each proposal in terms both of the need-for-action criterion and of the intensity criterion - proportionality of resources deployed to objectives pursued.

- (a) The Commission has come to the conclusion that certain of its proposals were not fully warranted in terms either of value added by Community action or of comparative efficiency in relation to other possibilities of action in national or international contexts.

In this spirit it recently withdrew three proposals for Directives:

- compulsory indication of nutritional values on the packaging of foodstuffs;
- radio frequencies for land-based telecommunications with aircraft; and
- radio frequencies for remote-processing facilities in road transport.

After the proper contacts, notably with Parliament, it is further considering withdrawing the following proposals:

- measures proposed at the time of the Gulf crisis in the event of oil supply and stock difficulties in the Community;
- conditions in which animals are kept in zoos (there will be a proposal for a Recommendation on this subject at a later date);
- radio frequencies for the co-ordinated introduction of digital short-range radio communications (DSRR);
- indirect taxation on transactions in securities;
- indirect taxation on capital accumulations;
- amendments to the Sixth VAT Directive;
- higher tax-free allowances for fuel in the tanks of utility vehicles;
- VAT on ships' supplies;
- temporary importation of motor vehicles;
- classification of documents of Community institutions;
- network of information centres on agricultural markets and quality standards.

- (b) The Commission has also concluded, notably following debates in Parliament and the Council, that certain pending proposals tend to go into excessive detail in relation to the objective pursued.

It is accordingly planning to revise a number of them so that they establish general principles to be given more detailed form by the Member States:

- public takeover bids;
- common definition of the concept of Community shipowner;
- comparative advertising;
- labelling of shoes;
- liability of suppliers of services;
- protection of natural persons in relation to data processed via digital telecommunications networks.

2. The Commission has also identified several families of existing rules and regulations which it intends to scrutinize as part of its programme for 1993.

As far as technical standards are concerned, a series of directives embodying excessively detailed specifications could be streamlined and replaced, under the new approach to harmonization, by minimum requirements to be met by products circulating freely within the Community. The directives in question relate in the main to foodstuffs (preserves, natural mineral waters, honey, coffee extracts, fruit juices). The Commission will also propose that the scope of certain directives be clarified. Although adopted under the new approach to harmonization, these texts (the low tension and machinery directives for instance) present problems of overlapping.

In the area of qualifications, the Commission will review the already quite old directives on certain regulated occupations to facilitate implementation and reinforce mutual recognition.

On the environment, the Commission intends to simplify, consolidate and update existing texts, particularly those on air and water, to take new knowledge and technical progress into account.

On agriculture, with particular reference to the clearance of accounts, in particular, the Commission intends to give national authorities more responsibility for applying Community legislation by allowing them, under certain conditions, to negotiate settlements with individuals.

As to animal welfare, accession by all the Member States to the European Convention on the Protection of Animals kept for Farming Purposes means that there is no point in retaining the Council directives introducing very strict standards, at Parliament's request, for the protection of pigs, calves and laying hens. However, minimum Community rules on animal welfare will be needed to guarantee fair competition and freedom of movement.

Turning to social policy, the Commission considers that the group of directives based on Article 118a of the Treaty is too recent to warrant re-examination. Instead its priority will be to supplement them by implementing all the provisions of the Charter of the Fundamental Social Rights of Workers. However, early steps will have to be taken to simplify and codify the body of older regulations on the free movement of workers.

3. Finally, the Commission can say that, following consultations with interested parties, it intends to abandon certain initiatives that had been planned.

It will not, for instance, be going ahead with proposals on the harmonization of vehicle number plates or the regulation of gambling.

Similarly, the Commission sees no need to continue preparatory work on the harmonization of certain technical standards (for instance, on dietary foods, second-hand machinery, structures and equipment for funfairs and theme parks, mechanical fixing and bolts in particular).

In more general terms the Commission is intending to use its monopoly of the right of initiative by declining to accept requests made by the Council at informal meetings that it make proposals for Directives. In the same spirit it will be tougher about rejecting amendments proposed by the Council and Parliament that run counter to the proportionality rule or would unnecessarily complicate Directives or Recommendations that are in fact justified under the need-for-action criterion.

TRANSPARENCY - IMPLEMENTATION OF THE BIRMINGHAM DECLARATION

- Acces to the work of the Council
- Information on the role of the Council and its decisions
- Simplification of and easier access to Community legislation

ACCESS TO THE WORK OF THE COUNCIL

The process of opening up the work of the Council will start in the following areas:

a) Open Debates on Work Programme and on Major Initiatives of Community Interest

i) Open orientation debates on relevant Presidency or Commission work programmes, in both the General Affairs Council and the ECOFIN Council. The timing will be for decision by the Presidency.

ii) There should be regular open debates on major issues of Community interest. It will be for the Presidency, any Member State or the Commission to propose issues for open debate. The decision will be taken by the Council on a case by case basis.

b) Legislation

Major new legislative proposals will, whenever appropriate, be the subject of a preliminary open debate, in the relevant Council, on the basis of the Commission's legislative proposal. It will be for the Presidency, any Member State or the Commission to propose specific subjects for a debate. The decision will be taken by the Council on a case by case basis. Negotiations on legislation in the framework of the Council shall remain confidential.

c) Publication of Voting Records

When a formal vote is taken in Council, the record of the vote (including explanations of vote where delegations request these) shall be published.

d) The decision on holding an open debate on a specific item under point a ii) and b) shall be taken by unanimity.

e) "Public access" will be achieved by televising the debate for viewing in the press area of the Council building.

INFORMATION ON THE ROLE OF THE COUNCIL

A. Transparency on the Council's decisions

- Extension to all Council formations of the practice, established over the years in most Councils, of publishing a full description in the Press release of the conclusions reached by the Council (exceptions being made for cases where such information would damage the interests of the Member States, the Council, or the Community - e.g. negotiating mandates). More systematic emphasis on publication of explanatory summaries concerning important "A" points adopted at the Council. Greater efforts to be made when drafting conclusions to make them understandable to the public.
- Better background information on Council decisions (e.g. objective, history, link to other subjects) to be made available, if possible for distribution at pre-Council press briefings, in the form of background notes prepared by the Secretariat in user-friendly terms. This initiative could be extended in the future to cover matters relating to Common Foreign and Security policy and Internal and Justice Affairs, taking into account the specific need for confidentiality in some areas.
- Systematic background pre-Council press briefings by Presidency, assisted by Council Secretariat (today not all Presidencies hold such briefings and often they are limited to the national Press corps).
- Publication of the common positions established by the Council under the procedures of articles 189 b and 189 c and the explanatory memorandum accompanying them.
- It is important to make all information material available rapidly in all Community languages.

B. Increase in general information on the role and the activities of the Council

The annual report, which is currently published after long delays, to be published from now on early in the new year on the responsibility of the Secretary General. Aim to make it more interesting and more understandable to the public - and complementary to, rather than duplicating, the Commission's annual report. There should also be a short summary aimed at broad circulation.

Increase in the Council's information activities in general including a reinforcement of the Press Service. Stepping up of the already quite intensive information activity (group visits) performed by the services of the Secretariat. Establishing a programme for visits of journalists - particularly EC news editors - not based in Brussels (in co-operation with the Commission).

C. Cooperation and more Rapid Transmission of Material

- Activating the existing information group of the Council and extending it to the other Institutions with a view to developing coordinated information strategies;
 - Cooperation between Member States and Community Institutions in the information field.
 - Use of new communication technologies: data bases, electronic-mail for making information available outside Council meeting places (Brussels/Luxembourg).
-

SIMPLIFICATION OF AND EASIER ACCESS TO COMMUNITY LEGISLATION

I Making new Community legislation clearer and simpler

While the technical nature of most texts and the need to compromise among the various national positions often complicate the drafting process, practical steps should nevertheless be taken to improve the quality of Community legislation, such as the following:

- a) guidelines for the drafting of Community legislation should be agreed upon, containing criteria against which the quality of drafting of legislation would have to be checked;
- b) delegations of Member States should endeavour, at all levels of the Council proceedings, to check more thoroughly the quality of legislation;
- c) the Council Legal service should be requested to review draft legislative acts on a regular basis before they are adopted by the Council and make suggestions where necessary for appropriate redrafting in order to make such acts as simple and clear as possible;
- d) the jurist-linguist group, which does the final legal editing of all legislation before it is adopted by the Council (with the participation of national legal experts), should give suggestions for simplifying and clarifying the language of the texts without changing their substance.

II Making existing Community legislation more accessible

Community legislation can be made more readily accessible in a concise and intelligible form through a speedier and more organised use of consolidation or codification; an improvement of the CELEX-database system should also be considered.

1) Improving and organising consolidation or codification of Community legislation

The two possible approaches - unofficial consolidation and official codification¹⁾ - must be pursued in parallel.

- a) The Office for Official Publications of the European Communities has an important role to play in respect of unofficial consolidation. Planning of this began some time ago and a new system will be operated as from 1993 on, whereby the consolidated version of all Community legislation undergoing amendments can be made automatically available following any such amendment; two years later, the system should be able to cover the whole of Community legislation (including past legislation) provided that there is adequate funding. Consolidated legislation should be immediately published (in the C-series of the Official Journal), possibly after adding the "considérants", and/or made available through CELEX.

1) A clear distinction must be made between

- unofficial consolidation which consists in editorial assembling, outside any legislative procedure, of the scattered parts of legislation on a specific issue, which has no legal effect and which leaves all such parts in force (see for instance the consolidated text of the Financial Regulation, OJ C 80 of 25.03.1991, p. 1);
- official codification which is achieved through the adoption of a formal legislative Community act through the relevant procedures, while repealing all pre-existing texts (see, for instance, the Council Regulation on the common organisation on the market in fishery products, OJ L 354 of 23.12.1991 p. 1).

- b) Official codification is important because it provides legal security as to the law which is applicable at a certain moment concerning a specific issue.

Since official codification can only be done through the relevant legislative procedures, priorities need to be established and an accelerated working method agreed upon between the three institutions which have legislative powers.

- i) Official codification should take place on the basis of agreed priorities. The Commission will propose such priorities in its work programme after appropriate consultation;
- ii) A jointly acceptable accelerated working method should be sought allowing codified Community law, (replacing existing legislation without changing its substance) to be adopted in a speedy and efficient way; a consultative group composed of the legal services of the Commission, the Council and the Parliament would help to carry out the necessary ground work to permit the adoption of codified Community legislation as rapidly as possible under the Community's normal decision-making procedure.

2) Strengthening the CELEX data system¹⁾

CELEX should be improved with a view to

- a) catching up with the delay as to
 - = existing legislation,
 - = feeding the database in the Greek, Spanish and Portuguese languages;
- b) making the system a more user friendly and accessible to the public.

The necessary financial means should be made available.

1) The Celex system (automated documentation on Community law) was set up in 1970 as an interinstitutional computerized documentation system and was made available to the public in 1981; it contains the entire body of EC law.

On 13 November 1991, the Council adopted a resolution on the re-organisation of the operating structures of CELEX with a view to enhancing its effectiveness (OJ C 308 of 28.11.91 p.2).

DECLARATION ON PROMOTING ECONOMIC RECOVERY IN EUROPE

1. The completion of the European Single Market at the end of this year, the ratification of the Maastricht Treaty, agreement on the future financing of the Community and an early successful GATT settlement are of crucial importance for strengthening the European economy and would give a substantial boost to confidence.

2. The objectives of Member States' economic policies should remain as set out in the Maastricht Treaty: an open market economy with free competition, sustainable growth respecting the environment, stable prices with sound public finances and monetary conditions and a sustainable balance of payments. These objectives will continue to determine the economic policies of Member States. They remain determined to fulfil the convergence criteria established in the Maastricht Treaty and to comply fully with the convergence programmes submitted to the Council, including adherence to the medium-term goals of budgetary consolidation.

3. The European Council invited Member States to implement in a concerted way economic measures, tailored to national requirements, which would boost confidence and promote economic recovery. The measures should be targeted towards improving the prospects for growth, creating lasting jobs, and consistent with a medium term framework founded on the principles of convergence established in the Maastricht Treaty.

4. Member states should:

- take every opportunity, according to their national circumstances, to exploit the limited margins of manoeuvre available as concerns budgetary policy;

- switch, to the extent possible, their public expenditure priorities towards infrastructure and other capital investment and growth-supporting expenditures which earn a worthwhile return;

- implement measures to encourage private investment, especially by small and medium sized enterprises (SMEs);
- act to improve further the efficiency of their economies, for example through action to reduce subsidies and measures to enhance competition and market flexibility;
- make efforts to achieve restraint in wage settlements within the public sector. The European Council noted that restraint on wage bills would help to control Government current spending, would contribute to much needed improvements in competitiveness and would help reduce unemployment.

Sound government finance coupled with low inflation and wage moderation will help to create the conditions for reductions in interest rates.

5. The European Council will keep economic prospects under close examination and will review the situation further at its next meeting. It invited the ECOFIN Council:

- to consider the relevant national actions in the framework of multilateral surveillance.
- to monitor the performance of national economies against their programmes for economic convergence.
- to identify measures to improve the functioning of the labour market.

6. The European Council believes that the effectiveness of these national actions will be strengthened by complementary and supportive action at the level of the Community. To this end the European Council invited:

- the Council and the European Investment Bank (EIB) in full consultation with the Commission to give urgent and sympathetic consideration to the establishment of a new, temporary lending facility of 5 becu within the EIB. The purpose of the new facility would be to accelerate the financing of capital infrastructure projects notably connected with Trans-European Networks. These networks may include projects involving the countries of Central and Eastern Europe to the extent that they are of mutual interest and ensure the interoperability of networks with the Community.

For projects financed by this facility the EIB Governors would be invited to raise the normal ceiling on the extent of loans from 50% to 75% and the combined (loans and grants) ceiling from 70% to 90%. Other EIB criteria for infrastructure should continue to be met as now.

The European Council recalled that it was reaffirmed in the Maastricht Protocol on Economic and Social Cohesion that the EIB should devote the majority of its resources to the promotion of economic and social cohesion and that its capital needs should be reviewed as soon as this was necessary for that purpose;

- the ECOFIN Council and the EIB to give urgent and sympathetic consideration to the establishment as quickly as possible of a European Investment Fund with 2 becu of capital contributed by the EIB, other financial institutions and the Commission in order to extend guarantees of 5 - 10 becu; in total this could support up to 20 Becu of projects;

- the Member States and the Commission to establish programmes to utilise the Community funds that the European Council has today agreed. The Cohesion Fund will contribute to projects in the fields of the environment and Trans-European Networks in the area of transport infrastructure in the Community's less prosperous countries. The Structural Funds will inter alia promote investment projects in infrastructure;

- the Commission to bring forward proposals for improving the management and efficiency of research funded by the Community to achieve better economic effectiveness. To this end the selectivity of actions should be increased, and it should be ensured that Community activities contribute the most value added possible to efforts already under way in the Member States.

The above actions could provide Community support for investment in the public and private sectors of the Member States amounting to more than 30 becu over the next few years.

7. The European Council reaffirmed its commitment at Birmingham to an early, comprehensive and balanced GATT agreement. It also welcomed the successful completion, in all essential respects of the Single Market and emphasised the importance of its effective operation, including in the area of state aids, and called upon Member States and the Commission to proceed accordingly. The European Council recognised the importance of increasing the level of understanding by business of Community rules, and welcomed the Commission's intention to achieve enhanced consultation with industry and clearer and simpler legislation.

8. Recognising the importance of SMEs for creating employment and stimulating growth, the European Council called upon the Council and the Commission to ensure that the burdens from Community legislation on small and medium-sized enterprises are reduced (including through the use of simplified schemes and exemption limits in the field of indirect taxation) and that full information about Community support is provided to SMEs. It asked the Commission to accelerate the actions in favour of SMEs which have proven their worth at the Community level.

9. The European Council reiterated its commitment to the European Monetary System as a key factor of economic stability and prosperity in Europe.

10. The European Council is convinced that the full implementation of this declaration will work to boost confidence, reinforce the fundamentals of economic growth and encourage the creation of new jobs. It invited the Commission to report, as appropriate, to the ECOFIN Council and other appropriate Councils on their implementation. It also called upon Member States to encourage further international cooperation to promote growth with countries outside the Community.

**DECLARATION ON PRINCIPLES OF GOVERNING
EXTERNAL ASPECTS OF MIGRATION POLICY**

- i) The European Council, meeting at Edinburgh, discussed the question of migratory pressures.
- ii) It noted with satisfaction that profound political changes now permit greater ease of travel and contacts throughout Europe.
- iii) It reaffirmed its intention to ensure that the Community and its Member States remain open to the outside world, not only through personal and cultural exchanges, but also through their commitment to a liberal trading system, by playing their full part in assisting the developing world, and by establishing a framework of political and economic relations with third countries and groups of third countries. In this, the European Council reaffirms the principles of its Declaration at Rhodes in December 1988.
- iv) The Member States of the European Communities reaffirmed their commitment to honour in full their obligations under the 1950 European Human Rights Convention, the 1951 Geneva Convention on the status of refugees and the 1967 New York Protocol.
- v) It was conscious of the particular pressures caused by the large movements of people fleeing from the conflict in the former Yugoslavia particularly given the harsh winter conditions.
- vi) It noted the pressures on Member States resulting from migratory movements, this being an issue of major concern for Member States, and one which is likely to continue into the next decade.
- vii) It recognized the danger that uncontrolled immigration could be destabilizing and that it should not make more difficult the integration of third country nationals who have legally taken up residence in the Member States.
- viii) It stressed the need to reinforce the fight against racism and xenophobia in line with the joint declaration adopted by the European Parliament, the Council and the Representatives of the Member States, meeting within the Council, and the Commission on 11 June 1986 and with the Declaration on racism and xenophobia adopted by the European Council in Maastricht.
- ix) It was convinced that a number of different factors were important for the reduction of migratory movements into the Member States: the preservation of peace and the termination of armed conflicts; full respect for human rights; the creation of democratic societies and adequate social conditions; a liberal trade policy, which should improve economic conditions in the countries of emigration. Co-ordination of action in the fields of foreign policy, economic co-operation and immigration and asylum policy by the

Community and its Member States could also contribute substantially to addressing the question of migratory movements. The Treaty on European Union, notably its Titles V and VI, once in force, will provide an adequate framework for this co-ordinated action.

- x) It took note of the declaration adopted on the occasion of the Development Council on 18 November 1992 on aspects of development co-operation policy in the run-up to 2000, including the recognition of the role which effective use of aid can make in reducing longer term migratory pressures through the encouragement of sustainable social and economic development.
- xi) It noted that, in line with the views of the United Nations High Commissioner for Refugees, displaced people should be encouraged to stay in the nearest safe areas to their homes, and that aid and assistance should be directed towards giving them the confidence and the means to do so, without prejudice to their temporary admission also in the territory of Member States in cases of particular need.
- xii) It welcomed the progress made by Ministers with responsibility for Immigration matters under the work programme endorsed at the Maastricht European Council, and in particular the adoption of recommendations on expulsion, resolutions on manifestly unfounded applications for asylum and on host third countries and conclusions on countries in which there is generally no serious risk of persecution ⁽¹⁾. It recognized the importance of such measures against the misuse of the right of asylum in order to safeguard the principle itself.
- xiii) It also welcomed the work on east-west migration of the Berlin and Vienna Groups, and encouraged the Berlin Group to prepare a draft resolution for agreement by Ministers.
- xiv) It resolved to take forward those more general migration-related issues set out in the Maastricht work programme that go wider than the direct responsibilities of the Ministers with responsibility for Immigration matters.
- xv) It recognized the importance of analyzing the causes of immigration pressure, and analyzing ways of removing the causes of migratory movements.

(1) The resolutions on manifestly unfounded applications for asylum and on host third countries and the conclusions on countries in which there is generally no serious risk of persecution have been accepted by Germany under the reservation of a modification of her fundamental law, and by Denmark and the Netherlands subject to a Parliamentary scrutiny reservation.

xvi) It agreed that the approach of the Community and its Member States, within their respective spheres of competence, should be guided and informed by the following set of principles :

- 1. they will continue to work for the preservation and restoration of peace, the full respect for human rights and the rule of law, so diminishing migratory pressures that result from war and oppressive and discriminatory government;
- 2. displaced people should be encouraged to stay in the nearest safe area to their homes, and aid and assistance should be directed towards giving them the confidence and the means to do so without prejudice to their temporary admission also in the territory of Member States in cases of particular need;
- 3. they will further encourage liberal trade and economic co-operation with countries of emigration, thereby promoting economic development and increasing prosperity in those countries, and so reducing economic motives for migration;
- 4. to the same end, they will ensure the appropriate volume of development aid is effectively used to encourage sustainable social and economic development, in particular to contribute to job creation and the alleviation of poverty in the countries of origin, so further contributing in the longer term to a reduction of migration pressure;
- 5. they will reinforce their common endeavours to combat illegal immigration;
- 6. where appropriate, they will work for bilateral or multilateral agreements with countries of origin or transit to ensure that illegal immigrants can be returned to their home countries, thus extending co-operation in this field to other States on the basis of good neighbourly relations;
- 7. in their relations with third countries, they will take into account those countries' practice in readmitting their own nationals when expelled from the territories of the Member States;
- 8. they will increase their co-operation in response to the particular challenge of persons fleeing from armed conflict and persecution in former Yugoslavia. They declare their intention to alleviate their plight by actions supported by the Community and its Member States directed at supplying accommodation and subsistence, including in principle the temporary admission of persons in particular need in accordance with national possibilities and in the context of a co-

ordinated action by all the Member States. They reaffirm their belief that the burden of financing relief activities should be shared more equitably by the international community;

- xvii) The European Council urges those Member States who have not already done so to ratify the Dublin Asylum Convention as part of their co-ordinated action in the field of asylum; it will then be possible to extend such arrangements under a convention parallel to the Dublin Convention, giving priority to neighbouring European countries where these arrangements could be mutually beneficial. The European Council calls for the necessary action to be taken so that the External Frontiers Convention can come into effect at an early date.
-

DECISION TAKEN BY COMMON AGREEMENT BETWEEN
THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES
ON THE LOCATION OF THE SEATS OF THE INSTITUTIONS AND
OF CERTAIN BODIES AND DEPARTMENTS OF THE EUROPEAN COMMUNITIES

The Representatives of the Governments of the Member States,

Having regard to Article 216 of the Treaty establishing the European Economic Community, Article 77 of the Treaty establishing the European Coal and Steel Community and Article 189 of the Treaty establishing the European Atomic Energy Community,

Recalling the Decision of 8 April 1965, and without prejudice to the provisions contained therein concerning the seat of future institutions, bodies and departments,

Hereby decide:

Article 1

- (a) The European Parliament shall have its seat in Strasbourg where the twelve periods of monthly plenary sessions, including the budget session, shall be held. The periods of additional plenary sessions shall be held in Brussels. The Committees of the European Parliament shall meet in Brussels. The General Secretariat of the European Parliament and its departments shall remain in Luxembourg.
- (b) The Council shall have its seat in Brussels. During the months of April, June and October, the Council shall hold its meetings in Luxembourg.
- (c) The Commission shall have its seat in Brussels. The departments listed in Articles 7, 8 and 9 of the Decision of 8 April 1965

shall be established in Luxembourg.

- (d) The Court of Justice and the Court of First Instance shall have their seats in Luxembourg.
- (e) The Economic and Social Committee shall have its seat in Brussels.
- (f) The Court of Auditors shall have its seat in Luxembourg.
- (g) The European Investment Bank shall have its seat in Luxembourg.

Article 2

The seat of other bodies and departments set up or to be set up will be decided by common agreement between the Representatives of the Governments of the Member States at a forthcoming European Council, taking account of the advantages of the above provisions to the Member States concerned, and giving appropriate priority to Member States who do not at present provide the sites for Community institutions.

Article 3

This Decision shall enter into force as of today.

PART B

DENMARK AND THE TREATY ON EUROPEAN UNION

The European Council recalled that the entry into force of the Treaty signed in Maastricht requires ratification by all the twelve Member States in accordance with their respective constitutional requirements, and reaffirmed the importance of concluding the process as soon as possible, without reopening the present text, as foreseen in Article R of the Treaty.

The European Council noted that Denmark has submitted to Member States on 30 October a document entitled "Denmark in Europe", which sets out the following points as being of particular importance:

- the defence policy dimension,
- the third stage of Economic and Monetary Union,
- citizenship of the Union,
- co-operation in the fields of justice and home affairs,
- openness and transparency in the Community's decision making process,
- the effective application of the principle of subsidiarity,
- promotion of cooperation between the Member States to combat unemployment.

Against this background, the European Council has agreed on the following set of arrangements, which are fully compatible with the Treaty, are designed to meet Danish concerns, and therefore apply exclusively to Denmark and not to other existing or acceding Member States:

- a) Decision concerning certain problems raised by Denmark on the Treaty on European Union (Annex 1). This Decision will take effect on the date of entry into force of the Treaty on European Union;
- b) The declarations in Annex 2.

The European Council has also taken cognizance of the unilateral declarations in Annex 3, which will be associated with the Danish act of ratification of the Treaty on European Union.

DECISION OF THE HEADS OF STATE AND GOVERNMENT, MEETING WITHIN THE
EUROPEAN COUNCIL, CONCERNING CERTAIN PROBLEMS RAISED BY DENMARK
ON THE TREATY ON EUROPEAN UNION

The Heads of State and Government, meeting within the European Council, whose Governments are signatories of the Treaty on European Union, which involves independent and sovereign States having freely decided, in accordance with the existing Treaties, to exercise in common some of their competences,

- . desiring to settle, in conformity with the Treaty on European Union, particular problems existing at the present time specifically for Denmark and raised in its Memorandum "Denmark in Europe" of 30 October 1992,
- . having regard to the conclusions of the Edinburgh European Council on subsidiarity and transparency,
- . noting the declarations of the Edinburgh European Council relating to Denmark,
- . taking cognizance of the unilateral declarations of Denmark made on the same occasion which will be associated with its act of ratification,
- . noting that Denmark does not intend to make use of the following provisions in such a way as to prevent closer cooperation and action among Member States compatible with the Treaty and within the framework of the Union and its objectives,

Have agreed on the following decision:

SECTION A
Citizenship

The provisions of Part Two of the Treaty establishing the European Community relating to citizenship of the Union give nationals of the Member States additional rights and protection as specified in that Part. They do not in any way take the place of national citizenship. The question whether an individual possesses the nationality of a Member State will be settled solely by reference to the national law of the Member State concerned.

SECTION B
Economic and Monetary Union

1. The Protocol on certain provisions relating to Denmark attached to the Treaty establishing the European Community gives Denmark the right to notify the Council of the European Communities of its position concerning participation in the third stage of Economic and Monetary Union. Denmark has given notification that it will not participate in the third stage. This notification will take effect upon the coming into effect of this decision.

2. As a consequence, Denmark will not participate in the single currency, will not be bound by the rules concerning economic policy which apply only to the Member States participating in the third stage of Economic and Monetary Union, and will retain its existing powers in the field of monetary policy according to its national laws and regulations, including powers of the National Bank of Denmark in the field of monetary policy.

3. Denmark will participate fully in the second stage of Economic and Monetary Union and will continue to participate in exchange-rate cooperation within the EMS.

SECTION C
Defence Policy

The Heads of State and Government note that, in response to the invitation from the Western European Union (WEU), Denmark has become an observer to that organisation. They also note that nothing in the Treaty on European Union commits Denmark to become a member of the WEU. Accordingly, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications, but will not prevent the development of closer cooperation between Member States in this area.

SECTION D
Justice and Home affairs

Denmark will participate fully in cooperation on Justice and Home Affairs on the basis of the provisions of title VI of the Treaty on European Union.

SECTION E
Final provisions

1. This decision will take effect on the date of entry into force of the Treaty on European Union; its duration shall be governed by Articles Q and N(2) of that Treaty.

2. At any time Denmark may, in accordance with its constitutional requirements, inform other Member States that it no longer wishes to avail itself of all or part of this decision. In that event, Denmark will apply in full all relevant measures then in force taken within the framework of the European Union.

DECLARATIONS OF THE EUROPEAN COUNCIL

DECLARATION ON SOCIAL POLICY, CONSUMERS, ENVIRONMENT, DISTRIBUTION OF INCOME

1. The Treaty on European Union does not prevent any Member State from maintaining or introducing more stringent protection measures compatible with the EC Treaty :
 - in the field of working conditions and in social policy (Article 118 A (3) of the EC Treaty and Article 2 (5) of the Agreement on social policy concluded between the Member States of the European Community with the exception of the United Kingdom);
 - in order to attain a high level of consumer protection (Article 129 A (3) of the EC Treaty);
 - in order to pursue the objectives of protection of the environment (Article 130 T of the EC Treaty).

2. The provisions introduced by the Treaty on European Union, including the provisions on Economic and Monetary Union, permit each Member State to pursue its own policy with regard to distribution of income and maintain or improve social welfare benefits.

DECLARATION ON DEFENCE

The European Council takes note that Denmark will renounce its right to exercise the Presidency of the Union in each case involving the elaboration and the implementation of decisions and actions of the Union which have defence implications. The normal rules for replacing the President, in the case of the President being indisposed, shall apply. These rules will also apply with regard to the representation of the Union in international organisations, international conferences and with third countries.

UNILATERAL DECLARATIONS OF DENMARK,
TO BE ASSOCIATED TO THE DANISH ACT
OF RATIFICATION OF THE TREATY ON EUROPEAN UNION
AND OF WHICH THE ELEVEN OTHER MEMBER STATES
WILL TAKE COGNIZANCE

DECLARATION ON CITIZENSHIP OF THE UNION

1. Citizenship of the Union is a political and legal concept which is entirely different from the concept of citizenship within the meaning of the Constitution of the Kingdom of Denmark and of the Danish legal system. Nothing in the Treaty on European Union implies or foresees an undertaking to create a citizenship of the Union in the sense of citizenship of a nation-state. The question of Denmark participating in any such development does, therefore, not arise.
2. Citizenship of the Union in no way in itself gives a national of another Member State the right to obtain Danish citizenship or any of the rights, duties, privileges or advantages that are inherent in Danish citizenship by virtue of Denmark's constitutional, legal and administrative rules. Denmark will fully respect all specific rights expressly provided for in the Treaty and applying to nationals of the Member States.
3. Nationals of the other Member States of the European Community enjoy in Denmark the right to vote and to stand as a candidate at municipal elections, foreseen in Article 8b of the European Community Treaty. Denmark intends to introduce legislation granting nationals of the other Member States the right to vote and to stand as a candidate for elections to the European Parliament in good time before the next elections in 1994. Denmark has no intention of accepting that the detailed arrangements foreseen in paragraphs 1 and 2 of this Article could lead to rules detracting from the rights already given in Denmark in that matter.

4. Without prejudice to the other provisions of the Treaty establishing the European Community, Article 8e requires the unanimity of all the Members of the Council of the European Communities, i.e. all Member States, for the adoption of any provision to strengthen or to add to the rights laid down in Part Two of the EC Treaty. Moreover, any unanimous decision of the Council, before coming into force, will have to be adopted in each Member State, in accordance with its constitutional requirements. In Denmark, such adoption will, in the case of a transfer of sovereignty, as defined in the Danish Constitution, require either a majority of 5/6 of Members of the Folketing or both a majority of the Members of the Folketing and a majority of voters in a referendum.

DECLARATION ON COOPERATION IN THE FIELDS OF JUSTICE AND HOME AFFAIRS

Article K 9 of the Treaty on European Union requires the unanimity of all the Members of the Council of the European Union, i.e. all Member States, to the adoption of any decision to apply Article 100 C of the Treaty establishing the European Community to action in areas referred to in Article K 1 (1) to (6). Moreover, any unanimous decision of the Council, before coming into force, will have to be adopted in each Member State, in accordance with its constitutional requirements. In Denmark, such adoption will, in the case of a transfer of sovereignty, as defined in the Danish Constitution, require either a majority of 5/6 of Members of the Folketing or both a majority of the Members of the Folketing and a majority of voters in a referendum.

FINAL DECLARATION

The Decision and Declarations above are a response to the result of the Danish referendum of 2 June 1992 on ratification of the Maastricht Treaty. As far as Denmark is concerned, the objectives of that Treaty in the four areas mentioned in sections A to D of the Decision are to be seen in the light of these documents, which are compatible with the Treaty and do not call its objectives into question.

PART C

FUTURE FINANCING OF THE COMMUNITY

DELORS II - PACKAGE

Taking account of:

- the need for the Community to have at its disposal adequate resources to finance its policies;
- the need to apply budget discipline to all areas of Community expenditure, which involves the definition of expenditure priorities;
- the contributive capacity of individual Member States;
- the need to reflect commitments made at Maastricht, and at Lisbon;

the European Council has reached the following conclusions on the financing of the Community for the period 1993-1999.

A. REVENUE

i. Own Resources Ceiling

The annual ceilings on own resources for appropriations for payments will be as follows and shall under no circumstances be exceeded:

						(% EC GNP)
<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
1.20	1.20	1.21	1.22	1.24	1.26	1.27

A precise ratio between commitment and payment appropriations shall be maintained to guarantee their compatibility and to enable the payments ceiling mentioned above to be observed.

The appropriations for commitments entered in the general budget of the Communities over the period 1993 to 1999 must therefore follow an orderly progression resulting in a total amount which does not exceed 1.32% of the total GNP of the Community in 1999.

ii. Structure of Own Resources

The structure of own resources defined in Article 2 of the 1988 Own Resources Decision will be modified as follows:

- a) the ceiling on the uniform rate specified in section 4(a) of Article 2 will be reduced from 1.4% to 1.0%, in equal steps over the period 1995-99.
- b) for countries with a per capita GNP of less than 90% of the Community average the assessment base for the third resource specified in section 1(c) of Article 2 will be limited to 50% of a Member State's GNP, rather than 55% as at present, as from 1995. This change will also be phased in, in equal steps, for the other Member States over the period 1995-1999.

The case for a fixed uniform rate for the VAT resource should be considered in the context of discussions on the new Own Resources Decision.

The European Council notes that some Member States wish the introduction of a fifth resource to be considered and asks the Commission to carry out a study of possible candidates. The Commission should report back to the Council on the result of its study by the end of the new Financial Perspective period ¹⁾.

1) The Commission has made clear the conditions which it believes should be met by any future fifth resource in its report on the system of Own Resources doc. no 5202/92.

iii. Correction of budgetary imbalances

The correction of the UK's budget imbalance will be calculated by applying the present formula in accordance with the principles and practices set out in the 1988 Own Resources Decision and accompanying working methods paper.

iv. Review

The European Council asks the Commission to bring forward a report on the operation of the Own Resources system no later than the end of the new Financial Perspective period.

v. New Own Resources Decision

The European Council asks the Commission to prepare a new Own Resources Decision incorporating these changes for the Council to approve and recommend to Member States for adoption by 1995 in accordance with the procedure set out in Article 201 of the Treaty. The ceilings applicable in 1999 will continue to apply until such time as the new Own Resources Decision is amended.

B. EXPENDITURE

i. Principles

The European Council reaffirms that the Community's expenditure should be such as to permit the financing at an appropriate level of its policies. It recalls its conviction that strengthened economic and social cohesion remains an essential dimension of the Community. It confirms its view that all Community expenditure should be subject to the principles of sound public finance and budgetary discipline.

Budgetary discipline is addressed in Annex 2.

To ensure value-for-money, thorough prior appraisal should precede the commitment of Community resources in order to ensure that they yield economic benefits in keeping with the resources deployed. All operations should be subject to periodic review.

The European Council considers that the Inter-Institutional Agreement of 1988-1992 was a positive development and hopes that the agreement can be re-established on terms ensuring strict budgetary discipline and a smooth passage of the annual budgetary discussions. It notes that the General Affairs Council of 7 December agreed on a Council common position on the main elements of the revised Inter-institutional Agreement. It calls upon the Council, on the basis of this common position,⁵ and subject to acceptable terms being attainable, to reach agreement with the Commission and European Parliament on a revised IIA.

In the European Council's view, the appropriate allocation of expenditure for the period 1993-1999 is as described below. The figures are also set out in the table in Annex 1.

ii. **Agriculture**

The growth rate and base level of the agricultural guideline as defined in Articles 1 and 2 of Decision 377/88 should remain unchanged.

The coverage of the agricultural guideline, as defined in Article 3 of Decision 377/88, should be extended as proposed by the Commission in doc. 5201/92 RAU 2.

The coverage of the guideline should be reviewed in 1996.

The Monetary Reserve should be reduced from 1000 mecu to 500 mecu from 1995, with a reduction in the franchise from 400 mecu to 200 mecu.

The European Council reaffirms the importance of sound budgetary discipline and financial control under the reformed CAP and calls upon the Commission and the Council to ensure that the budgetary costs are kept under control sector by sector.

The European Council notes that recent monetary movements will result in a significant increase in EAGGF Guarantee expenditure.

It agrees that the operation of the monetary reserve will be adjusted so that the costs resulting from monetary realignments between the Member States are taken into account wherever necessary.

In addition, it agrees that if, as a consequence of the increase, agricultural expenditure were to exceed the guideline and thus compromise the funding of the new Common Agricultural Policy as already approved, appropriate steps to increase the EAGGF Guarantee will be taken by the Council.

The Commission is invited to present proposals for a revised Budgetary Discipline Decision incorporating the above changes and those mentioned in Annex 2 on budget discipline as soon as possible.

iii. Structural actions

As part of the Community's task of strengthening economic and social cohesion, increased financing for structural actions shall be provided to complement the implementation of sound economic policies.

The total level of resources available to be committed on structural actions over the period 1993-1999 should be as follows:

(mecu - 1992 prices)						
<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
21277	21885	23480	24990	26526	28240	30000

These commitments represent cumulatively some 176 becu over the new Financial Perspective period compared to 67 becu for the Structural Funds over the existing Financial Perspective period. This represents on average around 25 becu a year from 1993 to 1999 compared to 13 becu a year from 1988 to 1992 (all figures in constant 1992 prices).

In the light of the Maastricht agreements, expenditure on Structural Actions should be concentrated on the least prosperous Member States, outmost regions and rural areas of the Community in accordance with Article 130A of the Maastricht Treaty. For the four Cohesion Fund Member States, the above figures will permit a doubling of commitments under Objective 1 and the Cohesion Fund between 1992 and 1999 after allowing for full Objective 1 treatment of the new German Länder and East Berlin. For the four Cohesion Fund Member States this means about 85 Becu over the period 1993-1999.

Cohesion Fund

A Cohesion Fund, as agreed at Maastricht, should be established in accordance with the text at Annex 3. The resources available to be committed should total 15150 Mecu, broken down as follows:

(mecu - 1992 prices)

<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>19</u>
1500	1750	2000	2250	2500	2550	26

For the period of the new Financial Perspective, the four countries with a GNP per capita below 90% of the Community average will be eligible for finance from the fund provided they have a programme leading to the fulfilment of the conditions of economic convergence set out in Article 104 C of the Treaty. They will remain able to draw on the fund for new projects or new stages of multi-stage projects provided that they meet the conditions set out in Annex 3 and that after a midterm review in 1996 they remain below the 90% figure mentioned above. The Fund will provide support for environmental projects and transport infrastructure projects on the terms described in Annex 3 and at a Community co-financing rate of between 80 and 85%.

Preparations for the Cohesion Fund in accordance with the Treaty as amended at Maastricht should be completed as quickly as possible. In addition the European Council invites the Commission to put forward, and the Council to adopt, before the 1st April 1993, a proposal for an interim instrument based on Article 235 of the present Treaty permitting financial support to Ireland, Greece, Portugal and Spain in the areas to be covered by the new Cohesion Fund.

Structural Funds

The resources available to be committed under the structural funds and other structural operations should be as follows:

(mecu - 1992 prices)						
<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
19777	20135	21480	22740	24026	25690	27400

In allocating these resources, the following guidelines should be observed:

- a) The resources available to be committed under Objective 1 should be:

(mecu - 1992 prices)						
<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
12328	13220	14300	15330	16396	17820	19280

- b) Commitments under Objectives 2, 3/4 and 5b should broadly maintain their present proportions, relative to each other, throughout the period of the new financial perspective. Commitments under Objective 5a, outside Objective 1 and 5b regions, should not increase in real terms. Appropriate attention should be given to the needs of areas dependent on fishing, within the relevant objectives.

- c) The allocation for Community initiatives should be between 5 and 10% of total resources committed under the structural funds. They should mainly promote cross-border, transnational and inter-regional co-operation and assistance for the outermost regions, in accordance with the principle of subsidiarity.
- d) Full account should be taken, as now, of national prosperity, regional prosperity, population of the regions, and the relative severity of structural problems, including the level of unemployment and, for the appropriate objectives, the needs of rural development. Transparent procedures with objective criteria on the above basis will be laid down in the Structural Funds implementing regulation. These criteria will be appropriately weighted in the allocation of resources. Greater account will be taken of national prosperity in deciding on Community co-financing rates.
- e) The basic principles laid down in 1988 (concentration, programming, partnership and additionality) should continue to guide the implementation of the Structural Funds. Decision making procedures and their transparency should be improved. Administrative procedures should be simplified. Financial control will be strengthened and greater emphasis will be given to ex ante appraisal, monitoring and ex post evaluation. Assistance will be allocated where appraisal shows medium term economic and social benefits commensurate with the resources deployed. Operations should be adjusted to accord with the results of monitoring and evaluation.

- f) The coverage of Objective 1 should be determined as in Article 8 (1) of Regulation (EEC) 2052/88. The list will include the new German Länder and East Berlin which will be treated on a basis of equality with other such regions from 1 January 1994.

The European Council invites the Commission to table as soon as possible proposals to revise the Structural Funds regulations.

The European Council requests the Commission in its first report on economic and social cohesion under Article 130b of the Treaty to consider how the operation of the structural funds can best be coordinated with the process of economic convergence.

The European Council attaches great importance to the supplementary role of loan funding in furthering the Community's cohesion objectives and recognizes the important continuing role of the EIB. To increase available loan finance, in addition to the Community budget financing on which it has now agreed, it calls on the Council and the Commission to take the appropriate steps to implement the arrangements outlined in Annex 4.

iv. Internal policies

The level of commitments for the Community's internal policies covered by category three of the proposed financial perspective should not exceed: (mecu - 1992 prices)

<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
3940	4084	4323	4520	4710	4910	5100

The distribution of resources between the Community's various internal policies should be decided in the annual budget procedure, but respecting amounts fixed in Community legislation.

The development of expenditure on R&D should be consistent with the overall development of expenditure on internal policies under category 3 of the proposed Financial Perspective, remaining between one half and two thirds of the overall figure.

Community support for R&D should continue to focus on generic, precompetitive research and be of multisectoral application. EUREKA should remain the principal vehicle for supporting research activities which are nearer to the market and the Commission should bring forward proposals to improve the synergy between the Community's research activities and EUREKA. Improving the dissemination of results amongst enterprises, particularly small and medium-sized businesses, cost-effectiveness and coordination between national programmes should be priorities for Community action.

These conclusions should be reflected in the consideration and adoption of the 4th Framework Programme.

In determining annual expenditure, the resources for Trans-European networks should reflect the emphasis given by the Treaty.

v. External policies

The level of commitments for external policies should not exceed:

(mecu - 1992 prices)						
<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
4450	4500	4880	5160	5430	5780	6200

The European Council takes the view that, bearing in mind the Community's changing priorities, an appropriate balance should be maintained in the geographical distribution of the Community's commitments.

Within this total there will be two reserves inscribed within a separate category of the Financial Perspective:

- a) a reserve to provide flexibility to respond rapidly to needs for emergency aid of a non-recurring kind in third countries related to events not foreseeable during the budgetary procedure. The provision should not exceed:

(mecu - 1992 prices)						
<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
200	200	300	300	300	300	300

The Commission will monitor carefully use of the reserve and inform the Council and Parliament of the impact of any proposal on the margin remaining in the reserve.

- b) a reserve to provide for financing a loan guarantee fund.
The provision should not exceed:

(mecu - 1992 prices)

<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
300	300	300	300	300	300	300

Access to these reserves, and the operation of the loan guarantee fund, should follow the principles set out in Annex 5 and in the new IIA.

vi. Administration

The administrative resources available to the Community institutions should not exceed:

(mecu - 1992 prices)

<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
3280	3380	3580	3690	3800	3850	3900

The principles of budget discipline should apply equally to all institutions.

C. 1993 BUDGET

The European Council invites the Presidency to seek to reach agreement on the 1993 budget on a basis consistent with its conclusions.

FINANCIAL PERSPECTIVE TABLE

FINANCIAL PERSPECTIVE TABLE

Appropriations for commitments
(million ECU - 1992 prices)

	1993	1994	1995	1996	1997	1998	1999
1. Agricultural guideline	35230	35095	35722	36364	37023	37697	38389
2. Structural actions	21277	21885	23480	24990	26526	28240	30000
- Cohesion Fund	1500	1750	2000	2250	2500	2550	2600
- Structural Funds and other operations	19777	20135	21480	22740	24026	25690	27400
3. Internal policies	3940	4084	4323	4520	4710	4910	5100
4. External action	3950	4000	4280	4580	4830	5180	5600
5. Administrative expenditure	3280	3380	3580	3690	3800	3850	3900
6. Reserves	1500	1500	1100	1100	1100	1100	1100
- Monetary Reserve	1000	1000	500	500	500	500	500
- External Action							
- emergency aid	200	200	300	300	300	300	300
- loan guarantees	300	300	300	300	300	300	300
Total appropriations for commitments	69177	69944	72485	75224	77989	80977	84089
Appropriations for payments required	65908	67036	69150	71290	74491	77249	80114
Appropriations for payments (% GNP)	1.20	1.19	1.20	1.21	1.23	1.25	1.26
Margin for unforeseen expenditure (% GNP)		0.01	0.01	0.01	0.01	0.01	0.01
Own Resources Ceiling (% GNP)	1.20	1.20	1.21	1.22	1.24	1.26	1.27

p.m. Total external expenditure	1993	1994	1995	1996	1997	1998	1999
	4450	4500	4880	5160	5430	5780	6200

p.m. The inflation rate applicable for the budget is 4.3%.

BUDGET DISCIPLINE

BUDGET DISCIPLINE

1. The European Council reaffirms that budget discipline has a central role to play in ensuring that the Community's finances remain in good shape. Budget discipline is important in all policies to ensure a sustainable relationship between commitments, payments and available own resources.
2. In many cases, assistance from the Community budget is mainly intended as a stimulus and an incentive in support of regulations or coordination measures. Such operations must therefore be only temporary or, at least, subject to periodical review of their justification in terms of subsidiarity.
3. The European Council especially welcomes the Commission's intention to review periodically, in particular within the framework of the annual budget procedure, the justification of ongoing actions.
4. The budgetary discipline applicable to all expenditure other than EAGGF Guarantee expenditure shall be ensured on the basis of the arrangements contained in the Inter-institutional Agreement and the Financial Regulation. Legislative decisions of the Council which have expenditure implications must be consistent with the Financial Perspective that forms part of the Inter-institutional Agreement (These points will require an amendment to articles 14 and 15 of the Budget Discipline Decision).

5. Given the size of the agricultural budget, the effective control of agricultural production and expenditure within the guideline is particularly important. This will continue to be underpinned by the operation of stabilizers. In this respect the European Council notes that the recent agreement on CAP reform involves increasing use of payments direct to producers, and that revised stabilizers have been included in the reformed regimes to control expenditure on such payments. It asks the Commission to ensure that effective stabilizers are applied to all the main commodities and are included in all further proposals for the reform of these CAP sectors."
6. The European Council attaches importance to ensuring that expenditure is kept in line with the annual EAGGF Guarantee provision. If, for an individual chapter, expenditure is exceeding the profile in its early warning reports, the Commission should analyze the reasons for this and the risk that the budget provision will be exceeded by the end of the year. If the Commission concludes that such risk exists, it should use the management powers at its disposal, including those which it has under the stabilizing measures, to remedy the situation. If these measures are insufficient, the Commission should present proposals to the Council for appropriate action to control expenditure, which may include strengthening the stabilizers in the relevant sector. The Council should act within a period of two months to bring expenditure back into line with the provision for the budget chapter concerned if possible by the end of the year in question. (These points will require an amendment to article 6 of the Budget Discipline Decision.)
7. All Commission proposals for legislation involving costs to be covered by the agricultural guideline shall be consistent with the limits laid down by that guideline (to replace Article 5 (1) of the present Decision).
8. Any Member State should be entitled to ask the Commission to make an assessment of the financial implications of any change to a Commission proposal suggested in the course of Council discussion. The Commission shall produce this assessment before a decision is taken on the amended proposal. Appropriate procedures should be included in the revised Budgetary Discipline Decision (as an addition to article 5).

1) New stabilizers, included in the recent agreement on CAP reform, cover: Cereals, oilseeds, protein plants, dried fodder, tobacco, beefmeat, sheepmeat and goat meat. Stabilizers also operate in the following regimes: Sugar, olive oil, cotton, wine, fruit and vegetables, milk.

9. The European Council welcomes the Commission suggestion that transfers from the Monetary Reserve to the EAGGF Guarantee budget should not be made where it is clear that the budget will have adequate provision for the year without the transfer. As for irregularities, and where there are significant problems over data supplied by Member States, it notes that the Commission will bring forward a proposal on the possibility of temporarily reducing or suspending monthly advances to Member States.
-

COHESION FUND

On the basis of its examination of the Commission's proposal the European Council takes the view that the following main elements should be included in the Cohesion Fund Regulation:

Duration and amount

1. The Regulation should fix the financial allocation for the Fund for the period of the new Financial Perspective, including an annual breakdown. There should be a provision for a review of the Regulation before the end of the new Financial Perspective period.

Member State eligibility

2. The Fund shall provide financial contributions to projects as defined in paragraph 4 below in Member States with a per capita GNP of less than 90% of the Community average measured according to purchasing power parities which have a programme leading to the fulfilment of the conditions of economic convergence as set out in Article 104 C of the Maastricht Treaty.
3. Only the four Member States currently meeting the first criterion above will be eligible for the Fund. There will be a review in 1996; any eligible Member State having then risen above the 90% figure will cease to be eligible. There will be a further review of eligibility at the end of the Financial Perspective period.

Project eligibility

4. The Fund may provide financial support for:
 - environmental projects contributing to the achievement of the objectives of Article 130 R of the Treaty, including projects resulting from measures adopted pursuant to Article 130 S of the Treaty;
 - transport infrastructure projects of common interest financed by Member States, which are identified in the framework of the guidelines referred to Article 129 C. However other transport infrastructure projects contributing to the achievement of the objectives of Article 129 B of the Treaty may be financed until the appropriate guidelines have been adopted by the Council.

Allocation between Member States

5. The indicative allocation will be based on precise and objective criteria, principally population, GNP per capita, surface area, but taking account of other socio-economic factors, such as deficiency in transport infrastructure. Application of these criteria might lead to the following indicative allocation: for Spain 52-58% of the total; for Greece 16-20%; for Portugal 16-20%; for Ireland 7-10%.

Macro-economic conditionality

6. If
- a) the Council decides under Article 104 C.6 that a Member State has an excessive deficit;
- and
- b) that decision is not abrogated under Article 104 C.12 within one year or any other period specified for correcting the deficit under a recommendation under Article 104 C.7

then no new projects - or in the case of large, multistage projects, no new stages of the project - will be financed from the Fund for that Member State. Exceptionally, in the case of projects directly affecting more than one Member State, the Council may decide to delay suspension. Suspension of financing will not take effect before two years have passed after the entry into force of the Maastricht Treaty. Suspension will cease once the Council has decided under Article 104 C.12 to abrogate its decision under Article 104 C.6.

Non-substitution

7. In the light of an undertaking by the four Member States not to decrease their investment efforts in the fields of environmental protection and transport infrastructure, additionality in the sense of Article 9 of Council Regulation 4253/88 will not apply to the Cohesion Fund.

EC co-financing rate

8. The Community co-financing rate for the Fund should be between 80% and 85%.

Cumulation and overlapping

9. No item of expenditure may receive support from both the Cohesion Fund and the Structural Funds. Combined support from the Cohesion Fund and other Community grants should not exceed 90% of total expenditure.

Other

10. The implementing provisions concerning project approval will be set out in the basic regulation.

The following criteria will be employed to ensure that projects are of high quality:

- their medium term economic and social benefits, which shall be commensurate with the resources deployed; these will be assessed in the light of an analysis of costs and benefits;
 - the priorities established by the beneficiary Member States;
 - the contribution which projects can make to the implementation of Community policies on the environment and transeuropean networks;
 - the compatibility of projects with Community policies and their consistency with other Community structural measures;
 - the achievement of an appropriate balance between the two fields of action.
11. The basic rules concerning financial provisions, financial control, monitoring and evaluation, and information and publicity will be set out in the basic regulation in the light of the Commission's proposal.

12. Implementing provisions will be adopted by the Council acting by qualified majority on a proposal from the Commission.

The Commission will table draft texts before the end of 1992 in order to ensure simultaneous adoption with the basic regulation.

The implementing regulation will specify arrangements for financial provisions, financial control, monitoring and evaluation. These arrangements will draw on the experience gained in implementing the existing Structural Funds and will be in line with those to be proposed in the context of the revision of the Structural Funds regulations, subject to the characteristics of the Cohesion Fund (projects as opposed to programmes).

The Commission will, where appropriate, invite the EIB to contribute to the assessment of projects.

Payment instalments after an initial advance should be closely linked in a transparent manner with progress towards the completion of projects.

13. The procedure for implementing the provisions in paragraphs 10-12 above will be as in Article 10 of the Commission's draft Council regulation in document COM(92) 339 final.

STRUCTURAL ACTION:

USE OF LOANS

1. The European Council notes that the financing of projects and programmes by loans raised on the capital markets and other market-based means can play an important additional role in ensuring that the strengthening of the Community's economic and social cohesion takes place on an economically sound basis. It calls on the Commission and the European Investment Bank to play a full part in mobilizing financial resources to that end.

2. The European Council recalls that the Maastricht Protocol on Cohesion "reaffirms that the EIB should devote the majority of its resources to cohesion". The European Council
 - recognizes the scale of the effort which the EIB is already making in this area;
 - requests the EIB to achieve, subject to the requirements of the Treaty and its Statute, a further expansion of lending in the Member States benefiting from the cohesion fund and in Objective 1 Regions of the Community;
 - requests the EIB to consider, together with the Council and the Commission, how it can contribute, with Member States, to the improved operation of the structural funds and the cohesion fund.

3. The European Council notes that the Netherlands' government has suggested a further separate loan instrument.

**BUDGETARY TREATMENT
OF LOAN GUARANTEES
TO NON-MEMBER STATES**

The European Council welcomes the conclusions of the 19 October ECO/FIN Council as follows:

1. In the context of its discussions on the Delors II package on 19 October 1992, the Council considered the question of the budgetary treatment of Community loan guarantees to non-member states.
2. The Council noted that the Community's growing international responsibilities have led to an increase in the level and scope of lending to non-member states, backed by guarantees on the EC budget. It concluded that considerations of prudent budgetary management and financial discipline call for the establishment of a new financial framework, including an appropriate form of provisioning.
3. The Council accordingly agreed that a Guarantee Fund should be established, to be financed by a reserve in the budget and the Financial Perspective on the model of the monetary reserve.
4. The Council also agreed on the following detailed elements of the Fund and reserve:

FUND

- (a) The target size of the Fund should be 10% of the outstanding liability of the Community arising from external loans and guarantees;

- (b) Each time the Community decides on a new external loan or guarantee, a provisioning payment of 14 % of the capital value of the loan or guarantee would be made into the Guarantee Fund. This provisioning rate will be reviewed when the Fund reaches its target size and in any case no later than the end of the Financial Perspectives period;
- (c) In the event of a default, payments would be made directly from the Fund to the creditor. If the Fund did not contain sufficient resources to cover a default, additional payments would be called up from the budget, with any margin remaining in the reserve being the first recourse; any margin available under the ceiling of Category 4 of the Financial Perspective or redeployment within Category 4, the second recourse; a revision of the Financial Perspective in line with the provisions of the Inter-institutional Agreement, which might involve redeployment within other categories, the third recourse;
- (d) If, after default, resources in the Fund stood at below a threshold of 75 % of its target size, the provisioning rate on new loans would be increased to 15 %: either until the target size had once more been reached; or, if the default occurred before the target size had been reached, until the amount of the default had been fully restored. Additionally, in the event of one or more major defaults after which the Fund stood at below 50 % of its target size, exceptional measures might be required to replenish the Fund ;
- (e) If the Fund exceeded its target size, any surplus would be returned to the Member States;
- (f) The Fund should be managed separately from the Budget. It remained for consideration whether the managers should be the Commission, the EIB or another body.

RESERVE

- (g) A reserve should be established within the Community budget and the Financial Perspective, along the lines of the monetary reserve, to finance the Fund;
 - (h) Resources could not be called up from Member States until payments were required to be made into the Fund;
 - (i) In the Council's view, such payments should be classified as compulsory expenditure.
-

PART D

EXTERNAL RELATIONS

1. The European Council adopted the attached Declarations on the former Yugoslavia, the treatment of Muslim women in the former Yugoslavia, Russia and the Commonwealth of Independent States, and the Middle East Peace Process.

Former Yugoslav Republic of Macedonia

2. The European Council examined its policy on recognition of the former Yugoslav Republic of Macedonia in the context of the Lisbon Declaration and in the light of the report by the Presidency's Special Representative. It invites Foreign Ministers to remain seized of this question.

3. The European Council welcomes United Nations Security Council Resolution 795 authorising the United Nations Secretary General to establish an UNPROFOR presence in the Republic.

4. The European Council recalls its Declaration at Birmingham on the need to prevent this Republic from bearing the unintended consequences of UN sanctions. In this context the European Council underlines the importance of providing access to funding from the international financial institutions and of the regular and properly monitored supply of oil.

5. The European Council agrees that in addition the Community should make available to the former Yugoslav Republic of Macedonia a substantial package of economic assistance. It welcomed the intention of the Commission to earmark 50 mecu of humanitarian and technical assistance to the former Yugoslav Republic of Macedonia. Member States also agree to provide a matching amount from their own resources.

Turkey, Cyprus and Malta

6. The European Council welcomed the positive results of the Association Councils held this year with Malta and Turkey, and looked forward to the forthcoming Association Council with Cyprus. It invited the Council to continue developing appropriate and specific

links with these countries along the lines set out in Lisbon.

Central and Eastern Europe

7. The European Council welcomed the Commission's report "Towards a new association with the countries of Central and Eastern Europe". It saw this as a positive response to the commitment of the Lisbon European Council to develop the Community's partnership with these countries within the framework of the Europe Agreements and to the proposals in a Memorandum from the Visegrad countries.

8. The European Council regards the Europe Agreements as the means by which the Community intends to support and encourage political stability and economic growth in Central and Eastern Europe. It believes that they must be implemented speedily and in full in order to strengthen the Associate countries' links with the Community. It welcomed the intensified political dialogue which has been established with the Visegrad countries at Ministerial and Head of Government level, and called for this to be further extended.

9. The European Council called on the Council of Ministers to give early consideration to the Commission's recommendations and to promote a wide ranging debate, involving interested parties in the Community and in these countries. The European Council at its meeting in Copenhagen will reach decisions on the various components of the Commission's report in order to prepare the Associate countries for accession to the Union.

Former Soviet Union

10. The European Council welcomes the start of negotiations with Russia on a Partnership and Cooperation Agreement, and looks forward to swift progress in negotiations with the other states. These Agreements will help the development of democracy and respect for human rights in all states of the former Soviet Union. The European Council recalls that the EC's 1.25 becu humanitarian loan to the states of the former Soviet Union is being used to purchase food and medical products, and expects that this will be sufficient to meet needs given the improved harvest in 1992.

11. The European Council hopes that it will be possible to reach early agreement on a realistic and generous rescheduling of the external debt of the former Soviet Union within the framework of the Paris Club. The European Council also looks forward to early agreement between Russia and the IMF which would allow access to substantial resources from the IFIs and other sources.

Nuclear Safety in Central and Eastern Europe and the former Soviet Union

12. The European Council welcomes the conclusions of the Council of Ministers on 7 December on nuclear safety in Central and Eastern Europe and the former Soviet Union. The Community will coordinate its efforts with other donors, and give the highest priority to implementing the measures identified by the Munich Economic Summit and adopted by the G24.

The PHARE Programme

13. The European Council welcomes the more flexible operational guidelines agreed for the PHARE programme of technical assistance, the Commission's intention to extend its cooperation with the European Bank for Reconstruction and Development.

European Energy Charter

14. The European Council reiterates its support for an early successful outcome to the negotiations on the Basic Agreement of European Energy Charter.

Iran

15. Given Iran's importance in the region, the European Council reaffirms its belief that a dialogue should be maintained with the Iranian Government. This should be a critical dialogue which reflects concern about Iranian behaviour and calls for improvement in a number of areas, particularly human rights, the death sentence pronounced by a Fatwa of Ayatollah Khomeini against the author Salman Rushdie, which is contrary to international law, and terrorism. Improvement in these areas will be important in determining the extent to which closer relations and confidence can be developed.

16. The European Council accepts the right of countries to acquire the means to defend themselves, but is concerned that Iran's procurement should not pose a threat to regional stability.

17. In view of the fundamental importance of the Middle East Peace Process, the European Council also expresses the wish that Iran take a constructive approach here.

Africa

18. The European Council confirms its commitment to improve conditions of life in Africa. During the last six months the Community and its member States have provided substantial food, medical and other humanitarian assistance to help overcome the disasters of drought and famine. In those countries most affected, they have provided up to half of the total aid.

19. The Community and its member States have also been closely involved in efforts to end conflicts. Individually and jointly, they have supported United Nations activities to end the civil war in Liberia and have made significant political efforts to encourage the implementation of the peace agreements in Angola and Mozambique. In Angola the European Council urges both sides, particularly UNITA, to abide by the peace agreement, respect the ceasefire, proceed with demobilisation and with the formation of the new unified armed forces. It calls upon UNITA to accept unequivocally the results of the 29/30 September elections and encourages the Government to continue the democratic process with a view to the reconciliation of the people of Angola.

20. The Community and its member States fully support UNSCR 794 authorising UN member States to use all necessary means to provide a secure environment for humanitarian relief operations in Somalia. The European Council welcomes the humanitarian efforts of the Community and its member States and the contributions of a number of member States to the UN force. It hopes that the implementation of UNSCR 794 will encourage national reconciliation and promote a lasting political settlement. It attaches particular importance to ensuring the safety of the personnel involved in the relief effort.

21. In South Africa the European Council notes that the prospects for a resumption of negotiations have improved. It urges the parties to proceed soon to a transitional government and fully democratic elections. The Community and its member States hope that the presence of EC observers and the provision of development aid will help to put an end to all types of violence and assist a peaceful transition.

22. The European Council notes with concern reports from Kinshasa that President Mobutu has dismissed the government and suspended the implementation of the democratic reforms decided by the National Sovereign Conference of Zaire. The European Council reaffirms the importance it attaches to the democratic process in Zaire, condemns any interference with this process and underlines its support for the present government appointed by the National Conference.

23. The European Council recalls that the Community and its member States have had cause to express concern in recent months about the human rights situation in a number of African countries. It is nevertheless encouraged by the continuing efforts being made in many countries to apply the principles of democracy, good government, human rights and to implement sound economic policies. The Community and its member States will continue to support these efforts.

El Salvador

24. The European Council notes with satisfaction the progress reached so far in the fulfilment of the Peace Agreement signed on 16 January 1992 between the Government of El Salvador and the Farabundo Marti National Liberation Front. It also welcomes the adjustment to the implementation programme, as proposed by the UN Secretary General. It hopes that these positive developments will ensure national reconciliation thus putting an end to the armed conflict on 15 December.

25. The European Council calls upon both parties to show flexibility in order to allow the fulfilment of the remaining commitments and reaffirms the determination of the European Community and its member States to maintain their contribution to the national reconstruction of El Salvador.

CFSP: preparatory work on security

26. The European Council notes the preparatory work already done by Foreign Ministers on security in connection with the mandate from the Lisbon European Council and invites them to continue their work with a view to defining the necessary basic elements for a policy of the Union by the date of entry into force of the Treaty.

DECLARATION ON THE FORMER YUGOSLAVIA

ANNEX D.1

1. The tragedy in former Yugoslavia constitutes a serious threat to peace and stability in the region. It has created immense and unacceptable human suffering. The European Council fully supports the unstinting efforts of Lord Owen and Mr Vance, under the International Conference on the former Yugoslavia, to promote a cessation of hostilities and negotiations for a peaceful settlement. Despite these efforts, the parties have failed to implement many of the agreements reached at the London Conference. No real will for peace has been demonstrated.

2. The primary responsibility for the conflict, and its brutality, lies with the present leadership of Serbia and of the Bosnian Serbs. The principal victims of actions by all parties have been the Muslim population of Bosnia-Herzegovina. In defiance of UN Security Council Resolutions, the Serb forces in Bosnia-Herzegovina have undertaken a savage campaign of military aggression, ethnic cleansing and the persecution and torture of civilians. The renewed attacks in Sarajevo are clearly part of a systematic campaign to seize territory and cities. Those responsible for all these crimes against humanitarian law by the different sides will be held personally accountable and brought to justice. The Serbian authorities in Belgrade bear an equal responsibility for fomenting the conflict and for failing to use their undoubted influence and resources to restrain it. The European Council calls on the Croatian authorities for their part to comply with all UN Security Council resolutions and to cooperate in good faith with the peace process, since they too carry a share of the responsibility for attacks on the Muslim population.

3. The European Council reiterates that the international community will not accept the acquisition of territory by force. Nor will it accept the partition of Bosnia-Herzegovina. The European Council strongly supports the efforts of the Co-Chairmen to arrive at a constitutional settlement based on the proposals made by Ambassador Ahtisaari and on a mutual recognition of the multi-ethnic character

of Bosnia-Herzegovina. The right of existence of the different communities of Bosnia-Herzegovina should be respected and guaranteed.

4. The Serbian nation faces a clear and imminent choice. If there is a radical change of policy and genuine cooperation in the peace process, Serbia will be gradually readmitted to the international community. The European Council supports the efforts of those political forces who are trying to bring Serbia back from the brink. If, on the other hand, the Belgrade regime continues its present policies, the international community will take sterner action, including tightening and extending existing sanctions and preventing Serb participation in any international body, which will totally isolate Serbia for a long time to come. The European Community and its member States will send observers to the forthcoming elections under the auspices of the CSCE. They will draw the appropriate conclusions if the present authorities do not follow fair and just procedures.

5. The European Council pays tribute to the courage and steadfastness of the forces in UNPROFOR and the airlift, and of the ECMM, UNHCR, ICRC and the other organisations engaged in the dangerous task of relief provision. It endorses the measures to implement the commitments at the Birmingham European Council. It calls upon all parties to allow the safe passage of humanitarian convoys. More action is needed to provide protection to the civilian population through the development of safe areas and by providing refuge in the member States for particularly vulnerable categories of refugees. The Community and its member States will continue to respond generously to the urgent humanitarian requirements. The European Council reaffirms its support for UNSCR 787 which provides for the necessary measures, including military, to be taken to ensure the safe delivery of humanitarian assistance.

6. The European Council fully supports the action taken in the Adriatic by WEU and NATO to enforce UN sanctions and the arms embargo. The Community and its member States will take further steps to assist in tightening sanctions on the Danube and urge the

riparian states to play their full part. The European Council calls for the rapid despatch of observers to the border between Serbia and Bosnia-Herzegovina. In view of the many violations of UNSCR 786, the European Council believes the UN Security Council should examine the situation in the light of operative paragraph 6 of that Resolution.

7. The autonomy of Kosovo within Serbia must be restored. The Serbian authorities must exercise restraint and the human rights of the inhabitants of Kosovo must be respected. The European Council is in favour of a UN presence in Kosovo. The European Council also reiterates its call upon the Albanian government to continue to show the necessary restraint.

8. The European Council welcomes the decision by the Co-Chairmen to hold a meeting at Ministerial level of the Steering Committee of the International Conference on 16 December. The meeting should discuss the series of measures necessary in support of the Co-Chairmen to intensify pressure on the parties to end the bloodshed and to negotiate seriously on a Bosnian constitution.

9. The European Council, which brings together the Heads of State or Government of countries which are profoundly peace-loving, will continue to give priority to political means in order to resolve the crisis in Yugoslavia. But given the gravity of this tragic situation, it has no choice but to promote and participate in further initiatives which the international community may be obliged to undertake.

**DECLARATION ON THE TREATMENT OF MUSLIM WOMEN IN THE FORMER
YUGOSLAVIA**

The European Council is appalled by the systematic detention and rape of Muslim women. It strongly condemns these acts of unspeakable brutality, which form part of a deliberate strategy to terrorise the Muslim community in Bosnia-Herzegovina, in order to achieve the purpose of ethnic cleansing. Those responsible for these crimes against humanity will be held personally accountable and brought to justice.

The European Council demands that all detention camps and in particular camps for women should be immediately closed. Free and secure access must be given to humanitarian organisations so that all those detained in the camps can be assisted.

The Community and its member States will consider favourably what further help could be given to the victims.

The European Council has decided on the rapid despatch of a delegation of all member States, headed by Dame Anne Warburton, to investigate in all areas on behalf of the Community and its member States the facts received until now and to report urgently to the Foreign Ministers. This delegation must be allowed free and secure access to the places of detention in question. The European Council calls upon the UN to adopt measures to support this mission.

DECLARATION ON RUSSIA AND THE COMMONWEALTH OF INDEPENDENT STATES

One year after the dissolution of the Soviet Union, the European Council renews its commitment to help the transition from Communism to democracy.

The peoples of the European Community are building new friendships with the peoples of Russia and of the CIS. Our goal is the full integration of these States into the world's political and economic systems. We are seeking to forge new and equal partnerships, based on respect for sovereignty; shared values of freedom, democracy, civil and political rights and social well-being; and market-oriented economies and free enterprise.

Substantial progress has been made in only one year, despite the inevitable difficulties. The Russian Government, under the authority of President Yeltsin, has brought in practical reform measures of historic significance. We strongly support the process of transformation now under way aimed at a free, united and prosperous Russia.

Cooperation between the Community and its member States and countries of the CIS is developing rapidly. It is extending into unprecedented areas. Joint business ventures and new political relationships have been created. Friendly exchanges have been initiated at various levels. We are making joint efforts to handle international crises.

We pledge ourselves to build on this cooperation. We shall continue to give the strongest possible support to those striving for democracy. We shall seek to develop trade, investment and technical cooperation. We are acutely conscious of the many problems of national minorities, and shall work closely with those who seek to pre-empt confrontation and to find peaceful solutions where conflict has broken out.

The European Council sees partnership with members of the Commonwealth of Independent States as a long-term commitment to bring our peoples closer together over the next generation.

ANNEX D.4

DECLARATION ON THE MIDDLE EAST PEACE PROCESS

The European Council reiterates its full support for the Middle East Peace Process in both its bilateral and multilateral aspects, and the role of the co-sponsors. It welcomes the commitment to the process of the incoming administration in the United States. The European Community will continue to play an active and constructive part in the process in accordance with its positions of principle on the basis for a just, lasting and comprehensive settlement.

The European Council is convinced that such a settlement is in the interests of Israel and its neighbours, of the Palestinians, and the Middle East region as a whole. The current peace process represents a great opportunity which must be seized if dangers to the stability of the region are to be avoided. The European Council calls on all parties concerned to press ahead with the negotiations constructively.

The European Council stresses the importance of assuring respect for human rights and of implementing confidence-building measures as a means of increasing the level of trust between the parties and taking the negotiations forward.