

Fusionstraktaten (Engelsk)

- Traktat om oprettelse af et fælles Råd og en fælles Kommission for De Europæiske Fælleskaber

Traktat underskrevet:

8. april 1965

Traktat i kraft:

1. juli 1967

Teksten stammer fra:

Teksten er taget fra publikationen "Treaties establishing the European Communities, Treaties amending these Treaties, Documents concerning the Accession, 1978"

Udgivet af Kontoret for De europæiske Fællesskabers officielle Publikationer

Beskrivelse:

Traktaten oprettede en fælles Kommission og et fælles Råd for de (dengang) tre uafhængige europæiske fælleskaber – EØF, Euratom og EKSF.

Traktaten er ophævet af Amsterdam-traktaten fra 1997

Folketingets EU-Oplysning

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Treaties
establishing the
European Communities

Treaties amending these Treaties

Documents concerning the Accession

1978

This publication is also available in

DA	ISBN	92-823-0000-5	IT	ISBN	92-823-0004-8
		92-824-0006-9			92-824-0010-7
		92-825-0374-7			92-825-0378-X
		92-829-0006-1			92-829-0010-X
		92-830-0006-4			92-830-0010-2
DE	ISBN	92-823-0001-3	NL	ISBN	92-823-0005-6
		92-824-0007-7			92-824-0011-5
		92-825-0375-5			92-825-0379-8
		92-829-0007-X			92-829-0011-8
		92-830-0007-2			92-830-0011-0
FR	ISBN	92-823-0003-X	GA	ISBN	92-823-0006-4
		92-824-0009-3			92-824-0018-2
		92-825-0377-1			92-825-0474-3
		92-829-0009-6			92-829-0012-6
		92-830-0009-9			92-830-0012-9

A bibliographical slip can be found at the end of this volume

© European Communities 1978
Published by the Office for Official Publications of the European
Communities

Printed in the Netherlands

92-823-0002-1
92-824-0008-5
ISBN 92-825-0376-3
92-829-0008-8
92-830-0008-0

Catalogue number: FX-23-77-962-EN-C

II – TREATY
ESTABLISHING A SINGLE COUNCIL AND
A SINGLE COMMISSION OF
THE EUROPEAN COMMUNITIES

Official Journal of the European Communities, No 152, 13 July 1967, p. 2.

1. Text of the Treaty

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

HAVING regard to Article 96 of the Treaty establishing the European Coal and Steel Community,

HAVING regard to Article 236 of the Treaty establishing the European Economic Community,

HAVING regard to Article 204 of the Treaty establishing the European Atomic Energy Community,

RESOLVED to continue along the road to European unity,

RESOLVED to effect the unification of the three Communities,

MINDFUL of the contribution which the creation of single Community institutions represents for such unification,

HAVE DECIDED to create a Single Council and a Single Commission of the European Communities and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Mr Paul-Henri SPAAK, Deputy Prime Minister and Minister for Foreign Affairs;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Mr Kurt SCHMÜCKER, Minister for Economic Affairs;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr Maurice COUVE DE MURVILLE, Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr Amintore FANFANI, Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG:

Mr Pierre WERNER, President of the Government, Minister for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr J. M. A. H. LUNS, Minister for Foreign Affairs;

WHO, having exchanged their Full Powers, found in good and due form, have agreed as follows:

CHAPTER I

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Article 1

A Council of the European Communities (hereinafter called the "Council") is hereby established. This Council shall take the place

of the Special Council of Ministers of the European Coal and Steel Community, the Council of the European Economic Community and the Council of the European Atomic Energy Community.

It shall exercise the powers and jurisdiction conferred on those institutions in accordance with the provisions of the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community, and of this Treaty.

Article 2

The Council shall consist of representatives of the Member States. Each Government shall delegate to it one of its members.

The office of President shall be held for a term of six months by each member of the Council in turn, in the following order of Member States: Belgium, Denmark, Germany, France, Ireland, Italy, Luxembourg, Netherlands, United Kingdom.*

Article 3

The Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission.

Article 4

A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council.

Article 5

The Council shall adopt its rules of procedure.

* Second paragraph as amended by Article 11 of the Act of Accession, modified by Article 5 of the Adaptation Decision.

Article 6

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and members of the Commission, and of the President, Judges, Advocates-General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

Article 7

Article 27, the first paragraph of Article 28, and Articles 29 and 30 of the Treaty establishing the European Coal and Steel Community, Articles 146, 147, 151 and 154 of the Treaty establishing the European Economic Community, and Articles 116, 117, 121 and 123 of the Treaty establishing the European Atomic Energy Community are repealed.

Article 8

1. The conditions governing the exercise of the jurisdiction conferred on the Special Council of Ministers by the Treaty establishing the European Coal and Steel Community and by the Protocol on the Statute of the Court of Justice annexed thereto shall be amended as set out in paragraphs 2 and 3.

2. Article 28 of the Treaty establishing the European Coal and Steel Community shall be amended as follows:

(a) To the provisions of the third paragraph, worded thus:

"Wherever this Treaty requires a unanimous decision or unanimous assent, such decision or assent shall be duly given if all the members of the Council vote in favour."

there shall be added the following provisions:

"However, for the purposes of applying Articles 21, 32, 32 a, 78 d and 78 f of this Treaty, and Article 16, the third paragraph

of Article 20, the fifth paragraph of Article 28 and Article 44 of the Protocol on the Statute of the Court of Justice, abstention by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity."

(b) To the provisions of the fourth paragraph, worded thus:

"Decisions of the Council, other than those which require a qualified majority or unanimity, shall be taken by a vote of the majority of its members; this majority shall be considered to be attained if it represents an absolute majority of the representatives of the Member States, including the vote of the representative of one of the States which each produce at least one sixth of the total value of the coal and steel output of the Community."

there shall be added the following provisions:

"However, for the purposes of applying those provisions of Articles 78, 78b and 78d of this Treaty which require a qualified majority, the votes of the members of the Council shall be weighted as follows: Belgium 2, Germany 4, France 4, Italy 4, Luxembourg 1, Netherlands 2. For their adoption, acts shall require at least twelve votes in favour, cast by not less than four members."

3. The Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Coal and Steel Community shall be amended as follows:

(a) Articles 5 and 15 are repealed.

(b) Article 16 is repealed and the following substituted therefor:

"1. Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

2. On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapport-

teurs may be required, under conditions laid down in the rules of procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court."

(c) The third paragraph of Article 20 and the fifth paragraph of Article 28 shall be amended by the addition at the end of each paragraph of the words:

"acting unanimously".

(d) The first sentence of Article 44 is repealed and the following substituted therefor:

"The Court of Justice shall adopt its rules of procedure. These shall require the unanimous approval of the Council."

CHAPTER II

THE COMMISSION OF THE EUROPEAN COMMUNITIES

Article 9

A Commission of the European Communities (hereinafter called the "Commission") is hereby established. This Commission shall take the place of the High Authority of the European Coal and Steel Community, the Commission of the European Economic Community and the Commission of the European Atomic Energy Community.

It shall exercise the powers and jurisdiction conferred on those institutions in accordance with the provisions of the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community, and of this Treaty.

Article 10

1. The Commission shall consist of thirteen members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.*

The number of members of the Commission may be altered by the Council, acting unanimously.

Only nationals of Member States may be members of the Commission.

The Commission must include at least one national of each of the Member States, but may not include more than two members having the nationality of the same State.

2. The members of the Commission shall, in the general interest of the Communities, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any Government or from any other body. They shall refrain from any action incompatible with their duties. Each Member State undertakes to respect this principle and not to seek to influence the members of the Commission in the performance of their tasks.

3. The members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that,

* First subparagraph as amended by the Council Decision of 1 January 1973 altering the number of members of the Commission (*Official Journal of the European Communities*, No L 2, 1 January 1973, p. 28).

both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in accordance with the provisions of Article 13 or deprived of his right to a pension or other benefits in its stead.

Article 11

The members of the Commission shall be appointed by common accord of the Governments of the Member States.

Their term of office shall be four years. It shall be renewable.

Article 12

Apart from normal replacement, or death, the duties of a member of the Commission shall end when he resigns or is compulsorily retired.

The vacancy thus caused shall be filled for the remainder of the member's term of office. The Council may, acting unanimously, decide that such a vacancy need not be filled.

Save in the case of compulsory retirement under the provisions of Article 13, members of the Commission shall remain in office until they have been replaced.

Article 13

If any member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire him.

Article 14

The President and the five Vice-Presidents of the Commission shall be appointed from among its members for a term of two years in accordance with the same procedure as that laid down for the appointment of members of the Commission. Their appointments may be renewed.*

Save where the entire Commission is replaced, such appointments shall be made after the Commission has been consulted.

In the event of retirement or death, the President and the Vice-Presidents shall be replaced for the remainder of their term of office in accordance with the preceding provisions.

Article 15

The Council and the Commission shall consult each other and shall settle by common accord their methods of cooperation.

Article 16

The Commission shall adopt its rules of procedure so as to ensure that both it and its departments operate in accordance with the provisions of the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community, and of this Treaty. It shall ensure that these rules are published.

Article 17

The Commission shall act by a majority of the number of members provided for in Article 10.

A meeting of the Commission shall be valid only if the number of members laid down in its rules of procedure is present.

* First paragraph as amended by Article 16 of the Act of Accession.

Article 18

The Commission shall publish annually, not later than one month before the opening of the session of the Assembly, a general report on the activities of the Communities.

Article 19

Articles 156 to 163 of the Treaty establishing the European Economic Community, Articles 125 to 133 of the Treaty establishing the European Atomic Energy Community and Articles 9 to 13, the third paragraph of Article 16, Article 17 and the sixth paragraph of Article 18 of the Treaty establishing the European Coal and Steel Community are repealed.

CHAPTER III

FINANCIAL PROVISIONS

Article 20

1. The administrative expenditure of the European Coal and Steel Community and the revenue relating thereto, the revenue and expenditure of the European Economic Community, and the revenue and expenditure of the European Atomic Energy Community, with the exception of that of the Supply Agency and the Joint Undertakings, shall be shown in the budget of the European Communities in accordance with the appropriate provisions of the Treaties establishing the three Communities. This budget, which shall be in balance as to revenue and expenditure, shall take the place of the administrative budget of the European Coal and Steel Community, the

budget of the European Economic Community and the operating budget and research and investment budget of the European Atomic Energy Community.*

2. The portion of the expenditure covered by the levies provided for in Article 49 of the Treaty establishing the European Coal and Steel Community shall be fixed at eighteen million units of account.

As from the financial year beginning 1 January 1967, the Commission shall submit annually to the Council a report on the basis of which the Council shall examine whether there is reason to adjust this figure to changes in the budget of the Communities. The Council shall act by the majority laid down in the first sentence of the fourth paragraph of Article 28 of the Treaty establishing the European Coal and Steel Community. The adjustment shall be made on the basis of an assessment of developments in expenditure arising from the application of the Treaty establishing the European Coal and Steel Community.

3. The portion of the levies assigned to cover expenditure under the budget of the Communities shall be allocated by the Commission for the implementation of that budget in accordance with the timetable provided for in the financial regulations adopted pursuant to Article 209 (b) of the Treaty establishing the European Economic Community and Article 183 (b) of the Treaty establishing the European Atomic Energy Community relating to the methods and procedure whereby the contributions of the Member States shall be made available.

* Paragraph (1) as amended by Article 10 of the Treaty amending Certain Budgetary Provisions.

Article 21

Article 78 of the Treaty establishing the European Coal and Steel Community is repealed and the following substituted therefor:

"Article 78

1. *The financial year of the Community shall run from 1 January to 31 December.*
2. *The administrative expenditure of the Community shall comprise the expenditure of the High Authority, including that relating to the functioning of the Consultative Committee, and that of the Court, the Assembly and the Council.*
3. *Each institution of the Community shall draw up estimates of its administrative expenditure. The High Authority shall consolidate these estimates in a preliminary draft administrative budget. It shall attach thereto an opinion which may contain different estimates.*

The High Authority shall place the preliminary draft budget before the Council not later than 30 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the High Authority and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

4. *The Council shall, acting by a qualified majority, establish the draft administrative budget and then forward it to the Assembly.*

The draft administrative budget shall be placed before the Assembly not later than 31 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to propose to the Council modifications to the draft administrative budget.

5. *If, within one month of the draft administrative budget being placed before it, the Assembly has given its approval or has not forwarded its opinion to the Council, the draft administrative budget shall be deemed to be finally adopted.*

If within this period the Assembly has proposed modifications, the draft administrative budget so modified shall be forwarded to the Council. The Council shall discuss it with the High Authority and, where appropriate, with the other institutions concerned, and shall finally adopt the administrative budget, acting by a qualified majority.

6. *The final adoption of the administrative budget shall have the effect of authorising and requiring the High Authority to collect the corresponding revenue in accordance with the provisions of Article 49.*

Article 78a

The administrative budget shall be drawn up in the unit of account determined in accordance with the provisions of the regulations made pursuant to Article 78f.

The expenditure shown in the budget shall be authorised for one financial year, unless the regulations made pursuant to Article 78f provide otherwise.

In accordance with conditions to be laid down pursuant to Article 78f, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 78f.

The expenditure of the Assembly, the Council, the High Authority and the Court shall be set out in separate parts of the administrative budget, without prejudice to special arrangements for certain common items of expenditure.

Article 78b

1. If, at the beginning of a financial year, the administrative budget has not yet been voted, a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the administrative budget in accordance with the provisions of the regulations made pursuant to Article 78f; this arrangement shall not, however, have the effect of placing at the disposal of the High Authority appropriations in excess of one twelfth of those provided for in the draft administrative budget in course of preparation.

The High Authority is authorised and required to impose the levies up to the amount of the appropriations for the preceding financial year, but shall not thereby exceed the amount which would have resulted from the adoption of the draft administrative budget.

2. The Council may, acting by a qualified majority, provided that the other conditions laid down in paragraph 1 are observed, authorise expenditure in excess of one twelfth. The authorisation and requirement to impose the levies may be adjusted accordingly.

Article 78c

The High Authority shall implement the administrative budget, in accordance with the provisions of the regulations made pursuant to Article 78f, on its own responsibility and within the limits of the appropriations.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the administrative budget, the High Authority may, subject to the limits and conditions laid down in the regulations made pursuant to Article 78f, transfer appropriations from one chapter to another or from one subdivision to another.

Article 78d

The accounts of all the administrative expenditure referred to in Article 78 (2), and of administrative revenue and of revenue derived from the tax for the benefit of the Community levied on the salaries, wages and emoluments of its officials and other servants, shall be examined by an Audit Board consisting of auditors whose independence is beyond doubt, one of whom shall be chairman. The Council shall, acting unanimously, determine the number of the auditors. The auditors and the chairman of the Audit Board shall be appointed by the Council, acting unanimously, for a period of five years. Their remuneration shall be determined by the Council, acting by a qualified majority.

The purpose of the audit, which shall be based on records and, if necessary, performed on the spot, shall be to establish that all revenue has been received and all expenditure incurred in a lawful and regular manner and that the financial management has been sound. After the close of each financial year, the Audit Board shall draw up a report, which shall be adopted by a majority of its members.

The High Authority shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the administrative budget, together with the report of the Audit Board. The High Authority shall also forward to them a financial statement of the assets and liabilities of the Community in the field covered by that budget.

The Council shall, acting by a qualified majority, give the High Authority a discharge in respect of the implementation of the budget. It shall communicate its decision to the Assembly.

Article 78e

The Council shall appoint an auditor to serve for three years; he shall draw up an annual report stating whether the accounting and the financial management of the High Authority have been effected in a regular manner; this report shall not cover entries relating to the administrative expenditure referred to in Article 78 (2), to administrative revenue or to revenue derived from the tax for the benefit of the Community levied on the salaries, wages and emoluments of its officials and other servants. He shall draw up this report within six months of the close of the financial year to which the accounts refer and shall submit it to the High Authority and the Council. The High Authority shall forward it to the Assembly.

The auditor shall be completely independent in the performance of his duties. The office of auditor shall be incompatible with any other office in an institution or department of the Communities other than that of member of the Audit Board provided for in Article 78d. His term of office shall be renewable.

Article 78f

The Council shall, acting unanimously on a proposal from the High Authority:

(a) make financial regulations specifying in particular the procedure to be adopted for establishing and implementing the administrative budget and for presenting and auditing accounts

(b) lay down rules concerning the responsibility of authorising officers and accounting officers and concerning appropriate arrangements for inspection."

*Article 22**

1. The powers and jurisdiction conferred upon the Court of Auditors established by Article 78e of the Treaty establishing the European Coal and Steel Community, by Article 206 of the Treaty establishing the European Economic Community, and by Article 180 of the Treaty establishing the European Atomic Energy Community shall be exercised in accordance with those Treaties by a single Court of Auditors of the European Communities constituted as provided in these Articles.

2. Without prejudice to the powers and jurisdiction referred to in paragraph 1, the Court of Auditors of the European Communities shall exercise the powers and jurisdiction conferred, before the entry into force of this Treaty, upon the Audit Board of the European Communities and upon the Auditor of the European Coal and Steel Community under the conditions laid down in the various instruments referring to the Audit Board and to the Auditor. In all these instruments the words "Audit Board" and "Auditors" shall be replaced by the words "Court of Auditors".

Article 23

Article 6 of the Convention on Certain Institutions Common to the European Communities is repealed.

* As amended by Article 27 of the Treaty amending Certain Financial Provisions.

CHAPTER IV

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

Article 24

1. The officials and other servants of the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community shall, at the date of entry into force of this Treaty, become officials and other servants of the European Communities and form part of the single administration of those Communities.

The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, lay down the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of those Communities.

2. The third paragraph of Article 7 of the Convention on the Transitional Provisions annexed to the Treaty establishing the European Coal and Steel Community, Article 212 of the Treaty establishing the European Economic Community and Article 186 of the Treaty establishing the European Atomic Energy Community are repealed.

Article 25

Until the uniform Staff Regulations and Conditions of Employment provided for in Article 24 and the Protocol annexed to this Treaty enter into force, officials and other servants recruited before the date of entry into force of this Treaty shall continue to be governed by the provisions which were until then applicable to them.

Officials and other servants recruited on or after the date of entry into force of this Treaty shall, pending the adoption of the uniform Staff Regulations and Conditions of Employment provided for in Article 24 and of regulations to be made pursuant to Article 13 of the Protocol annexed to this Treaty, be governed by the provisions applicable to officials and other servants of the European Economic Community and of the European Atomic Energy Community.

Article 26

The second paragraph of Article 40 of the Treaty establishing the European Coal and Steel Community is repealed and the following substituted therefor:

"The Court shall also have jurisdiction to order the Community to make good any injury caused by a personal wrong by a servant of the Community in the performance of his duties. The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or the Conditions of Employment applicable to them."

CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 27

1. The first paragraph of Article 22 of the Treaty establishing the European Coal and Steel Community, the first paragraph of Article 139 of the Treaty establishing the European Economic Community, and the first paragraph of Article 109 of the Treaty establishing the European Atomic Energy Community are repealed and the following substituted therefor:

"The Assembly shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March."

2. The second paragraph of Article 24 of the Treaty establishing the European Coal and Steel Community is repealed and the following substituted therefor:

"If a motion of censure on the activities of the High Authority is tabled before it, the Assembly shall not vote thereon until at least three days after the motion has been tabled and only by open vote."

Article 28

The European Communities shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks, under the conditions laid down in the Protocol annexed to this Treaty. The same shall apply to the European Investment Bank.

Article 76 of the Treaty establishing the European Coal and Steel Community, Article 218 of the Treaty establishing the European Economic Community and Article 191 of the Treaty establishing the European Atomic Energy Community; the Protocols on Privileges and Immunities annexed to these three Treaties; the fourth paragraph of Article 3 and the second paragraph of Article 14 of the Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Coal and Steel Community; and the second subparagraph of Article 28 (1) of the Protocol on the Statute of the European Investment Bank annexed to the Treaty establishing the European Economic Community are repealed.

Article 29

The jurisdiction conferred upon the Council by Articles 5, 6, 10, 12, 13, 24, 34 and 35 of this Treaty and by the Protocol annexed thereto shall be

exercised according to the rules laid down in Articles 148, 149 and 150 of the Treaty establishing the European Economic Community and Articles 118, 119 and 120 of the Treaty establishing the European Atomic Energy Community.

Article 30

The provisions of the Treaties establishing the European Economic Community and the European Atomic Energy Community relating to the jurisdiction of the Court of Justice and to the exercise of that jurisdiction shall be applicable to the provisions of this Treaty and of the Protocol annexed thereto, with the exception of those which represent amendments to Articles of the Treaty establishing the European Coal and Steel Community, in respect of which the provisions of the Treaty establishing the European Coal and Steel Community shall remain applicable.

Article 31

The Council shall take up its duties on the date of entry into force of this Treaty.

On that date the office of President of the Council shall be held by the member of the Council who, in accordance with the rules laid down in the Treaties establishing the European Economic Community and the European Atomic Energy Community, was to take up the office of President of the Council of the European Economic Community and of the European Atomic Energy Community; this will apply for the remainder of his term of office. On expiry of this term, the office of President shall then be held in the order of Member States laid down in Article 2 of this Treaty.

Article 32

1. Until the date of entry into force of the Treaty establishing a Single European Community, or until three years after the appointment of its

members, whichever is the earlier, the Commission shall consist of fourteen members.

During this period, not more than three members may have the nationality of the same State.

2. The President, the Vice-President and the members of the Commission shall be appointed upon the entry into force of this Treaty. The Commission shall take up its duties on the fifth day after the appointment of its members. The term of office of the members of the High Authority and of the Commission of the European Economic Community and of the European Atomic Energy Community shall end at the same time.

Article 33

The term of office of the members of the Commission provided for in Article 32 shall expire on the date determined by Article 32 (1). The members of the Commission provided for in Article 10 shall be appointed one month before that date at the latest.

If any or all of these appointments are not made within the required time, the provisions of the third paragraph of Article 12 shall not be applicable to that member who, among the nationals of each State, has least seniority as a member of a Commission or of the High Authority or, where two or more members have the same seniority, to the youngest of them. The provisions of the third paragraph of Article 12 shall remain applicable, however, to all members of the same nationality, where, before the date determined by Article 32 (1), a member of that nationality has ceased to hold office and has been replaced.

Article 34

The Council shall, acting unanimously, make financial arrangements for past members of the High Authority and of the Commissions of the European Economic Community and of the European Atomic Energy Community who, having ceased to hold office in pursuance of Article 32, have not been appointed members of the Commission.

Article 35

1. The first budget of the Communities shall be established and adopted for the financial year beginning 1 January following the entry into force of this Treaty.

2. If this Treaty enters into force before 1 July 1965, the general estimates of the administrative expenditure of the European Coal and Steel Community which expire on 1 July shall be extended until 31 December of the same year; the appropriations made in these estimates shall be proportionately increased, unless the Council, acting by a qualified majority, decides otherwise.

If this Treaty enters into force after 20 June 1965, the Council shall, acting unanimously on a proposal from the Commission, take the appropriate decisions, taking account of the need to ensure that the Communities function smoothly and that the first budget of the Communities is adopted at as early a date as possible.

Article 36

The chairman and members of the Audit Board of the European Economic Community and of the European Atomic Energy Community shall take up the duties of chairman and members of the Audit Board of the European Communities upon the entry into force of this Treaty and for the remainder of their former term of office.

The auditor who, until the entry into force of this Treaty, is performing his duties pursuant to Article 78 of the Treaty establishing the European Coal and Steel Community shall take up the duties of the auditor provided for in Article 78e of that Treaty for the remainder of his former term of office.*

* See Article 22 above.

Article 37

Without prejudice to the application of Article 77 of the Treaty establishing the European Coal and Steel Community, Article 216 of the Treaty establishing the European Economic Community, Article 189 of the Treaty establishing the European Atomic Energy Community and the second paragraph of Article 1 of the Protocol on the Statute of the European Investment Bank, the representatives of the Governments of the Member States shall by common accord lay down the provisions required in order to settle certain problems peculiar to the Grand Duchy of Luxembourg which arise out of the creation of a single Council and a single Commission of the European Communities.

The decision of the representatives of the Governments of the Member States shall enter into force on the same date as this Treaty.

Article 38

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

Article 39

This Treaty, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the Governments of the other signatory States.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Treaty.

Done at Brussels this eighth day of April in the year one thousand nine hundred and sixty-five.

Pour Sa Majesté le roi des Belges
Voor Zijne Majesteit de Koning der Belgen
Paul-Henri SPAAK

Für den Präsidenten der Bundesrepublik Deutschland
Kurt SCHMÜCKER

Pour le président de la République française
Maurice COUVE DE MURVILLE

Per il Presidente della Repubblica italiana
Amintore FANFANI

Pour Son Altesse Royale le grand-duc de Luxembourg
Pierre WERNER

Voor Hare Majesteit de Koningin der Nederlanden
J. M. A. H. LUNS

2. Protocol on the
Privileges and Immunities of the
European Communities

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 28 of the Treaty establishing a Single Council and a Single Commission of the European Communities, these Communities and the European Investment Bank shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to this Treaty:

CHAPTER I

PROPERTY, FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN COMMUNITIES

Article 1

The premises and buildings of the Communities shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Communities shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Communities shall be inviolable.

Article 3

The Communities, their assets, revenues and other property shall be exempt from all direct taxes.

The Governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Communities make, for their official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Communities.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Communities shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for their official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the Government of that country.

The Communities shall also be exempt from any customs duties and any prohibitions and restrictions on imports and exports in respect of their publications.

Article 5

The European Coal and Steel Community may hold currency of any kind and operate accounts in any currency.

CHAPTER II

COMMUNICATIONS AND LAISSEZ-PASSER

Article 6

For their official communications and the transmission of all their documents, the institutions of the Communities shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Communities shall not be subject to censorship.

Article 7

1. Laissez-passer in a form to be prescribed by the Council, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Communities by the Presidents of these institutions. These laissez-passers shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Communities.

The Commission may conclude agreements for these laissez-passer to be recognised as valid travel documents within the territory of third countries.

2. The provisions of Article 6 of the Protocol on the Privileges and Immunities of the European Coal and Steel Community shall, however, remain applicable to members and servants of the institutions who are at the date of entry into force of this Treaty in possession of the laissez-passer provided for in that Article, until the provisions of paragraph 1 of this Article are applied.

CHAPTER III

MEMBERS OF THE ASSEMBLY

Article 8

No administrative or other restriction shall be imposed on the free movement of members of the Assembly travelling to or from the place of meeting of the Assembly.

Members of the Assembly shall, in respect of customs and exchange control, be accorded:

(a) by their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;

(b) by the Governments of other Member States, the same facilities as those accorded to representatives of foreign Governments on temporary official missions.

Article 9

Members of the Assembly shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 10

During the sessions of the Assembly, its members shall enjoy:

(a) in the territory of their own State, the immunities accorded to members of their parliament;

(b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to members while they are travelling to and from the place of meeting of the Assembly.

Immunity cannot be claimed when a member is found in the act of committing an offence and shall not prevent the Assembly from exercising its right to waive the immunity of one of its members.

CHAPTER IV

REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN COMMUNITIES

Article 11

Representatives of Member States taking part in the work of the institutions of the Communities, their advisers and technical

experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Communities.

CHAPTER V

OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

Article 12

In the territory of each Member State and whatever their nationality, officials and other servants of the Communities shall:

(a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Communities and, on the other hand, to the jurisdiction of the Court in disputes between the Communities and their officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office.

(b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;

(c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;

(d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the Government of the country in which this right is exercised:

(e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the Government of the country concerned.

Article 13

Officials and other servants of the Communities shall be liable to a tax for the benefit of the Communities on salaries, wages and emoluments paid to them by the Communities, in accordance with the conditions and procedure laid down by the Council, acting on a proposal from the Commission.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Communities.

Article 14

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Communities, officials and other servants of the Communities who, solely by reason of the performance of their duties in the service of the Communities, establish their residence in the territory of a Member

State other than their country of domicile for tax purposes at the time of entering the service of the Communities, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Communities. This provisions shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 15

The Council shall, acting unanimously on a proposal from the Commission, lay down the scheme of social security benefits for officials and other servants of the Communities.

Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Communities to whom the provisions of Article 12, the second paragraph of Article 13, and Article 14 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the Governments of the Member States.

CHAPTER VI

PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES ACCREDITED TO THE EUROPEAN COMMUNITIES

Article 17

The Member State in whose territory the Communities have their seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Communities.

CHAPTER VII

GENERAL PROVISIONS

Article 18

Privileges, immunities and facilities shall be accorded to officials and other servants of the Communities solely in the interests of the Communities.

Each institution of the Communities shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Communities.

Article 19

The institutions of the Communities shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 20

Articles 12 to 15 and Article 18 shall apply to members of the Commission.

Article 21

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

Article 22

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the

Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Protocol.

Done at Brussels this eighth day of April in the year one thousand nine hundred and sixty-five.

Paul-Henri SPAAK
Kurt SCHMÜCKER
Maurice COUVE DE MURVILLE
Amintore FANFANI
Pierre WERNER
J. M. A. H. LUNS

3. Final Act

THE PLENIPOTENTIARIES

of His Majesty the King of the Belgians, the President of the Federal Republic of Germany, the President of the French Republic, the President of the Italian Republic, His Royal Highness the Grand Duke of Luxembourg, Her Majesty the Queen of the Netherlands.

Assembled at Brussels on 8 April 1965 for the signature of the Treaty establishing a Single Council and a Single Commission of the European Communities,

HAVE ADOPTED THE FOLLOWING TEXTS:

The Treaty establishing a Single Council and a Single Commission of the European Communities,

The Protocol on the Privileges and Immunities of the European Communities.

At the time of signature of these texts, the Plenipotentiaries have:

- assigned to the Commission of the European Communities the task set out in Annex I; and
- taken note of the Declaration by the Government of the Federal Republic of Germany set out in Annex II.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Final Act.

Done at Brussels this eighth day of April in the year one thousand nine hundred and sixty-five.

Paul-Henri SPAAK

Kurt SCHMÜCKER

Maurice COUVE DE MURVILLE

Amintore FANFANI

Pierre WERNER

J. M. A. H. LUNS

Annexes

ANNEX I

TASK ASSIGNED TO THE COMMISSION OF THE EUROPEAN COMMUNITIES

The Commission of the European Communities shall, within the framework of its responsibilities, have the task of taking the necessary steps to rationalise its departments within a reasonable and relatively short period of time not exceeding one year. To this end, the Commission may seek all appropriate opinions. To enable the Council to follow the progress of this operation, the Commission is requested to report periodically to the Council.

ANNEX II

DECLARATION BY THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY

on the Application to Berlin of the Treaty establishing a Single Council and a Single Commission of the European Communities and of the Treaty establishing the European Coal and Steel Community

The Government of the Federal Republic of Germany reserves the right to declare, when depositing its instrument of ratification, that the Treaty establishing a Single Council and a Single Commission of the European Communities and the Treaty establishing the Coal and Steel Community shall equally apply to Land Berlin.

