



# *Treaty Series*

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*Treaties and international agreements  
registered  
or filed and recorded  
with the Secretariat of the United Nations*

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VOLUME 1377

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# *Recueil des Traités*

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*Traités et accords internationaux  
enregistrés  
ou classés et inscrits au répertoire  
au Secrétariat de l'Organisation des Nations Unies*

United Nations • Nations Unies  
New York, 1993



Volumes 1374 to 1378 contain the texts drawn up and adopted within the Conference between the European Communities and the States which have applied for accession to those Communities, registered under No. 1-23108. The first two volumes reproduce the official texts of the Treaty of 22 January 1972 and of the Council Decision of 1 January 1973 in Italian, Danish, Dutch, English, French and German, each volume being devoted to three official texts, i.e.:

Volume 1374: Italian, Danish and Dutch.

Volume 1375: English, French and German.

Volume 1376 contains the texts of the Treaty and of the Council Decision in Irish as well as the texts of the Treaties annexed in Danish.

Volume 1377/1378 contains the texts of the Treaties annexed in English (volume 1377) and in Irish (volume 1378).

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Les volumes 1374 à 1378 renferment les textes établis et arrêtés au sein de la Conférence entre les Communautés européennes et les Etats ayant demandé l'adhésion à ces Communautés, enregistrés sous le numéro I-23108. Dans les deux premiers volumes, le texte officiel du Traité du 22 janvier 1972 et de la Décision du Conseil du 1<sup>er</sup> janvier 1973 se trouve reproduit en italien, danois, néerlandais, anglais, français et allemand, chaque volume étant consacré à trois textes officiels comme il est indiqué ci-dessous :

Volume 1374 : italien, danois et néerlandais.

Volume 1375 : anglais, français et allemand.

Le volume 1376 contient le texte du Traité et de la Décision du Conseil en irlandais ainsi que le texte des Traités annexés en danois.

Le volume 1377/1378 contient le texte des Traités annexés en anglais (volume 1377) et en irlandais (volume 1378).

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#### NOTE BY THE SECRETARIAT

Under Article 102 of the Charter of the United Nations every treaty and every international agreement entered into by any Member of the United Nations after the coming into force of the Charter shall, as soon as possible, be registered with the Secretariat and published by it. Furthermore, no party to a treaty or international agreement subject to registration which has not been registered may invoke that treaty or agreement before any organ of the United Nations. The General Assembly, by resolution 97 (I), established regulations to give effect to Article 102 of the Charter (see text of the regulations, vol. 859, p. VIII).

The terms "treaty" and "international agreement" have not been defined either in the Charter or in the regulations, and the Secretariat follows the principle that it acts in accordance with the position of the Member State submitting an instrument for registration that so far as that party is concerned the instrument is a treaty or an international agreement within the meaning of Article 102. Registration of an instrument submitted by a Member State, therefore, does not imply a judgement by the Secretariat on the nature of the instrument, the status of a party or any similar question. It is the understanding of the Secretariat that its action does not confer on the instrument the status of a treaty or an international agreement if it does not already have that status and does not confer on a party a status which it would not otherwise have.

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Unless otherwise indicated, the translations of the original texts of treaties, etc., published in this *Series* have been made by the Secretariat of the United Nations.

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#### NOTE DU SECRÉTARIAT

Aux termes de l'Article 102 de la Charte des Nations Unies, tout traité ou accord international conclu par un Membre des Nations Unies après l'entrée en vigueur de la Charte sera, le plus tôt possible, enregistré au Secrétariat et publié par lui. De plus, aucune partie à un traité ou accord international qui aurait dû être enregistré mais ne l'a pas été ne pourra invoquer ledit traité ou accord devant un organe des Nations Unies. Par sa résolution 97 (I), l'Assemblée générale a adopté un règlement destiné à mettre en application l'Article 102 de la Charte (voir texte du règlement, vol. 859, p. IX).

Le terme «traité» et l'expression «accord international» n'ont été définis ni dans la Charte ni dans le règlement, et le Secrétariat a pris comme principe de s'en tenir à la position adoptée à cet égard par l'Etat Membre qui a présenté l'instrument à l'enregistrement, à savoir que pour autant qu'il s'agit de cet Etat comme partie contractante l'instrument constitue un traité ou un accord international au sens de l'Article 102. Il s'ensuit que l'enregistrement d'un instrument présenté par un Etat Membre n'implique, de la part du Secrétariat, aucun jugement sur la nature de l'instrument, le statut d'une partie ou toute autre question similaire. Le Secrétariat considère donc que les actes qu'il pourrait être amené à accomplir ne confèrent pas à un instrument la qualité de «traité» ou d'«accord international» si cet instrument n'a pas déjà cette qualité, et qu'ils ne confèrent pas à une partie un statut que, par ailleurs, elle ne posséderait pas.

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Sauf indication contraire, les traductions des textes originaux des traités, etc., publiés dans ce *Recueil* ont été établies par le Secrétariat de l'Organisation des Nations Unies.



# I

## *Treaties and international agreements*

*registered*

*on 22 October 1984*

*No. 23108 (continued)*

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## *Traités et accords internationaux*

*enregistrés*

*le 22 octobre 1984*

*N° 23108 (suite)*

**ITALY, BELGIUM, DENMARK, FRANCE,  
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LUXEMBOURG, NETHERLANDS and  
UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND**

**Treaty concerning the accession of the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and to the European Atomic Energy Community (with Act concerning the conditions of accession and the adjustments to the Treaties, annexes, and annexed Protocols and exchange of letters; with Final Act, and annexed declarations and procedure for the adoption of certain decisions and other measures to be taken during the period preceding accession). Concluded at Brussels on 22 January 1972**

**Council Decision of the European Communities adjusting the instruments concerning the accession of new Member States to the European Communities (with annex). Adopted at Brussels on 1 January 1973**

The texts of the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community, and the Treaties amending or supplementing them, drawn up in the Danish, English and Irish languages, are annexed to the above-mentioned Treaty of 22 January 1972, as follows:

Final Act of the Intergovernmental Conference on the Common Market and EURATOM (with declarations). Done at Rome on 25 March 1957

Treaty establishing the European Economic Community (with annexes, Protocols of 25 March 1957, Protocol of 17 April 1957, and Implementing Convention of 25 March 1957). Done at Rome on 25 March 1957

Treaty establishing the European Atomic Energy Community (EURATOM) (with annexes, Protocol of 25 March 1957 and Protocol of 17 April 1957). Done at Rome on 25 March 1957

**ITALIE, ALLEMAGNE, RÉPUBLIQUE FÉDÉRALE D',  
BELGIQUE, DANEMARK, FRANCE,  
IRLANDE, LUXEMBOURG, PAYS-BAS et  
ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD**

**Traité relatif à l'adhésion à la Communauté économique européenne et à la Communauté européenne de l'énergie atomique du Royaume du Danemark, de l'Irlande, du Royaume de Norvège et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord (avec Acte relatif aux conditions d'adhésion et aux adaptations des traités, annexes, et Protocoles et échange de lettres annexés; avec Acte final, et déclarations et procédure d'adoption de certaines décisions et autres mesures à prendre pendant la période précédant l'adhésion annexées). Conclu à Bruxelles le 22 janvier 1972**

**Décision du Conseil des Communautés européennes portant adaptation des actes relatifs à l'adhésion de nouveaux Etats membres aux Communautés européennes (avec annexe). Adoptée à Bruxelles le 1<sup>er</sup> janvier 1973**

Les textes du Traité instituant la Communauté économique européenne et du Traité instituant la Communauté européenne de l'énergie atomique ainsi que des traités qui les ont modifiés ou complétés, établis en langues danoise, anglaise et irlandaise, sont annexés au Traité susmentionné du 22 janvier 1972, comme suit :

Acte final de la Conférence intergouvernementale pour le marché commun et l'EURATOM (avec déclarations). Fait à Rome le 25 mars 1957

Traité instituant la Communauté économique européenne (avec annexes, Protocoles du 25 mars 1957, Protocole du 17 avril 1957 et Convention d'application du 25 mars 1957). Fait à Rome le 25 mars 1957

Traité instituant la Communauté européenne de l'énergie atomique (EURATOM) [avec annexes, Protocole du 25 mars 1957 et Protocole du 17 avril 1957]. Fait à Rome le 25 mars 1957

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Convention on certain institutions common to the European Communities. Done at Rome on 25 March 1957

Protocol concerning imports into the European Economic Community of petroleum products refined in the Netherlands Antilles (with annex). Concluded at Brussels on 13 November 1962

Treaty establishing a single council and a single commission of the European Communities (with Protocol on the privileges and immunities of the European Communities, Final Act and annexes). Concluded at Brussels on 8 April 1965

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*Authentic texts of the Treaty and of the Council Decision: Italian, Danish, Dutch, English, French, German and Irish.*

*Authentic texts of the annexed Treaties: Danish, English and Irish.*

*Registered by Italy on 22 October 1984.*

## N° 23108

(suite)

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Convention relative à certaines institutions communes aux Communautés européennes.

Faite à Rome le 25 mars 1957

Protocole relatif aux importations dans la Communauté économique européenne de produits pétroliers raffinés aux Antilles néerlandaises (avec annexe). Conclu à Bruxelles le 13 novembre 1962

Traité instituant un conseil unique et une commission unique des Communautés européennes (avec Protocole sur les privilèges et immunités des Communautés européennes, Acte final et annexes). Conclu à Bruxelles le 8 avril 1965

Décision des représentants des Gouvernements des États membres relative à l'installation provisoire de certaines institutions et de certains services des Communautés. Adoptée à Bruxelles le 8 avril 1965

Traité portant modification de certaines dispositions budgétaires des Traités instituant les Communautés européennes et du Traité instituant un conseil unique et une commission unique des Communautés européennes. Conclu à Luxembourg le 22 avril 1970

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*Enregistrés par l'Italie le 22 octobre 1984.*

## ANNEXED TREATIES

FINAL ACT<sup>1</sup>

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The Intergovernmental Conference on the Common Market and Euratom, convened in Venice on 29 May 1956 by the Ministers for Foreign Affairs of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, having continued its deliberations in Brussels and having, on concluding them, met in Rome on 25 March 1957, has adopted the following texts:

## I

1. The Treaty establishing the European Economic Community, and the Annexes thereto,
2. The Protocol on the Statute of the European Investment Bank,
3. The Protocol on German Internal Trade and Connected Problems,
4. The Protocol on certain provisions relating to France,
5. The Protocol on Italy,
6. The Protocol on the Grand Duchy of Luxembourg,
7. The Protocol on Goods originating in and coming from Certain Countries and enjoying Special Treatment when imported into a Member State,
8. The Protocol on the Treatment to be applied to Products within the Province of the European Coal and Steel Community in respect of Algeria and the Overseas Departments of the French Republic,
9. The Protocol on Mineral Oils and Certain of their Derivatives,
10. The Protocol on the Application of the Treaty establishing the European Economic Community to the non-European Parts of the Kingdom of the Netherlands,
11. The Implementing Convention on the Association of the Overseas Countries and Territories with the Community, and the Annexes thereto,
12. The Protocol on the Tariff Quota for Imports of Bananas,
13. The Protocol on the Tariff Quota for Imports of Raw Coffee.

## II

- I. The Treaty establishing the European Atomic Energy Community, and the Annexes thereto,

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<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 294, p. 3.

2. The Protocol on the Application of the Treaty establishing the European Atomic Energy Community to the non-European parts of the Kingdom of the Netherlands.

### III

The Convention on Certain Institutions Common to the European Communities.

At the time of signature of these texts, the Conference adopted the Declarations listed below and annexed to this Act:

1. A joint Declaration on Cooperation with the Member States of International Organisations,
2. A joint Declaration on Berlin,
3. A Declaration of Intent on the Association of the Independent Countries of the Franc Area with the European Economic Community,
4. A Declaration of Intent on the Association of the Kingdom of Libya with the European Economic Community,
5. A Declaration of Intent on the Trust Territory of Somaliland currently under the Administration of the Italian Republic,
6. A Declaration of Intent on the Association of Surinam and the Netherlands Antilles with the European Economic Community.

The Conference further took note of the declarations listed below and annexed to this Act:

1. A Declaration by the Government of the Federal Republic of Germany on the Definition of the Expression "German National",
2. A Declaration by the Government of the Federal Republic of Germany on the Application of the Treaties to Berlin,
3. A Declaration by the Government of the French Republic on Applications for Patents covering Information to be kept secret for Defence Reasons.

Finally, the Conference decided to draw up at a later date:

1. The Protocol on the Statute of the Court of Justice of the European Economic Community,
2. The Protocol on the Privileges and Immunities of the European Economic Community,
3. The Protocol on the Statute of the Court of Justice of the European Atomic Energy Community,
4. The Protocol on the Privileges and Immunities of the European Atomic Energy Community.

Protocols 1 and 2 shall be annexed to the Treaty establishing the European Economic Community; protocols 3 and 4 shall be annexed to the Treaty establishing the European Atomic Energy Community.

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

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK

ADENAUER

PINEAU

ANTONIO SEGNI

BECH

J. LUNS

J. CH. SNOY ET D'OPPUERS

HALLSTEIN

M. FAURE

GAETANO MARTINO

LAMBERT SCHAUS

J. LINTHORST HOMAN



## JOINT DECLARATION ON COOPERATION WITH THE STATES MEMBERS OF INTERNATIONAL ORGANISATIONS

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

At the time of signature of the Treaties establishing the European Economic Community and the European Atomic Energy Community,

Conscious of the responsibilities which they are assuming for the future of Europe by combining their markets, bringing their economies closer together and laying down the principles and details of a common policy in this field;

Recognising that, by setting up a customs union and working closely together on the peaceful development of nuclear energy, they will be ensuring economic and social progress and thus contributing not only to their own prosperity but also to that of other countries,

Anxious that these countries should share in the prospects of expansion afforded thereby,

Declare their readiness to conclude, as soon as these Treaties enter into force, agreements with other countries, particularly within the framework of the international organisations to which they belong, in order to attain these objectives of common interest and to ensure the harmonious development of trade in general.

## JOINT DECLARATION ON BERLIN

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Having regard to the special position of Berlin and the need to afford it the support of the free world,

Anxious to confirm their solidarity with the people of Berlin,

Will use their good offices within the Community in order that all necessary measures may be taken to ease the economic and social situation of Berlin, to promote its development and to ensure its economic stability.

## DECLARATION OF INTENT ON THE ASSOCIATION OF THE INDEPENDENT COUNTRIES OF THE FRANC AREA WITH THE EUROPEAN ECONOMIC COMMUNITY

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Taking into consideration the economic, financial and monetary agreements and conventions concluded between France and the other independent countries of the franc area,

Anxious to maintain and intensify the traditional trade flows between the Member States of the European Economic Community and these independent countries and to contribute to the economic and social development of the latter,

Declare their readiness, as soon as this Treaty enters into force, to propose to these countries the opening of negotiations with a view to concluding conventions for economic association with the Community.

#### DECLARATION OF INTENT ON THE ASSOCIATION OF THE KINGDOM OF LIBYA WITH THE EUROPEAN ECONOMIC COMMUNITY

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Taking into consideration the economic links between Italy and the Kingdom of Libya,

Anxious to maintain and intensify the traditional trade flows between the Member States of the Community and the Kingdom of Libya, and to contribute to the economic and social development of Libya,

Declare their readiness, as soon as this Treaty enters into force, to propose to the Kingdom of Libya the opening of negotiations with a view to concluding conventions for economic association with the Community.

#### DECLARATION OF INTENT ON THE TRUST TERRITORY OF SOMALILAND CURRENTLY UNDER THE ADMINISTRATION OF THE ITALIAN REPUBLIC

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Anxious, at the time of signature of the Treaty establishing the European Economic Community, to define the exact scope of articles 131 and 227 of this Treaty, in view of the fact that under article 24 of the Trusteeship agreement with respect to the Trust Territory of Somaliland the Italian administration of that territory will end on 2 December 1960,

Have agreed to give the authorities who will after that date be responsible for the external relations of Somaliland the option of confirming the association of that Territory with the Community, and declare their readiness to propose, if need be, to these authorities the opening of negotiations with a view to concluding conventions for economic association with the Community.

#### DECLARATION OF INTENT ON THE ASSOCIATION OF SURINAM AND THE NETHERLANDS ANTILLES WITH THE EUROPEAN ECONOMIC COMMUNITY

The Governments of the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Taking into consideration the close ties which unite the several parts of the Kingdom of the Netherlands,

Anxious to maintain and intensify the traditional trade flows between the Member States of the European Economic Community on the one hand and

Surinam and the Netherlands Antilles on the other, and to contribute to the economic and social development of these countries,

Declare their readiness, as soon as this Treaty enters into force, to open negotiations at the request of the Kingdom of the Netherlands, with a view to concluding conventions for the economic association of Surinam and the Netherlands Antilles with the Community.

**DECLARATION BY THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY ON THE DEFINITION OF THE EXPRESSION "GERMAN NATIONAL"**

At the time of signature of the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community, the Government of the Federal Republic of Germany makes the following declaration:

“All Germans as defined in the Basic Law for the Federal Republic of Germany shall be considered nationals of the Federal Republic of Germany”.

**DECLARATION BY THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY ON THE APPLICATION OF THE TREATIES TO BERLIN**

The Government of the Federal Republic of Germany reserves the right to declare, when depositing its instruments of ratification, that the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community shall equally apply to Land Berlin.

**DECLARATION BY THE GOVERNMENT OF THE FRENCH REPUBLIC ON APPLICATIONS FOR PATENTS COVERING INFORMATION TO BE KEPT SECRET FOR DEFENCE REASONS**

The Government of the French Republic,

Taking into account the provisions of Articles 17 and 25 (2) of the Treaty establishing the European Atomic Energy Community,

Declares its readiness to take such administrative measures and to propose to the French Parliament such legislative measures as may be necessary to ensure that, as soon as this Treaty enters into force, applications for patents covering secret information result, following the normal procedure, in the grant of patents subject to temporary prohibition of publication.

## TREATY<sup>1</sup> ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY

### I. 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, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands,

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

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

Affirming as the essential objective of their efforts the constant improvement of the living and working conditions of their peoples,

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

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

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

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

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

<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 294, p. 3.

\* EDITORIAL NOTE. On 5 April 1977 in Luxembourg the Presidents of the European Parliament, the Council and the Commission signed a Joint Declaration which was published in the *Official Journal of the European Communities*, No. C 103, 27 April 1977, and which is given below for the reader's convenience:

#### JOINT DECLARATION BY THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

The European Parliament, the Council and the Commission,

Whereas the Treaties establishing the European Communities are based on the principle of respect for the law;

Whereas, as the Court of Justice has recognised, that law comprises, over and above the rules embodied in the Treaties and secondary Community legislation, the general principles of law and in particular the fundamental rights, principles and rights on which the constitutional law of the Member States is based;

Whereas, in particular, all the Member States are Contracting Parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950,<sup>1</sup>

Have adopted the following declaration:

1. The European Parliament, the Council and the Commission stress the prime importance they attach to the protection of fundamental rights, as derived in particular from the constitutions of the Member States and the European Convention for the Protection of Human Rights and Fundamental Freedoms.
2. In the exercise of their powers and in pursuance of the aims of the European Communities they respect and will continue to respect these rights.

DONE at Luxembourg on the fifth day of April in the year one thousand nine hundred and seventy-seven.

For the European Parliament:

For the Council:

For the Commission:

E. COLOMBO

D. OWEN

R. JENKINS

<sup>1</sup> United Nations, *Treaty Series*, vol. 213, p. 221.

Have decided to create a European Economic Community and to this end have designated as their Plenipotentiaries:

His Majesty the King of the Belgians:

Mr. Paul-Henri Spaak, Minister for Foreign Affairs,

Baron J. Ch. Snoy et d'Oppuers, Secretary-General of the Ministry of Economic Affairs, Head of the Belgian Delegation to the Intergovernmental Conference;

The President of the Federal Republic of Germany:

Dr. Konrad Adenauer, Federal Chancellor,

Professor Dr. Walter Hallstein, State Secretary of the Federal Foreign Office;

The President of the French Republic:

Mr. Christian Pineau, Minister for Foreign Affairs,

Mr. Maurice Faure, Under-Secretary of State for Foreign Affairs;

The President of the Italian Republic:

Mr. Antonio Segni, President of the Council of Ministers,

Professor Gaetano Martino, Minister for Foreign Affairs;

Her Royal Highness the Grand Duchess of Luxembourg:

Mr. Joseph Bech, President of the Government, Minister for Foreign Affairs,

Mr. Lambert Schaus, Ambassador, Head of the Luxembourg Delegation to the Intergovernmental Conference;

Her Majesty the Queen of the Netherlands:

Mr. Joseph Luns, Minister for Foreign Affairs,

Mr. J. Linthorst Homan, Head of the Netherlands Delegation to the Intergovernmental Conference;

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

## PART ONE. PRINCIPLES

*Article 1.* By this Treaty, the High Contracting Parties establish among themselves a European Economic Community.

*Article 2.* The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it.

*Article 3.* For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:

- (a) The elimination, as between Member States, of customs duties and of quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;
- (b) The establishment of a common customs tariff and of a common commercial policy towards third countries;
- (c) The abolition, as between Member States, of obstacles to freedom of movement for persons, services and capital;
- (d) The adoption of a common policy in the sphere of agriculture;
- (e) The adoption of a common policy in the sphere of transport;
- (f) The institution of a system ensuring that competition in the common market is not distorted;
- (g) The application of procedures by which the economic policies of Member States can be coordinated and disequilibria in their balances of payments remedied;
- (h) The approximation of the laws of Member States to the extent required for the proper functioning of the common market;
- (i) The creation of a European Social Fund in order to improve employment opportunities for workers and to contribute to the raising of their standard of living;
- (j) The establishment of a European Investment Bank to facilitate the economic expansion of the Community by opening up fresh resources;
- (k) The association of the overseas countries and territories in order to increase trade and to promote jointly economic and social development.

*Article 4.* 1. The tasks entrusted to the Community shall be carried out by the following institutions:

- An Assembly,
- A Council,
- A Commission,
- A Court of Justice.

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

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

3. The audit shall be carried out by a Court of Auditors acting within the limits of the powers conferred upon it by this Treaty.\*

*Article 5.* Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this

\* Paragraph 3 added by Article 11 of the Treaty amending Certain Financial Provisions.<sup>1</sup>

<sup>1</sup> United Nations, *Treaty Series*, vol. 1435, No. A-3729.

Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks.

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

*Article 6.* 1. Member States shall, in close cooperation with the institutions of the Community, coordinate their respective economic policies to the extent necessary to attain the objectives of this Treaty.

2. The institutions of the Community shall take care not to prejudice the internal and external financial stability of the Member States.

*Article 7.* Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

The Council may, on a proposal from the Commission and after consulting the Assembly, adopt, by a qualified majority, rules designed to prohibit such discrimination.

*Article 8.* 1. The common market shall be progressively established during a transitional period of twelve years.

This transitional period shall be divided into three stages of four years each; the length of each stage may be altered in accordance with the provisions set out below.

2. To each stage there shall be assigned a set of actions to be initiated and carried through concurrently.

3. Transition from the first to the second stage shall be conditional upon a finding that the objectives specifically laid down in this Treaty for the first stage have in fact been attained in substance and that, subject to the exceptions and procedures provided for in this Treaty, the obligations have been fulfilled.

This finding shall be made at the end of the fourth year by the Council, acting unanimously on a report from the Commission. A Member State may not, however, prevent unanimity by relying upon the non-fulfilment of its own obligations. Failing unanimity, the first stage shall automatically be extended for one year.

At the end of the fifth year, the Council shall make its finding under the same conditions. Failing unanimity, the first stage shall automatically be extended for a further year.

At the end of the sixth year, the Council shall make its finding, acting by a qualified majority on a report from the Commission.

4. Within one month of the last-mentioned vote any Member State which voted with the minority or, if the required majority was not obtained, any Member State shall be entitled to call upon the Council to appoint an arbitration board whose decision shall be binding upon all Member States and upon the institutions of the Community. The arbitration board shall consist of three members appointed by the Council acting unanimously on a proposal from the Commission.

If the Council has not appointed the members of the arbitration board within one month of being called upon to do so, they shall be appointed by the Court of Justice within a further period of one month.

The arbitration board shall elect its own Chairman.

The board shall make its award within six months of the date of the Council vote referred to in the last subparagraph of paragraph 3.

5. The second and third stages may not be extended or curtailed except by a decision of the Council, acting unanimously on a proposal from the Commission.

6. Nothing in the preceding paragraphs shall cause the transitional period to last more than fifteen years after the entry into force of this Treaty.

7. Save for the exceptions or derogations provided for in this Treaty, the expiry of the transitional period shall constitute the latest date by which all the rules laid down must enter into force and all the measures required for establishing the common market must be implemented.

## PART TWO. FOUNDATIONS OF THE COMMUNITY

### TITLE I. FREE MOVEMENT OF GOODS

*Article 9.* 1. The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

2. The provisions of Chapter 1, Section 1, and of Chapter 2 of this Title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

*Article 10.* 1. Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

2. The Commission shall, before the end of the first year after the entry into force of this Treaty, determine the methods of administrative cooperation to be adopted for the purpose of applying Article 9 (2), taking into account the need to reduce as much as possible formalities imposed on trade.

Before the end of the first year after the entry into force of this Treaty, the Commission shall lay down the provisions applicable, as regards trade between Member States, to goods originating in another Member State in whose manufacture products have been used on which the exporting Member State has not levied the appropriate customs duties or charges having equivalent effect, or which have benefited from a total or partial drawback of such duties or charges.

In adopting these provisions, the Commission shall take into account the rules for the elimination of customs duties within the Community and for the progressive application of the common customs tariff.

*Article 11.* Member States shall take all appropriate measures to enable Governments to carry out, within the periods of time laid down, the obligations with regard to customs duties which devolve upon them pursuant to this Treaty.



## CHAPTER I. THE CUSTOMS UNION

*Section 1. ELIMINATION OF CUSTOMS DUTIES BETWEEN MEMBER STATES*

*Article 12.* Member States shall refrain from introducing between themselves any new customs duties on imports or exports or any charges having equivalent effect, and from increasing those which they already apply in their trade with each other.

*Article 13.* 1. Customs duties on imports in force between Member States shall be progressively abolished by them during the transitional period in accordance with Articles 14 and 15.

2. Charges having an effect equivalent to customs duties on imports, in force between Member States, shall be progressively abolished by them during the transitional period. The Commission shall determine by means of directives the timetable for such abolition. It shall be guided by the rules contained in Article 14 (2) and (3) and by the directives issued by the Council pursuant to Article 14 (2).

*Article 14.* 1. For each product, the basic duty to which the successive reductions shall be applied shall be the duty applied on 1 January 1957.

2. The timetable for the reductions shall be determined as follows:

- (a) During the first stage, the first reduction shall be made one year after the date when this Treaty enters into force; the second reduction, eighteen months later; the third reduction, at the end of the fourth year after the date when this Treaty enters into force;
- (b) During the second stage, a reduction shall be made eighteen months after that stage begins; a second reduction, eighteen months after the preceding one; a third reduction, one year later;
- (c) Any remaining reductions shall be made during the third stage; the Council shall, acting by a qualified majority on a proposal from the Commission, determine the timetable therefor by means of directives.

3. At the time of the first reduction, Member States shall introduce between themselves a duty on each product equal to the basic duty minus 10%.

At the time of each subsequent reduction, each Member State shall reduce its customs duties as a whole in such manner as to lower by 10% its total customs receipts as defined in paragraph 4 and to reduce the duty on each product by at least 5% of the basic duty.

In the case, however, of products on which the duty is still in excess of 30%, each reduction must be at least 10% of the basic duty.

4. The total customs receipts of each Member State, as referred to in paragraph 3, shall be calculated by multiplying the value of its imports from other Member States during 1956 by the basic duties.

5. Any special problems raised in applying paragraphs 1 to 4 shall be settled by directives issued by the Council acting by a qualified majority on a proposal from the Commission.

6. Member States shall report to the Commission on the manner in which effect has been given to the preceding rules for the reduction of duties. They shall

endeavour to ensure that the reduction made in the duties on each product shall amount:

- At the end of the first stage, to at least 25% of the basic duty;
- At the end of the second stage, to at least 50% of the basic duty.

If the Commission finds that there is a risk that the objectives laid down in Article 13, and the percentages laid down in this paragraph, cannot be attained, it shall make all appropriate recommendations to Member States.

7. The provisions of this Article may be amended by the Council, acting unanimously on a proposal from the Commission and after consulting the Assembly.

*Article 15.* 1. Irrespective of the provisions of Article 14, any Member State may, in the course of the transitional period, suspend in whole or in part the collection of duties applied by it to products imported from other Member States. It shall inform the other Member States and the Commission thereof.

2. The Member States declare their readiness to reduce customs duties against the other Member States more rapidly than is provided for in Article 14 if their general economic situation and the situation of the economic sector concerned so permit.

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

*Article 16.* Member States shall abolish between themselves customs duties on exports and charges having equivalent effect by the end of the first stage at the latest.

*Article 17.* 1. The provisions of Articles 9 to 15 (1) shall also apply to customs duties of a fiscal nature. Such duties shall not, however, be taken into consideration for the purpose of calculating either total customs receipts or the reduction of customs duties as a whole as referred to in Article 14 (3) and (4).

Such duties shall, at each reduction, be lowered by not less than 10% of the basic duty. Member States may reduce such duties more rapidly than is provided for in Article 14.

2. Member States shall, before the end of the first year after the entry into force of this Treaty, inform the Commission of their customs duties of a fiscal nature.

3. Member States shall retain the right to substitute for these duties an internal tax which complies with the provisions of Article 95.

4. If the Commission finds that substitution for any customs duty of a fiscal nature meets with serious difficulties in a Member State, it shall authorise that State to retain the duty on condition that it shall abolish it not later than six years after the entry into force of this Treaty. Such authorisation must be applied for before the end of the first year after the entry into force of this Treaty.

## *Section 2. SETTING UP OF THE COMMON CUSTOMS TARIFF*

*Article 18.* The Member States declare their readiness to contribute to the development of international trade and the lowering of barriers to trade by entering into agreements designed, on a basis of reciprocity and mutual advantage, to reduce customs duties below the general level of which they could

avail themselves as a result of the establishment of a customs union between them.

*Article 19.* 1. Subject to the conditions and within the limits provided for hereinafter, duties in the common customs tariff shall be at the level of the arithmetical average of the duties applied in the four customs territories comprised in the Community.

2. The duties taken as the basis for calculating this average shall be those applied by Member States on 1 January 1957.

In the case of the Italian tariff, however, the duty applied shall be that without the temporary 10% reduction. Furthermore, with respect to items on which the Italian tariff contains a conventional duty, this duty shall be substituted for the duty applied as defined above, provided that it does not exceed the latter by more than 10%. Where the conventional duty exceeds the duty applied as defined above by more than 10%, the latter duty plus 10% shall be taken as the basis for calculating the arithmetical average.

With regard to the tariff headings in List A, the duties shown in that List shall, for the purpose of calculating the arithmetical average, be substituted for the duties applied.

3. The duties in the common customs tariff shall not exceed:

- (a) 3% for products within the tariff headings in List B;
- (b) 10% for products within the tariff headings in List C;
- (c) 15% for products within the tariff headings in List D;
- (d) 25% for products within the tariff headings in List E; where in respect of such products, the tariff of the Benelux countries contains a duty not exceeding 3%, such duty shall, for the purpose of calculating the arithmetical average, be raised to 12%.

4. List F prescribes the duties applicable to the products listed therein.

5. The Lists of tariff headings referred to in this Article and in Article 20 are set out in Annex I to this Treaty.

*Article 20.* The duties applicable to the products in List G shall be determined by negotiation between the Member States. Each Member State may add further products to this List to a value not exceeding 2% of the total value of its imports from third countries in the course of the year 1956.

The Commission shall take all appropriate steps to ensure that such negotiations shall be undertaken before the end of the second year after the entry into force of this Treaty and be concluded before the end of the first stage.

If, for certain products, no agreement can be reached within these periods, the Council shall, on a proposal from the Commission, acting unanimously until the end of the second stage and by a qualified majority thereafter, determine the duties in the common customs tariff.

*Article 21.* 1. Technical difficulties which may arise in applying Articles 19 and 20 shall be resolved, within two years of the entry into force of this Treaty, by directives issued by the Council acting by a qualified majority on a proposal from the Commission.

2. Before the end of the first stage, or at latest when the duties are determined, the Council shall, acting by a qualified majority on a proposal from the Commission, decide on any adjustments required in the interests of the internal consistency of the common customs tariff as a result of applying the rules set out in Articles 19 and 20, taking account in particular of the degree of processing undergone by the various goods to which the common tariff applies.

*Article 22.* The commission shall, within two years of the entry into force of this Treaty, determine the extent to which the customs duties of a fiscal nature referred to in Article 17 (2) shall be taken into account in calculating the arithmetical average provided for in Article 19 (1). The Commission shall take account of any protective character which such duties may have.

Within six months of such determination, any Member State may request that the procedure provided for in Article 20 should be applied to the product in question, but in this event the percentage limit provided in that Article shall not be applicable to that State.

*Article 23.* 1. For the purpose of the progressive introduction of the common customs tariff, Member States shall amend their tariffs applicable to third countries as follows:

- (a) In the case of tariff headings on which the duties applied in practice on 1 January 1957 do not differ by more than 15% in either direction from the duties in the common customs tariff, the latter duties shall be applied at the end of the fourth year after the entry into force of this Treaty;
- (b) In any other case, each Member State shall, as from the same date, apply a duty reducing by 30% the difference between the duty applied in practice on 1 January 1957 and the duty in the common customs tariff;
- (c) At the end of the second stage this difference shall again be reduced by 30%;
- (d) In the case of tariff headings for which the duties in the common customs tariff are not yet available at the end of the first stage, each Member State shall, within six months of the Council's action in accordance with Article 20, apply such duties as would result from application of the rules contained in this paragraph.

2. Where a Member State has been granted an authorisation under Article 17 (4), it need not, for as long as that authorisation remains valid, apply the preceding provisions to the tariff headings to which the authorisation applies. When such authorisation expires, the Member State concerned shall apply such duty as would have resulted from application of the rules contained in paragraph 1.

3. The common customs tariff shall be applied in its entirety by the end of the transitional period at the latest.

*Article 24.* Member States shall remain free to change their duties more rapidly than is provided for in Article 23 in order to bring them into line with the common customs tariff.

*Article 25.* 1. If the Commission finds that the production in Member States of particular products contained in Lists B, C and D is insufficient to supply the demands of one of the Member States, and that such supply traditionally depends to a considerable extent on imports from third countries, the Council

shall, acting by a qualified majority on a proposal from the Commission, grant the Member State concerned tariff quotas at a reduced rate of duty or duty free.

Such quotas may not exceed the limits beyond which the risk might arise of activities being transferred to the detriment of other Member States.

2. In the case of the products in List E, and of those in List G for which the rates of duty have been determined in accordance with the procedure provided for in the third paragraph of Article 20, the Commission shall, where a change in sources of supply or shortage of supplies within the Community is such as to entail harmful consequences for the processing industries of a Member State, at the request of that Member State, grant it tariff quotas at a reduced rate of duty or duty free.

Such quotas may not exceed the limits beyond which the risk might arise of activities being transferred to the detriment of other Member States.

3. In the case of the products listed in Annex II to this Treaty, the Commission may authorise any Member State to suspend, in whole or in part, collection of the duties applicable or may grant such Member State tariff quotas at a reduced rate of duty or duty free, provided that no serious disturbance of the market of the products concerned results therefrom.

4. The Commission shall periodically examine tariff quotas granted pursuant to this Article.

*Article 26.* The Commission may authorise any Member State encountering special difficulties to postpone the lowering or raising of duties provided for in Article 23 in respect of particular headings in its tariff.

Such authorisation may only be granted for a limited period and in respect of tariff headings which, taken together, represent for such State not more than 5% of the value of its imports from third countries in the course of the latest year for which statistical data are available.

*Article 27.* Before the end of the first stage, Member States shall, in so far as may be necessary, take steps to approximate their provisions laid down by law, regulation or administrative action in respect of customs matters. To this end, the Commission shall make all appropriate recommendations to Member States.

*Article 28.* Any autonomous alteration or suspension of duties in the common customs tariff shall be decided unanimously by the Council. After the transitional period has ended, however, the Council may, acting by a qualified majority on a proposal from the Commission, decide on alterations or suspensions which shall not exceed 20% of the rate in the case of any one duty for a maximum period of six months. Such alterations or suspensions may only be extended, under the same conditions, for one further period of six months.

*Article 29.* In carrying out the tasks entrusted to it under this Section the Commission shall be guided by:

- (a) The need to promote trade between Member States and third countries;
- (b) Developments in conditions of competition within the Community in so far as they lead to an improvement in the competitive capacity of undertakings;
- (c) The requirements of the Community as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to

avoid distorting conditions of competition between Member States in respect of finished goods;

- (d) The need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Community.

## CHAPTER 2. ELIMINATION OF QUANTITATIVE RESTRICTIONS BETWEEN MEMBER STATES

*Article 30.* Quantitative restrictions on imports and all measures having equivalent effect shall, without prejudice to the following provisions, be prohibited between Member States.

*Article 31.* Member States shall refrain from introducing between themselves any new quantitative restrictions or measures having equivalent effect.

This obligation shall, however, relate only to the degree of liberalisation attained in pursuance of the decisions of the Council of the Organisation for European Economic Cooperation of 14 January 1955. Member States shall supply the Commission, not later than six months after the entry into force of this Treaty, with lists of the products liberalised by them in pursuance of these decisions. These lists shall be consolidated between Member States.

*Article 32.* In their trade with one another Member States shall refrain from making more restrictive the quotas and measures having equivalent effect existing at the date of the entry into force of this Treaty.

These quotas shall be abolished by the end of the transitional period at the latest. During that period, they shall be progressively abolished in accordance with the following provisions.

*Article 33.* 1. One year after the entry into force of this Treaty, each Member State shall convert any bilateral quotas open to any other Member States into global quotas open without discrimination to all other Member States.

On the same date, Member States shall increase the aggregate of the global quotas so established in such a manner as to bring about an increase of not less than 20% in their total value as compared with the preceding year. The global quota for each product, however, shall be increased by not less than 10%.

The quotas shall be increased annually in accordance with the same rules and in the same proportions in relation to the preceding year.

The fourth increase shall take place at the end of the fourth year after the entry into force of this Treaty; the fifth, one year after the beginning of the second stage.

2. Where, in the case of a product which has not been liberalised, the global quota does not amount to 3% of the national production of the State concerned, a quota equal to not less than 3% of such national production shall be introduced not later than one year after the entry into force of this Treaty. This quota shall be raised to 4% at the end of the second year, and to 5% at the end of the third. Thereafter, the Member State concerned shall increase the quota by not less than 15% annually.

Where there is no such national production, the Commission shall take a decision establishing an appropriate quota.

3. At the end of the tenth year, each quota shall be equal to not less than 20% of the national production.

4. If the Commission finds by means of a decision that during two successive years the imports of any product have been below the level of the quota opened, this global quota shall not be taken into account in calculating the total value of the global quotas. In such case, the Member State shall abolish quota restrictions on the product concerned.

5. In the case of quotas representing more than 20% of the national production of the product concerned, the Council may, acting by a qualified majority on a proposal from the Commission, reduce the minimum percentage of 10% laid down in paragraph 1. This alteration shall not, however, affect the obligation to increase the total value of global quotas by 20% annually.

6. Member States which have exceeded their obligations as regards the degree of liberalisation attained in pursuance of the decisions of the Council of the Organisation for European Economic Cooperation of 14 January 1955 shall be entitled, when calculating the annual total increase of 20% provided for in paragraph 1, to take into account the amount of imports liberalised by autonomous action. Such calculation shall be submitted to the Commission for its prior approval.

7. The Commission shall issue directives establishing the procedure and timetable in accordance with which Member States shall abolish, as between themselves, any measures in existence when this Treaty enters into force which have an effect equivalent to quotas.

8. If the Commission finds that the application of the provisions of this Article, and in particular of the provisions concerning percentages, makes it impossible to ensure that the abolition of quotas provided for in the second paragraph of Article 32 is carried out progressively, the Council may, on a proposal from the Commission, acting unanimously during the first stage and by a qualified majority thereafter, amend the procedure laid down in this Article and may, in particular, increase the percentages fixed.

*Article 34.* 1. Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States.

2. Member States shall, by the end of the first stage at the latest, abolish all quantitative restrictions on exports and any measures having equivalent effect which are in existence when this Treaty enters into force.

*Article 35.* The Member States declare their readiness to abolish quantitative restrictions on imports from and exports to other Member States more rapidly than is provided for in the preceding Articles, if their general economic situation and the situation of the economic sector concerned so permit.

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

*Article 36.* The provisions of Articles 30 to 34 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however,

constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

*Article 37.* 1. Member States shall progressively adjust any State monopolies of a commercial character so as to ensure that when the transitional period has ended no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

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

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

3. The timetable for the measures referred to in paragraph 1 shall be harmonised with the abolition of quantitative restrictions on the same products provided for in Articles 30 to 34.

If a product is subject to a State monopoly of a commercial character in only one or some Member States, the Commission may authorise the other Member States to apply protective measures until the adjustment provided for in paragraph 1 has been effected; the Commission shall determine the conditions and details of such measures.

4. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying the rules contained in this Article to ensure equivalent safeguards for the employment and standard of living of the producers concerned, account being taken of the adjustments that will be possible and the specialisation that will be needed with the passage of time.

5. The obligations on Member States shall be binding only in so far as they are compatible with existing international agreements.

6. With effect from the first stage the Commission shall make recommendations as to the manner in which and the timetable according to which the adjustment provided for in this Article shall be carried out.

## TITLE II. AGRICULTURE

*Article 38.* 1. The common market shall extend to agriculture and trade in agricultural products. "Agricultural products" means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products.

2. Save as otherwise provided in Articles 39 to 46, the rules laid down for the establishment of the common market shall apply to agricultural products.

3. The products subject to the provisions of Articles 39 to 46 are listed in Annex II to this Treaty. Within two years of the entry into force of this Treaty, however, the Council shall, acting by a qualified majority on a proposal from the Commission, decide what products are to be added to this list.



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

*Article 39.* 1. The objectives of the common agricultural policy shall be:

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

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

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

*Article 40.* 1. Member States shall develop the common agricultural policy by degrees during the transitional period and shall bring it into force by the end of that period at the latest.

2. In order to attain the objectives set out in Article 39 a common organisation of agricultural markets shall be established.

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

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

3. The common organisation established in accordance with paragraph 2 may include all measures required to attain the objectives set out in Article 39, in particular regulation of prices, aids for the production and marketing of the various products, storage and carry-over arrangements and common machinery for stabilising imports or exports.

The common organisation shall be limited to pursuit of the objectives set out in Article 39 and shall exclude any discrimination between producers or consumers within the Community.

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

4. In order to enable the common organisation referred to in paragraph 2 to attain its objectives, one or more agricultural guidance and guarantee funds may be set up.

*Article 41.* To enable the objectives set out in Article 39 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:

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

*Article 42.* The provisions of the Chapter relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the Council within the framework of Article 43 (2) and (3) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 39.

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

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

*Article 43.* 1. In order to evolve the broad lines of a common agricultural policy, the Commission shall, immediately this Treaty enters into force, convene a conference of the Member States with a view to making a comparison of their agricultural policies, in particular by producing a statement of their resources and needs.

2. Having taken into account the work of the conference provided for in paragraph 1, after consulting the Economic and Social Committee and within two years of the entry into force of this Treaty, the Commission shall submit proposals for working out and implementing the common agricultural policy, including the replacement of the national organisations by one of the forms of common organisation provided for in Article 40 (2), and for implementing the measures specified in this Title.

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

The Council shall, on a proposal from the Commission and after consulting the Assembly, acting unanimously during the first two stages and by a qualified majority thereafter, make regulations, issue directives, or take decisions, without prejudice to any recommendations it may also make.

3. The Council may, acting by a qualified majority and in accordance with paragraph 2, replace the national market organisations by the common organisation provided for in Article 40 (2) if:

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

4. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw

materials as are used for processed products intended for export to third countries may be imported from outside the Community.

*Article 44.* 1. In so far as progressive abolition of customs duties and quantitative restrictions between Member States may result in prices likely to jeopardise the attainment of the objectives set out in Article 39, each Member State shall, during the transitional period, be entitled to apply to particular products, in a non-discriminatory manner and in substitution for quotas and to such an extent as shall not impede the expansion of the volume of trade provided for in Article 45 (2), a system of minimum prices below which imports may be either:

- Temporarily suspended or reduced; or
- Allowed, but subjected to the condition that they are made at a price higher than the minimum price for the product concerned.

In the latter case the minimum prices shall not include customs duties.

2. Minimum prices shall neither cause a reduction of the trade existing between Member States when this Treaty enters into force nor form an obstacle to progressive expansion of this trade. Minimum prices shall not be applied so as to form an obstacle to the development of a natural preference between Member States.

3. As soon as this Treaty enters into force the Council shall, on a proposal from the Commission, determine objective criteria for the establishment of minimum price systems and for the fixing of such prices.

These criteria shall in particular take account of the average national production costs in the Member State applying the minimum price, of the position of the various undertakings concerned in relation to such average production costs, and of the need to promote both the progressive improvement of agricultural practice and the adjustments and specialisation needed within the common market.

The Commission shall further propose a procedure for revising these criteria in order to allow for and speed up technical progress and to approximate prices progressively within the common market.

These criteria and the procedure for revising them shall be determined by the Council acting unanimously within three years of the entry into force of this Treaty.

4. Until the decision of the Council takes effect, Member States may fix minimum prices on condition that these are communicated beforehand to the Commission and to the other Member States so that they may submit their comments.

Once the Council has taken its decision, Member States shall fix minimum prices on the basis of the criteria determined as above.

The Council may, acting by a qualified majority on a proposal from the Commission, rectify any decisions taken by Member States which do not conform to the criteria defined above.

5. If it does not prove possible to determine the said objective criteria for certain products by the beginning of the third stage, the Council may, acting by a

qualified majority on a proposal from the Commission, vary the minimum prices applied to these products.

6. At the end of the transitional period, a table of minimum prices still in force shall be drawn up. The Council shall, acting on a proposal from the Commission and by a majority of nine votes in accordance with the weighting laid down in the first subparagraph of Article 148 (2), determine the system to be applied within the framework of the common agricultural policy.

*Article 45.* 1. Until national market organisations have been replaced by one of the forms of common organisation referred to in Article 40 (2), trade in products in respect of which certain Member States:

- Have arrangements designed to guarantee national producers a market for their products; and
- Are in need of imports,

shall be developed by the conclusion of long-term agreements or contracts between importing and exporting Member States.

These agreements or contracts shall be directed towards the progressive abolition of any discrimination in the application of these arrangements to the various producers within the Community.

Such agreements or contracts shall be concluded during the first stage; account shall be taken of the principle of reciprocity.

2. As regards quantities, these agreements or contracts shall be based on the average volume of trade between Member States in the products concerned during the three years before the entry into force of this Treaty and shall provide for an increase in the volume of trade within the limits of existing requirements, account being taken of traditional patterns of trade.

As regards prices, these agreements or contracts shall enable producers to dispose of the agreed quantities at prices which shall be progressively approximated to those paid to national producers on the domestic market of the purchasing country.

This approximation shall proceed as steadily as possible and shall be completed by the end of the transitional period at the latest.

Prices shall be negotiated between the parties concerned within the framework of directives issued by the Commission for the purpose of implementing the two preceding subparagraphs.

If the first stage is extended, these agreements or contracts shall continue to be carried out in accordance with the conditions applicable at the end of the fourth year after the entry into force of this Treaty, the obligation to increase quantities and to approximate prices being suspended until the transition to the second stage.

Member States shall avail themselves of any opportunity open to them under their legislation, particularly in respect of import policy, to ensure the conclusion and carrying out of these agreements or contracts.

3. To the extent that Member States require raw materials for the manufacture of products to be exported outside the Community in competition with products of third countries, the above agreements or contracts shall not form

an obstacle to the importation of raw materials for this purpose from third countries. This provision shall not, however, apply if the Council unanimously decides to make provision for payments required to compensate for the higher price paid on goods imported for this purpose on the basis of these agreements or contracts in relation to the delivered price of the same goods purchased on the world market.

*Article 46.* Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position or similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.

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

*Article 47.* As to the functions to be performed by the Economic and Social Committee in pursuance of this Title, its agricultural section shall hold itself at the disposal of the Commission to prepare, in accordance with the provisions of Articles 197 and 198, the deliberations of the Committee.

### TITLE III. FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL

#### CHAPTER I. WORKERS

*Article 48.* 1. Freedom of movement for workers shall be secured within the Community by the end of the transitional period at the latest.

2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:

- (a) To accept offers of employment actually made;
- (b) To move freely within the territory of Member States for this purpose;
- (c) To stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
- (d) To remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.

4. The provisions of this Article shall not apply to employment in the public service.

*Article 49.* As soon as this Treaty enters into force, the Council shall, acting on a proposal from the Commission and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required

to bring about, by progressive stages, freedom of movement for workers, as defined in Article 48, in particular:

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

*Article 50.* Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

*Article 51.* The Council shall, acting unanimously on a proposal from the Commission, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, it shall make arrangements to secure for migrant workers and their dependants:

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

## CHAPTER 2. RIGHT OF ESTABLISHMENT

*Article 52.* Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be abolished by progressive stages in the course of the transitional period. Such progressive abolition shall also apply to restrictions on the setting up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 58, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the Chapter relating to capital.

*Article 53.* Member States shall not introduce any new restrictions on the right of establishment in their territories of nationals of other Member States, save as otherwise provided in this Treaty.

*Article 54.* 1. Before the end of the first stage, the Council shall, acting unanimously on a proposal from the Commission and after consulting the

Economic and Social Committee and the Assembly, draw up a general programme for the abolition of existing restrictions on freedom of establishment within the Community. The Commission shall submit its proposal to the Council during the first two years of the first stage.

The programme shall set out the general conditions under which freedom of establishment is to be attained in the case of each type of activity and in particular the stages by which it is to be attained.

2. In order to implement this general programme or, in the absence of such programme, in order to achieve a stage in attaining freedom of establishment as regards a particular activity, the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the Assembly, issue directives, acting unanimously until the end of the first stage and by a qualified majority thereafter.

3. The Council and the Commission shall carry out the duties devolving upon them under the preceding provisions, in particular:

- (a) By according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;
- (b) By ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Community of the various activities concerned;
- (c) By abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;
- (d) By ensuring that workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;
- (e) By enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, in so far as this does not conflict with the principles laid down in Article 39 (2);
- (f) By effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;
- (g) By coordinating to the necessary extent the safeguards which, for the protection of the interests of members and others, are required by Member States of companies or firms within the meaning of the second paragraph of Article 58 with a view to making such safeguards equivalent throughout the Community;
- (h) By satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

*Article 55.* The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

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

*Article 56.* 1. The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

2. Before the end of the transitional period, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Assembly, issue directives for the coordination of the aforementioned provisions laid down by law, regulation or administrative action. After the end of the second stage, however, the Council shall, acting by a qualified majority on a proposal from the Commission, issue directives for the coordination of such provisions as, in each Member State, are a matter for regulation or administrative action.

*Article 57.* 1. In order to make it easier for persons to take up and pursue activities as self-employed persons, the Council shall, on a proposal from the Commission and after consulting the Assembly, acting unanimously during the first stage and by a qualified majority thereafter, issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications.

2. For the same purpose, the Council shall, before the end of the transitional period, acting on a proposal from the Commission and after consulting the Assembly, issue directives for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking up and pursuit of activities as self-employed persons. Unanimity shall be required on matters which are the subject of legislation in at least one Member State and measures concerned with the protection of savings, in particular the granting of credit and the exercise of the banking profession, and with the conditions governing the exercise of the medical and allied, and pharmaceutical professions in the various Member States. In other cases, the Council shall act unanimously during the first stage and by a qualified majority thereafter.

3. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for their exercise in the various Member States.

*Article 58.* Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Community shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of Member States.

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

### CHAPTER 3. SERVICES

*Article 59.* Within the framework of the provisions set out below, restrictions on freedom to provide services within the Community shall be progressively



abolished during the transitional period in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.

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

*Article 60.* Services shall be considered to be “services” within the meaning of this Treaty where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.

“Services” shall in particular include:

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

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

*Article 61.* 1. Freedom to provide services in the field of transport shall be governed by the provisions of the Title relating to transport.

2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in step with the progressive liberalisation of movement of capital.

*Article 62.* Save as otherwise provided in this Treaty, Member States shall not introduce any new restrictions on the freedom to provide services which have in fact been attained at the date of the entry into force of this Treaty.

*Article 63.* 1. Before the end of the first stage, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Economic and Social Committee and the Assembly, draw up a general programme for the abolition of existing restrictions on freedom to provide services within the Community. The Commission shall submit its proposal to the Council during the first two years of the first stage.

The programme shall set out the general conditions under which and the stages by which each type of service is to be liberalised.

2. In order to implement this general programme or, in the absence of such programme, in order to achieve a stage in the liberalisation of a specific service, the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the Assembly, issue directives acting unanimously until the end of the first stage and by a qualified majority thereafter.

3. As regards the proposals and decisions referred to in paragraphs 1 and 2, priority shall as a general rule be given to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.

*Article 64.* The Member States declare their readiness to undertake the liberalisation of services beyond the extent required by the directives issued

pursuant to Article 63 (2), if their general economic situation and the situation of the Economic sector concerned so permit.

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

*Article 65.* As long as restrictions on freedom to provide services have not been abolished, each Member State shall apply such restrictions without distinction on grounds of nationality or residence to all persons providing services within the meaning of the first paragraph of Article 59.

*Article 66.* The provisions of Articles 55 to 58 shall apply to the matters covered by this Chapter.

#### CHAPTER 4. CAPITAL

*Article 67.* 1. During the transitional period and to the extent necessary to ensure the proper functioning of the common market, Member States shall progressively abolish between themselves all restrictions on the movement of capital belonging to persons resident in Member States and any discrimination based on the nationality or on the place of residence of the parties or on the place where such capital is invested.

2. Current payments connected with the movement of capital between Member States shall be freed from all restrictions by the end of the first stage at the latest.

*Article 68.* 1. Member States shall, as regards the matters dealt with in this Chapter, be as liberal as possible in granting such exchange authorisations as are still necessary after the entry into force of this Treaty.

2. Where a Member State applies to the movements of capital liberalised in accordance with the provisions of this Chapter the domestic rules governing the capital market and the credit system, it shall do so in a non-discriminatory manner.

3. Loans for the direct or indirect financing of a Member State or its regional or local authorities shall not be issued or placed in other Member States unless the States concerned have reached agreement thereon. This provision shall not preclude the application of Article 22 of the Protocol on the Statute of the European Investment Bank.<sup>1</sup>

*Article 69.* The Council shall, on a proposal from the Commission, which for this purpose shall consult the Monetary Committee provided for in Article 105, issue the necessary directives for the progressive implementation of the provisions of Article 67, acting unanimously during the first two stages and by a qualified majority thereafter.

*Article 70.* 1. The Commission shall propose to the Council measures for the progressive coordination of the exchange policies of Member States in respect of the movement of capital between those States and third countries. For this purpose the Council shall issue directives, acting unanimously. It shall endeavour to attain the highest possible degree of liberalisation.

2. Where the measures taken in accordance with paragraph 1 do not permit the elimination of differences between the exchange rules of Member States and

<sup>1</sup> See p. 83 of this volume.

where such differences could lead persons resident in one of the Member States to use the freer transfer facilities within the Community which are provided for in Article 67 in order to evade the rules of one of the Member States concerning the movement of capital to or from third countries, that State may, after consulting the other Member States and the Commission, take appropriate measures to overcome these difficulties.

Should the Council find that these measures are restricting the free movement of capital within the Community to a greater extent than is required for the purpose of overcoming the difficulties, it may, acting by a qualified majority on a proposal from the Commission, decide that the State concerned shall amend or abolish these measures.

*Article 71.* Member States shall endeavour to avoid introducing within the Community any new exchange restrictions on the movement of capital and current payments connected with such movements, and shall endeavour not to make existing rules more restrictive.

They declare their readiness to go beyond the degree of liberalisation of capital movements provided for in the preceding Articles in so far as their economic situation, in particular the situation of their balance of payments, so permits.

The Commission may, after consulting the Monetary Committee, make recommendations to Member States on this subject.

*Article 72.* Member States shall keep the Commission informed of any movements of capital to and from third countries which come to their knowledge. The Commission may deliver to Member States any opinions which it considers appropriate on this subject.

*Article 73.* 1. If movements of capital lead to disturbances in the functioning of the capital market in any Member State, the Commission shall, after consulting the Monetary Committee, authorise that State to take protective measures in the field of capital movements, the conditions and details of which the Commission shall determine.

The Council may, acting by a qualified majority, revoke this authorisation or amend the conditions or details thereof.

2. A Member State which is in difficulties may, however, on grounds of secrecy or urgency, take the measures mentioned above, where this proves necessary, on its own initiative. The Commission and the other Member States shall be informed of such measures by the date of their entry into force at the latest. In this event the Commission may, after consulting the Monetary Committee, decide that the State concerned shall amend or abolish the measures.

#### TITLE IV. TRANSPORT

*Article 74.* The objectives of this Treaty shall, in matters governed by this Title, be pursued by Member States within the framework of a common transport policy.

*Article 75.* 1. For the purpose of implementing Article 74, and taking into account the distinctive features of transport, the Council shall, acting unanimously until the end of the second stage and by a qualified majority thereafter,

lay down, on a proposal from the Commission and after consulting the Economic and Social Committee and the Assembly:

- (a) Common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;
- (b) The conditions under which non-resident carriers may operate transport services within a Member State;
- (c) Any other appropriate provisions.

2. The provisions referred to in (a) and (b) of paragraph 1 shall be laid down during the transitional period.

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

*Article 76.* Until the provisions referred to in Article 75 (1) have been laid down, no Member State may, without the unanimous approval of the Council, make the various provisions governing the subject when this Treaty enters into force less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State.

*Article 77.* Aids shall be compatible with this Treaty if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

*Article 78.* Any measures taken within the framework of this Treaty in respect of transport rates and conditions shall take account of the economic circumstances of carriers.

*Article 79.* 1. In the case of transport within the Community, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question, shall be abolished, at the latest, before the end of the second stage.

2. Paragraph 1 shall not prevent the Council from adopting other measures in pursuance of Article 75 (1).

3. Within two years of the entry into force of this Treaty, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the Economic and Social Committee, lay down rules for implementing the provisions of paragraph 1.

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

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

*Article 80.* 1. The imposition by a Member State, in respect of transport operations carried out within the Community, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited as from the beginning of the second stage, unless authorised by the Commission.

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

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

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

*Article 81.* Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs progressively.

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

*Article 82.* The provisions of this Title shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division.

*Article 83.* An Advisory Committee consisting of experts designated by the Governments of Member States, shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters without prejudice to the powers of the transport section of the Economic and Social Committee.

*Article 84.* 1. The provisions of this Title shall apply to transport by rail, road and inland waterway.

2. The Council may, acting unanimously, decide whether, to what extent and by what procedure appropriate provisions may be laid down for sea and air transport.

### PART THREE. POLICY OF THE COMMUNITY

#### TITLE I. COMMON RULES

##### CHAPTER I. RULES ON COMPETITION

###### Section 1. RULES APPLYING TO UNDERTAKINGS

*Article 85.* 1. The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decision by associations

of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:

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

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

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

- Any agreement or category of agreements between undertakings,
- Any decision or category of decisions by associations of undertakings,
- Any concerted practice or category of concerted practices,

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

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

*Article 86.* Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

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

*Article 87.* 1. Within three years of the entry into force of this Treaty the Council shall, acting unanimously on a proposal from the Commission and after

consulting the Assembly, adopt any appropriate regulations or directives to give effect to the principles set out in Articles 85 and 86.

If such provisions have not been adopted within the period mentioned, they shall be laid down by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the Assembly.

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

- (a) To ensure compliance with the prohibitions laid down in Article 85 (1) and in Article 86 by making provision for fines and periodic penalty payments;
- (b) To lay down detailed rules for the application of Article 85 (3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;
- (c) To define, if need be, in the various branches of the economy, the scope of the provisions of Articles 85 and 86;
- (d) To define the respective functions of the Commission and of the Court of Justice in applying the provisions laid down in this paragraph;
- (e) To determine the relationship between national laws and the provisions contained in this Section or adopted pursuant to this Article.

*Article 88.* Until the entry into force of the provisions adopted in pursuance of Article 87, the authorities in Member States shall rule on the admissibility of agreements, decisions and concerted practices and on abuse of a dominant position in the common market in accordance with the law of their country and with the provisions of Article 85, in particular paragraph 3, and of Article 86.

*Article 89.* 1. Without prejudice to Article 88, the Commission shall, as soon as it takes up its duties, ensure the application of the principles laid down in Articles 85 and 86. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, who shall give it their assistance, the Commission shall investigate cases of suspected infringement of these principles. If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.

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

*Article 90.* 1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 7 and Articles 85 to 94.

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

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

### Section 2. DUMPING

*Article 91.* 1. If, during the transitional period, the Commission, on application by a Member State or by any other interested party, finds that dumping is being practised within the common market, it shall address recommendations to the person or persons with whom such practices originate for the purpose of putting an end to them.

Should the practices continue, the Commission shall authorise the injured Member State to take protective measures, the conditions and details of which the Commission shall determine.

2. As soon as this Treaty enters into force, products which originate in or are in free circulation in one Member State and which have been exported to another Member State shall, on reimportation, be admitted into the territory of the first-mentioned State free of all customs duties, quantitative restrictions or measures having equivalent effect. The Commission shall lay down appropriate rules for the application of this paragraph.

### Section 3. AIDS GRANTED BY STATES

*Article 92.* 1. Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.

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

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

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

- (a) Aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
- (b) Aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- (c) Aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest. However, the aids granted to shipbuilding as of 1 January 1957, shall, in so far as they serve only to compensate for the absence of customs protection, be progressively reduced



under the same conditions as apply to the elimination of customs duties, subject to the provisions of this Treaty concerning common commercial policy towards third countries;

- (d) Such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

*Article 93.* 1. The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the common market.

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the common market having regard to Article 92, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 169 and 170, refer the matter to the Court of Justice direct.

On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered to be compatible with the common market, in derogation from the provisions of Article 92 or from the regulations provided for in Article 94, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

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

3. The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the common market having regard to Article 92, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

*Article 94.* The Council may, acting by a qualified majority on a proposal from the Commission, make any appropriate regulations for the application of Articles 92 and 93 and may in particular determine the conditions in which Article 93 (3) shall apply and the categories of aid exempted from this procedure.

#### CHAPTER 2. TAX PROVISIONS

*Article 95.* No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

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

Member States shall, not later than at the beginning of the second stage, repeal or amend any provisions existing when this Treaty enters into force which conflict with the preceding rules.

*Article 96.* Where products are exported to the territory of any Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.

*Article 97.* Member States which levy a turnover tax calculated on a cumulative multi-stage tax system may, in the case of internal taxation imposed by them on imported products or of repayments allowed by them on exported products, establish average rates for products or groups of products, provided that there is no infringement of the principles laid down in Articles 95 and 96.

Where the average rates established by a Member State do not conform to these principles, the Commission shall address appropriate directives or decisions to the State concerned.

*Article 98.* In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the measures contemplated have been previously approved for a limited period by the Council acting by a qualified majority on a proposal from the Commission.

*Article 99.* The Commission shall consider how the legislation of the various Member States concerning turnover taxes, excise duties and other forms of indirect taxation, including countervailing measures applicable to trade between Member States, can be harmonised in the interest of the common market.

The Commission shall submit proposals to the Council, which shall act unanimously without prejudice to the provisions of Articles 100 and 101.

### CHAPTER 3. APPROXIMATION OF LAWS

*Article 100.* The Council shall, acting unanimously on a proposal from the Commission, issue directives for the approximation of such provisions laid down by law, regulation or administrative action in Member States as directly affect the establishment or functioning of the common market.

The Assembly and the Economic and Social Committee shall be consulted in the case of directives whose implementation would, in one or more Member States, involve the amendment of legislation.

*Article 101.* Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the common market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

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

*Article 102.* 1. Where there is reason to fear that the adoption or amendment of a provision laid down by law, regulation or administrative action may cause distortion within the meaning of Article 101, a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall recommend to the States concerned such measures as may be appropriate to avoid the distortion in question.

2. If a State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, in pursuance of Article 101, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, the provisions of Article 101 shall not apply.

## TITLE II. ECONOMIC POLICY

### CHAPTER I. CONJUNCTURAL POLICY

*Article 103.* 1. Member States shall regard their conjunctural policies as a matter of common concern. They shall consult each other and the Commission on the measures to be taken in the light of the prevailing circumstances.

2. Without prejudice to any other procedures provided for in this Treaty, the Council may, acting unanimously on a proposal from the Commission, decide upon the measures appropriate to the situation.

3. Acting by a qualified majority on a proposal from the Commission, the Council shall, where required, issue any directives needed to give effect to the measures decided upon under paragraph 2.

4. The procedures provided for in this Article shall also apply if any difficulty should arise in the supply of certain products.

### CHAPTER 2. BALANCE OF PAYMENTS

*Article 104.* Each Member State shall pursue the economic policy needed to ensure the equilibrium of its overall balance of payments and to maintain confidence in its currency, while taking care to ensure a high level of employment and a stable level of prices.

*Article 105.* 1. In order to facilitate attainment of the objectives set out in Article 104, Member States shall coordinate their economic policies. They shall for this purpose provide for cooperation between their appropriate administrative departments and between their central banks.

The Commission shall submit to the Council recommendations on how to achieve such cooperation.

2. In order to promote coordination of the policies of Member States in the monetary field to the full extent needed for the functioning of the common market, a Monetary Committee with advisory status is hereby set up. It shall have the following tasks:

— To keep under review the monetary and financial situation of the Member States and of the Community and the general payments system of the Member States and to report regularly thereon to the Council and to the Commission;

— To deliver opinions at the request of the Council or of the Commission or on its own initiative, for submission to these institutions.

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

*Article 106.* 1. Each Member State undertakes to authorise, in the currency of the Member State in which the creditor or the beneficiary resides, any payments connected with the movement of goods, services or capital, and any transfers of capital and earnings, to the extent that the movement of goods, services, capital and persons between Member States has been liberalised pursuant to this Treaty.

The Member States declare their readiness to undertake the liberalisation of payments beyond the extent provided in the preceding subparagraph, in so far as their economic situation in general and the state of their balance of payments in particular so permit.

2. In so far as movements of goods, services, and capital are limited only by restrictions on payments connected therewith, these restrictions shall be progressively abolished by applying, *mutatis mutandis*, the provisions of the Chapters relating to the abolition of quantitative restrictions, to the liberalisation of services and to the free movement of capital.

3. Member States undertake not to introduce between themselves any new restrictions on transfers connected with the invisible transactions listed in Annex III to this Treaty.

The progressive abolition of existing restrictions shall be effected in accordance with the provisions of Articles 63 to 65, in so far as such abolition is not governed by the provisions contained in paragraphs 1 and 2 or by the Chapter relating to the free movement of capital.

4. If need be, Member States shall consult each other on the measures to be taken to enable the payments and transfers mentioned in this Article to be effected; such measures shall not prejudice the attainment of the objectives set out in this Chapter.

*Article 107.* 1. Each Member State shall treat its policy with regard to rates of exchange as a matter of common concern.

2. If a Member State makes an alteration in its rate of exchange which is inconsistent with the objectives set out in Article 104 and which seriously distorts conditions of competition, the Commission may, after consulting the Monetary Committee, authorise other Member States to take for a strictly limited period the necessary measures, the conditions and details of which it shall determine, in order to counter the consequences of such alteration.

*Article 108.* 1. Where a Member State is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the common market or the progressive implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance

with the provisions of Article 104. The Commission shall state what measures it recommends the State concerned to take.

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

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

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

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

During the transitional period, mutual assistance may also take the form of special reductions in customs duties or enlargements of quotas in order to facilitate an increase in imports from the State which is in difficulties, subject to the agreement of the States by which such measures would have to be taken.

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

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

*Article 109.* 1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 108 (2) is not immediately taken, the Member State concerned may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the common market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 108.

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

#### CHAPTER 3. COMMERCIAL POLICY

*Article 110.* By establishing a customs union between themselves Member States aim to contribute, in the common interest, to the harmonious development

of world trade, the progressive abolition of restrictions on international trade and the lowering of customs barriers.

The common commercial policy shall take into account the favourable effect which the abolition of customs duties between Member States may have on the increase in the competitive strength of undertakings in those States.

*Article 111.* The following provisions shall, without prejudice to Articles 115 and 116, apply during the transitional period:

1. Member States shall coordinate their trade relations with third countries so as to bring about, by the end of the transitional period, the conditions needed for implementing a common policy in the field of external trade.

The Commission shall submit to the Council proposals regarding the procedure for common action to be followed during the transitional period and regarding the achievement of uniformity in their commercial policies.

2. The Commission shall submit to the Council recommendations for tariff negotiations with third countries in respect of the common customs tariff.

The Council shall authorise the Commission to open such negotiations.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it.

3. In exercising the powers conferred upon it by this Article, the Council shall act unanimously during the first two stages and by a qualified majority thereafter.

4. Member States shall, in consultation with the Commission, take all necessary measures, particularly those designed to bring about an adjustment of tariff agreements in force with third countries, in order that the entry into force of the common customs tariff shall not be delayed.

5. Member States shall aim at securing as high a level of uniformity as possible between themselves as regards their liberalisation lists in relation to third countries or groups of third countries. To this end, the Commission shall make all appropriate recommendations to Member States.

If Member States abolish or reduce quantitative restrictions in relation to third countries, they shall inform the Commission beforehand and shall accord the same treatment to other Member States.

*Article 112.* 1. Without prejudice to obligations undertaken by them within the framework of other international organisations, Member States shall, before the end of the transitional period, progressively harmonise the systems whereby they grant aid for exports to third countries, to the extent necessary to ensure that competition between undertakings of the Community is not distorted.

On a proposal from the Commission, the Council shall, acting unanimously until the end of the second stage and by a qualified majority thereafter, issue any directives needed for this purpose.

2. The preceding provisions shall not apply to such drawback of customs duties or charges having equivalent effect nor to such repayment of indirect taxation including turnover taxes, excise duties and other indirect taxes as is allowed when goods are exported from a Member State to a third country, in so

far as such drawback or repayment does not exceed the amount imposed, directly or indirectly, on the products exported.

*Article 113.* 1. After the transitional period has ended, the common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in case of dumping or subsidies.

2. The Commission shall submit proposals to the Council for implementing the common commercial policy.

3. Where agreements with third countries need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it.

4. In exercising the powers conferred upon it by this Article, the Council shall act by a qualified majority.

*Article 114.* The agreements referred to in Article 111 (2) and in Article 113 shall be concluded by the Council on behalf of the Community, acting unanimously during the first two stages and by a qualified majority thereafter.

*Article 115.* In order to ensure that the execution of measures of commercial policy taken in accordance with this Treaty by any Member State is not obstructed by deflection of trade, or where differences between such measures lead to economic difficulties in one or more of the Member States, the Commission shall recommend the methods for the requisite cooperation between Member States. Failing this, the Commission shall authorise Member States to take the necessary protective measures, the conditions and details of which it shall determine.

In case of urgency during the transitional period, Member States may themselves take the necessary measures and shall notify them to the other Member States and to the Commission, which may decide that the States concerned shall amend or abolish such measures.

In the selection of such measures, priority shall be given to those which cause the least disturbance to the functioning of the common market and which take into account the need to expedite, as far as possible, the introduction of the common customs tariff.

*Article 116.* From the end of the transitional period onwards, Member States shall, in respect of all matters of particular interest to the common market, proceed within the framework of international organisations of an economic character only by common action. To this end, the Commission shall submit to the Council, which shall act by a qualified majority, proposals concerning the scope and implementation of such common action.

During the transitional period, Member States shall consult each other for the purpose of concerting the action they take and adopting as far as possible a uniform attitude.

## TITLE III. SOCIAL POLICY

## CHAPTER I. SOCIAL PROVISIONS

*Article 117.* Member States agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonisation while the improvement is being maintained.

They believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonisation of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action.

*Article 118.* Without prejudice to the other provisions of this Treaty and in conformity with its general objectives, the Commission shall have the task of promoting close cooperation between Member States in the social field, particularly in matters relating to:

- Employment;
- Labour law and working conditions;
- Basic and advanced vocational training;
- Social security;
- Prevention of occupational accidents and diseases;
- Occupational hygiene;
- The right of association, and collective bargaining between employers and workers.

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations.

Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

*Article 119.* Each Member State shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work.

For the purpose of this Article, “pay” means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, in respect of his employment from his employer.

Equal pay without discrimination based on sex means:

- (a) That pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
- (b) That pay for work at time rates shall be the same for the same job.

*Article 120.* Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

*Article 121.* The Council may, acting unanimously and after consulting the Economic and Social Committee, assign to the Commission tasks in connection with the implementation of common measures, particularly as regards social security for the migrant workers referred to in Articles 48 to 51.



*Article 122.* The Commission shall include a separate chapter on social developments within the Community in its annual report to the Assembly.

The Assembly may invite the Commission to draw up reports on any particular problems concerning social conditions.

## CHAPTER 2. THE EUROPEAN SOCIAL FUND

*Article 123.* In order to improve employment opportunities for workers in the common market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established in accordance with the provisions set out below; it shall have the task of rendering the employment of workers easier and of increasing their geographical and occupational mobility within the Community.

*Article 124.* The Fund shall be administered by the Commission.

The Commission shall be assisted in this task by a Committee presided over by a member of the Commission and composed of representatives of Governments, trade unions and employers' organisations.

*Article 125.* 1. On application by a Member State the Fund shall, within the framework of the rules provided for in Article 127, meet 50% of the expenditure incurred after the entry into force of this Treaty by that State or by a body governed by public law for the purposes of:

- (a) Ensuring productive re-employment of workers by means of:
  - Vocational retraining;
  - Resettlement allowances;
- (b) Granting aid for the benefit of workers whose employment is reduced or temporarily suspended, in whole or in part, as a result of the conversion of an undertaking to other production, in order that they may retain the same wage level pending their full re-employment.

2. Assistance granted by the Fund towards the cost of vocational retraining shall be granted only if the unemployed workers could not be found employment except in a new occupation and only if they have been in productive employment for at least six months in the occupation for which they have been retrained.

Assistance towards resettlement allowances shall be granted only if the unemployed workers have been caused to change their home within the Community and have been in productive employment for at least six months in their new place of residence.

Assistance for workers in the case of the conversion of an undertaking shall be granted only if:

- (a) The workers concerned have again been fully employed in that undertaking for at least six months;
- (b) The Government concerned has submitted a plan beforehand, drawn up by the undertaking in question, for that particular conversion and for financing it;
- (c) The Commission has given its prior approval to the conversion plan.

*Article 126.* When the transitional period has ended, the Council, after receiving the opinion of the Commission and after consulting the Economic and Social Committee and the Assembly, may:

- (a) Rule, by a qualified majority, that all or part of the assistance referred to in Article 125 shall no longer be granted; or
- (b) Unanimously determine what new tasks may be entrusted to the Fund within the framework of its terms of reference as laid down in Article 123.

*Article 127.* The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the Economic and Social Committee and the Assembly, lay down the provisions required to implement Articles 124 to 126; in particular it shall determine in detail the conditions under which assistance shall be granted by the Fund in accordance with Article 125 and the classes of undertakings whose workers shall benefit from the assistance provided for in Article 125 (1) (b).

*Article 128.* The Council shall, acting on a proposal from the Commission and after consulting the Economic and Social Committee, lay down general principles for implementing a common vocational training policy capable of contributing to the harmonious development both of the national economies and of the common market.

#### TITLE IV. THE EUROPEAN INVESTMENT BANK

*Article 129.* A European Investment Bank is hereby established; it shall have legal personality.

The members of the European Investment Bank shall be the Member States.

The Statute of the European Investment Bank is laid down in a Protocol annexed to this Treaty.

*Article 130.* The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the Community. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

- (a) Projects for developing less developed regions;
- (b) Projects for modernising or converting undertakings or for developing fresh activities called for by the progressive establishment of the common market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;
- (c) Projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.

#### PART FOUR. ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

*Article 131.* The Member States agree to associate with the Community the non-European countries and territories which have special relations with

Belgium, France, Italy, the Netherlands and the United Kingdom.\* These countries and territories (hereinafter called the “countries and territories”) are listed in Annex IV to this Treaty.

The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole.

In accordance with the principles set out in the Preamble to this Treaty, association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.

*Article 132.* Association shall have the following objectives:

1. Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to this Treaty.

2. Each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which it has special relations.

3. The Member States shall contribute to the investments required for the progressive development of these countries and territories.

4. For investments financed by the Community, participation in tenders and supplies shall be open on equal terms to all natural and legal persons who are nationals of a Member State or of one of the countries and territories.

5. In relations between Member States and the countries and territories the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions and procedures laid down in the Chapter relating to the right of establishment and on a non-discriminatory basis, subject to any special provisions laid down pursuant to Article 136.

*Article 133.* I. Customs duties on imports into the Member States of goods originating in the countries and territories shall be completely abolished in conformity with the progressive abolition of customs duties between Member States in accordance with the provisions of this Treaty.

2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be progressively abolished in accordance with the provisions of Articles 12, 13, 14, 15 and 17.

3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.

The duties referred to in the preceding subparagraph shall nevertheless be progressively reduced to the level of those imposed on imports of products from the Member State with which each country or territory has special relations. The percentages and the timetable of the reductions provided for under this Treaty shall apply to the difference between the duty imposed on a product coming from the Member State which has special relations with the country or territory

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\* First sentence as amended by Article 24 (1) of the Act of Accession,<sup>1</sup> modified by Article 13 of the Adaptation Decision.<sup>2</sup>

<sup>1</sup> United Nations, *Treaty Series*, vol. 1375, p. 12.

<sup>2</sup> *Ibid.*, p. 118.

concerned and the duty imposed on the same product coming from within the Community on entry into the importing country or territory.

4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff when this Treaty enters into force.

5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.

*Article 134.* If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when the provisions of article 133 (1) have been applied, to cause deflections of trade to the detriment of any Member State, the latter may request the Commission to propose to the other Member States the measures needed to remedy the situation.

*Article 135.* Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries and territories for workers from Member States, shall be governed by agreements to be concluded subsequently with the unanimous approval of Member States.

*Article 136.* For an initial period of five years after the entry into force of this Treaty, the details of and procedure for the association of the countries and territories with the Community shall be determined by an Implementing Convention annexed to this Treaty.

Before the Convention referred to in the preceding paragraph expires, the Council shall, acting unanimously, lay down provisions for a further period, on the basis of the experience acquired and of the principles set out in this Treaty.

## PART FIVE. INSTITUTIONS OF THE COMMUNITY

### TITLE I. PROVISIONS GOVERNING THE INSTITUTIONS

#### CHAPTER I. THE INSTITUTIONS

##### *Section 1.* THE ASSEMBLY

*Article 137.* The Assembly, which shall consist of representatives of the peoples of the States brought together in the Community, shall exercise the advisory and supervisory powers which are conferred upon it by this Treaty.

*Article 138.* 1. The Assembly shall consist of delegates who shall be designated by the respective Parliaments from among their members in accordance with the procedure laid down by each Member State.\*

\* EDITORIAL NOTE. Paragraph 1 will cease to have effect on the date of the sitting held by the first Assembly elected pursuant to the Article on the election of representatives to the Assembly (see Article 14 of the Act'). See Article 1 of the Act, which reads as follows:

"The representatives in the Assembly of the peoples of the States brought together in the Community shall be elected by direct universal suffrage."

<sup>1</sup> United Nations, *Treaty Series*, vol. 1456, No. A-3729.

## 2. The number of these delegates shall be as follows:

Belgium.....	14
Denmark.....	10
Germany.....	36
France.....	36
Ireland.....	10
Italy.....	36
Luxembourg.....	6
Netherlands.....	14
United Kingdom.....	36.*. **

3. The assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States.\*\*\*

The Council shall, acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

*Article 139.* The Assembly shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.\*\*\*\*. \*\*\*\*\*

The Assembly may meet in extraordinary session at the request of a majority of its members or at the request of the Council or of the Commission.

*Article 140.* The Assembly shall elect its President and its officers from among its members.

Members of the Commission may attend all meetings and shall, at their request, be heard on behalf of the Commission.

The Commission shall reply orally or in writing to questions put to it by the Assembly or by its members.

The Council shall be heard by the Assembly in accordance with the conditions laid down by the Council in its rules of procedure.

*Article 141.* Save as otherwise provided in this Treaty, the Assembly shall act by an absolute majority of the votes cast.

\* Paragraph 2 as amended by Article 10 of the Act of Accession, modified by Article 4 of the Adaptation Decision.

\*\* EDITORIAL NOTE. Paragraph 2 will cease to have effect on the date of the sitting held by the first Assembly elected pursuant to the Article on the election of representatives to the Assembly (see Article 14 of the Act).

See Article 2 of the Act, which reads as follows:

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

Belgium.....	24
Denmark.....	16
Germany.....	81
France.....	81
Ireland.....	15
Italy.....	81
Luxembourg.....	6
Netherlands.....	25
United Kingdom.....	81.”

\*\*\* See also Article 7 (1) and (2) of the Act concerning the election of the representatives of the Assembly.<sup>1</sup>

\*\*\*\* First paragraph as amended by Article 27 (1) of the Merger Treaty.<sup>2</sup>

\*\*\*\*\* As regards the second sentence of this Article see also Article 10 (3) of the Act concerning the election of the representatives of the Assembly.

<sup>1</sup> United Nations, *Treaty Series*, vol. 1456, A-3729.

<sup>2</sup> See p. 188 of this volume.

The rules of procedure shall determine the quorum.

*Article 142.* The Assembly shall adopt its rules of procedure, acting by a majority of its members.

The proceedings of the Assembly shall be published in the manner laid down in its rules of procedure.

*Article 143.* The Assembly shall discuss in open session the annual general report submitted to it by the Commission.

*Article 144.* If a motion of censure on the activities of the Commission 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.

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the members of the Assembly, the members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 158.

#### Section 2. THE COUNCIL

*Article 145.* To ensure that the objectives set out in this Treaty are attained, the Council shall, in accordance with the provisions of this Treaty:

- Ensure coordination of the general economic policies of the Member States;
- Have power to take decisions.

*Article 146.* (Article repealed by Article 7 of the Merger Treaty)

[See Article 2 of the Merger Treaty, which reads as follows:

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 147.* (Article repealed by Article 7 of the Merger Treaty)

[See Article 3 of the Merger Treaty, which reads as follows:

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 148.* 1. Save as otherwise provided in this Treaty, the Council shall act by a majority of its members.

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

Belgium.....	5
Denmark.....	3
Germany.....	10

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

\*\* Paragraph 2 as amended by Article 14 of the Act of Accession, modified by Article 8 of the Adaptation Decision.

France.....	10
Ireland.....	3
Italy.....	10
Luxembourg.....	2
Netherlands.....	5
United Kingdom.....	10.

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

- Forty-one votes in favour where this Treaty requires them to be adopted on a proposal from the Commission,
- Forty-one votes in favour, cast by at least six members, in other cases.

3. Abstentions by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

*Article 149.* Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal.

As long as the Council has not acted, the Commission may alter its original proposal, in particular where the Assembly has been consulted on that proposal.

*Article 150.* Where a vote is taken, any member of the Council may also act on behalf of not more than one other member.

*Article 151. (Article repealed by Article 7 of the Merger Treaty)*

[See Articles 5 and 4 of the Merger Treaty, which read as follows:

*Article 5.* The Council shall adopt its rules of procedure.

*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 152.* The Council may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit to it any appropriate proposals.

*Article 153.* The Council shall, after receiving an opinion from the Commission, determine the rules governing the committees provided for in this Treaty.

*Article 154. (Article repealed by Article 7 of the Merger Treaty)*

[See Article 6 of the Merger Treaty, which reads as follows:

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.]

### Section 3. THE COMMISSION

*Article 155.* In order to ensure the proper functioning and development of the common market, the Commission shall:

- Ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied;

- Formulate recommendations or deliver opinions on matters dealt with in this Treaty, if it expressly so provides or if the Commission considers it necessary;
- Have its own power of decision and participate in the shaping of measures taken by the Council and by the Assembly in the manner provided for in this Treaty;
- Exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.

*Article 156. (Article repealed by Article 19 of the Merger Treaty)*

*[See Article 18 of the Merger Treaty, which reads as follows:*

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 157. (Article repealed by Article 19 of the Merger Treaty)*

*[See Article 10 of the Merger Treaty, which reads as follows:*

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.

The members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in

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

<sup>1</sup> United Nations, *Treaty Series*, vol. 1374, p. 440.



accordance with the provisions of Article 13\* or deprived of his right to a pension or other benefits in its stead.]

*Article 158. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 11 of the Merger Treaty, which reads as follows:

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 159. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 12 of the Merger Treaty, which reads as follows:

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 160. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 13 of the Merger Treaty, which reads as follows:

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 161. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 14 of the Merger Treaty, which reads as follows:

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 162. (Article repealed by Article 19 of the Merger Treaty)*

[See Articles 15 and 16 of the Merger Treaty, which read as follows:

*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

\* Article 13 of the Merger Treaty. See Article 160 below.

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

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 163. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 17 of the Merger Treaty, which reads as follows:

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.]

#### Section 4. THE COURT OF JUSTICE

*Article 164.* The Court of Justice shall ensure that in the interpretation and application of this Treaty the law is observed.

*Article 165.* The Court of Justice shall consist of nine Judges.\*\*

The Court of Justice shall sit in plenary session. It may, however, form Chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with rules laid down for these purposes.

Whenever the Court of Justice hears cases brought before it by a Member State or by one of the institutions of the Community or, to the extent that the Chambers of the Court do not have the requisite jurisdiction under the Rules of Procedure, has to give preliminary rulings on questions submitted to it pursuant to Article 177, it shall sit in plenary session.\*\*\*

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 167.

*Article 166.* The Court of Justice shall be assisted by four Advocates-General.\*\*\*\*

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court of Justice, in order to assist the Court in the performance of the task assigned to it in Article 164.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Advocates-General and make the necessary adjustments to the third paragraph of Article 167.

*Article 167.* The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective

\* Article 10 of the Merger Treaty. See Article 157 above.

\*\* First paragraph as amended by Article 17 of the Act of Accession, modified by Article 9 of the Adaptation Decision.

\*\*\* Third paragraph as amended by Article 1 of the Council Decision of 26 November 1974 (*Official Journal of the European Communities*, No. L 318, 28 November 1974, p. 22).

\*\*\*\* First paragraph as amended by Article 1 of the Council Decision of 1 January 1973 increasing the number of Advocates-General<sup>1</sup> (*Official Journal of the European Communities*, No. L 2, 1 January 1973, p. 29).

<sup>1</sup> United Nations, *Treaty Series*, vol. 1374, p. 426.

countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the Governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges. Five and four Judges shall be replaced alternately.\*

Every three years there shall be a partial replacement of the Advocates-General. Two Advocates-General shall be replaced on each occasion.\*\*

Retiring Judges and Advocates-General shall be eligible for reappointment.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be reelected.

*Article 168.* The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

*Article 169.* If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

*Article 170.* A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

*Article 171.* If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

*Article 172.* Regulations made by the Council pursuant to the provisions of this Treaty may give the Court of Justice unlimited jurisdiction in regard to the penalties provided for in such regulations.

*Article 173.* The Court of Justice shall review the legality of acts of the Council and the Commission other than recommendations or opinions. It shall for this purpose have jurisdiction in actions brought by a Member State, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

\* Second paragraph as amended by Article 19 of the Act of Accession, modified by Article 10 of the Adaptation Decision.

\*\* Third paragraph as amended by Article 2 of the Council Decision of 1 January 1973 increasing the number of Advocates-General (*Official Journal of the European Communities*, No. L 2, 1 January 1973, p. 29).

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

*Article 174.* If the action is well founded, the Court of Justice shall declare the act concerned to be void.

In the case of a regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

*Article 175.* Should the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

*Article 176.* The institution whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 215.

*Article 177.* The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) The interpretation of this Treaty;
- (b) The validity and interpretation of acts of the institutions of the Community;
- (c) The interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

*Article 178.* The Court of Justice shall have jurisdiction in disputes relating to compensation for damage provided for in the second paragraph of Article 215.

*Article 179.* The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the Limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment.

*Article 180.* The Court of Justice shall, within the limits hereinafter laid down have jurisdiction in disputes concerning:

- (a) The fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article 169;
- (b) Measures adopted by the Board of Governors of the Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article 173;
- (c) Measures adopted by the Board of Directors of the Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article 173, and solely on the grounds of non-compliance with the procedure provided for in Article 21 (2), (5), (6) and (7) of the Statute of the Bank.

*Article 181.* The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

*Article 182.* The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

*Article 183.* Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

*Article 184.* Notwithstanding the expiry of the period laid down in the third paragraph of Article 173, any party may, in proceedings in which a regulation of the Council or of the Commission is in issue, plead the grounds specified in the first paragraph of Article 173, in order to invoke before the Court of Justice the inapplicability of that regulation.

*Article 185.* Actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

*Article 186.* The Court of Justice may in any cases before it prescribe any necessary interim measures.

*Article 187.* The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 192.

*Article 188.* The Statute of the Court of Justice is laid down in a separate Protocol.

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

## CHAPTER 2. PROVISIONS COMMON TO SEVERAL INSTITUTIONS

*Article 189.* In order to carry out their task the Council and the Commission shall, in accordance with the provisions of this Treaty, make regulations, issue directives, take decisions, make recommendations or deliver opinions.

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

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

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

Recommendations and opinions shall have no binding force.

*Article 190.* Regulations, directives and decisions of the Council and of the Commission shall state the reasons on which they are based and shall refer to any proposals or opinions which were required to be obtained pursuant to this Treaty.

*Article 191.* Regulations shall be published in the Official Journal of the Community. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.

Directives and decisions shall be notified to those to whom they are addressed and shall take effect upon such notification.

*Article 192.* Decisions of the Council or of the Commission which impose a pecuniary obligation on persons other than States shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the Government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

## CHAPTER 3. THE ECONOMIC AND SOCIAL COMMITTEE

*Article 193.* An Economic and Social Committee is hereby established. It shall have advisory status.

The Committee shall consist of representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public.

*Article 194.* The number of members of the Committee shall be as follows:

Belgium.....	12
Denmark.....	9

Germany.....	24
France.....	24
Ireland.....	9
Italy.....	24
Luxembourg.....	6
Netherlands.....	12
United Kingdom.....	24.*

The members of the Committee shall be appointed by the Council, acting unanimously, for four years. Their appointments shall be renewable.

The members of the Committee shall be appointed in their personal capacity and may not be bound by any mandatory instructions.

*Article 195.* 1. For the appointment of the members of the Committee, each Member State shall provide the Council with a list containing twice as many candidates as there are seats allotted to its nationals.

The composition of the Committee shall take account of the need to ensure adequate representation of the various categories of economic and social activity.

2. The Council shall consult the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors to which the activities of the Community are of concern.

*Article 196.* The Committee shall elect its chairman and officers from among its members for a term of two years.

It shall adopt its rules of procedure and shall submit them to the Council for its approval, which must be unanimous.

The Committee shall be convened by its chairman at the request of the Council or of the Commission.

*Article 197.* The Committee shall include specialised sections for the principal fields covered by this Treaty.

In particular, it shall contain an agricultural section and a transport section, which are the subject of special provisions in the Titles relating to agriculture and transport.

These specialised sections shall operate within the general terms of reference of the Committee. They may not be consulted independently of the Committee.

Sub-committees may also [be] established within the Committee to prepare, on specific questions or in specific fields, draft opinions to be submitted to the Committee for its consideration.

The rules of procedure shall lay down the methods of composition and the terms of reference of the specialised sections and of the subcommittees.

*Article 198.* The Committee must be consulted by the Council or by the Commission where this Treaty so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate.

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\* First paragraph as amended by Article 21 of the Act of Accession, modified by Article 11 of the Adaptation Decision.

The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than ten days from the date [on] which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee and that of the specialised section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.

## TITLE II. FINANCIAL PROVISIONS

*Article 199.* All items of revenue and expenditure of the Community, including those relating to the European Social Fund, shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.

The revenue and expenditure shown in the budget shall be in balance.

*Article 200.* 1. The budget revenue shall include, irrespective of any other revenue, financial contributions of Member States on the following scale:

[Belgium] .....	7.9
Germany.....	28
France.....	28
Italy.....	28
Luxembourg .....	0.2
Netherlands .....	7.9

2. The financial contributions of Member States to cover the expenditure of the European Social Fund, however, shall be determined on the following scale:

Belgium.....	8.8
Germany.....	32
France.....	32
Italy.....	20
Luxembourg .....	0.2
Netherlands .....	7

3. The scales may be modified by the Council, acting unanimously.

*Article 201.* The Commission shall examine the conditions under which the financial contributions of Member States provided for in Article 200 could be replaced by the Community's own resources, in particular by revenue accruing from the common customs tariff when it has been finally introduced.

To this end, the Commission shall submit proposals to the Council.

After consulting the Assembly on these proposals the Council may, acting unanimously, lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

*Article 202.* The expenditure shown in the budget shall be authorised for one financial year, unless the regulations made pursuant to Article 209 provide otherwise.



In accordance with conditions to be laid down pursuant to Article 209, 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 209.

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

*Article 203\**. 1. The financial year shall run from 1 January to 31 December.

2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget, acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If within this period the Assembly has not amended the draft budget nor proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

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\* Text as amended by Article 12 of the Treaty amending Certain Financial Provisions.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

(a) The Council may, acting by a qualified majority, modify any of the amendments adopted by the Assembly;

(b) With regard to the proposed modifications:

- Where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted;
- Where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected;
- Where, in pursuance of one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

The draft budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or if the modifications proposed by the latter have been rejected or modified, the modified draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within 15 days of the draft budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications, may, acting by a majority of its members and three-fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the budget accordingly. If within this period the Assembly has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the budget has been finally adopted.

8. However, the Assembly, acting by a majority of its members and two-thirds of the votes cast, may, if there are important reasons, reject the draft budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total

expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Economic Policy Committee, declare what this maximum rate is as it results from:

- The trend, in terms of volume, of the gross national product within the Community;
- The average variation in the budgets of the Member States; and
- The trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the Assembly, the Council or the Commission consider that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three-fifths of the votes cast.

10. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of the Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

*Article 204\**. If at the beginning of a financial year, the budget has not yet been voted, a sum equivalent to not more than one-twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget in accordance with the provisions of the Regulations made pursuant to Article 209; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one-twelfth of those provided for in the draft budget in course of preparation.

The Council may, acting by a qualified majority, provided that the other conditions laid down in the first subparagraph are observed, authorise expenditure in excess of one-twelfth.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the Assembly; within 30 days the Assembly, acting by a majority of its members and three-fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one-twelfth referred to in the first subparagraph. This part of the decision of the Council shall be suspended until the Assembly has taken its decision. If within the said period the Assembly has not

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\* Text as amended by Article 13 of the Treaty amending Certain Financial Provisions.

taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

The decisions referred to in the second and third subparagraphs shall lay down the necessary measures relating to resources to ensure application of this Article.

*Article 205.* The Commission shall implement the budget, in accordance with the provisions of the regulations made pursuant to Article 209, 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 budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 209, transfer appropriations from one chapter to another or from one sub-division to another.

*Article 205a\**. The Commission shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

*Article 206\*\*.* 1. A Court of Auditors is hereby established.

2. The Court of Auditors shall consist of nine members.

3. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

4. The members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the Assembly.

However, when the first appointments are made, four members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

5. The members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

6. The members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

\* Article added by Article 14 of the Treaty amending Certain Financial Provisions.

\*\* Text as amended by Article 15 of the Treaty amending Certain Financial Provisions.

7. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 8.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement, members of the Court of Auditors shall remain in office until they have been replaced.

8. A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

9. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

10. The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.

*Article 206a\**. 1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The institutions of the Community and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the institutions of the Community

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\* Article added by Article 16 of the Treaty amending Certain Financial Provisions.

and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*.

The Court of Auditors may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the institutions of the Community.

It shall adopt its annual reports or opinions by a majority of its members.

It shall assist the Assembly and the Council in exercising their powers of control over the implementation of the budget.

*Article 206b\**. The Assembly, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the Assembly in turn shall examine the accounts and the financial statement referred to in Article 205a and the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors.

*Article 207*. The budget shall be drawn up in the unit of account determined in accordance with the provisions of the regulations made pursuant to Article 209.

The financial contributions provided for in Article 200 (1) shall be placed at the disposal of the Community by the Member States in their national currencies.

The available balances of these contributions shall be deposited with the Treasuries of Member States or with bodies designated by them. While on deposit, such funds shall retain the value corresponding to the parity, at the date of deposit, in relation to the unit of account referred to in the first paragraph.

The balances may be invested on terms to be agreed between the Commission and the Member State concerned.

The regulations made pursuant to Article 209 shall lay down the technical conditions under which financial operations relating to the European Social Fund shall be carried out.

*Article 208*. The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

*Article 209\*\**. The Council, acting unanimously on a proposal from the Commission and after consulting the Assembly and obtaining the opinion of the Court of Auditors, shall:

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\* Article added by Article 17 of the Treaty amending Certain Financial Provisions.

\*\* Text as amended by Article 18 of the Treaty amending Certain Financial Provisions.

- (a) Make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) Determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Communities' own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;
- (c) Lay down rules concerning the responsibility of authorising officers and accounting officers and concerning appropriate arrangements for inspection.

#### PART SIX. GENERAL AND FINAL PROVISIONS

*Article 210.* The Community shall have legal personality.

*Article 211.* In each of the Member States, the Community shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Community shall be represented by the Commission.

*Article 212.* (*Article repealed by Article 24 of the Merger Treaty*)

[*See Article 24 (1) of the Merger Treaty, which reads as follows:*

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.]

*Article 213.* The Commission may, within the limits and under conditions laid down by the Council in accordance with the provisions of this Treaty, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

*Article 214.* The members of the institutions of the Community, the members of committees, and the officials and other servants of the Community shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

*Article 215.* The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.

*Article 216.* The seat of the institutions of the Community shall be determined by common accord of the Governments of the Member States.

*Article 217.* The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the rules of procedure of the Court of Justice, be determined by the Council, acting unanimously.

*Article 218.* (*Article repealed by the second paragraph of Article 28 of the Merger Treaty*)

[*See the first paragraph of Article 28 of the Merger Treaty, which reads as follows:*

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 219.* Member States undertake not to submit a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

*Article 220.* Member States shall, so far as is necessary, enter into negotiations with each other with a view to securing for the benefit of their nationals:

- The protection of persons and the enjoyment and protection of rights under the same conditions as those accorded by each State to its own nationals;
- The abolition of double taxation within the Community;
- The mutual recognition of companies or firms within the meaning of the second paragraph of Article 58, the retention of legal personality in the event of transfer of their seat from one country to another, and the possibility of mergers between companies or firms governed by the laws of different countries;
- The simplification of formalities governing the reciprocal recognition and enforcement of judgments of courts or tribunals and of arbitration awards.

*Article 221.* Within three years of the entry into force of this Treaty, Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of Article 58, without prejudice to the application of the other provisions of this Treaty.

*Article 222.* This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership.

*Article 223.* 1. The provisions of this Treaty shall not preclude the application of the following rules:

- (a) No Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;
- (b) Any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures



shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes.

2. During the first year after the entry into force of this Treaty, the Council shall, acting unanimously, draw up a list of products to which the provisions of paragraph 1 (b) shall apply.

3. The Council may, acting unanimously on a proposal from the Commission, make changes in this list.

*Article 224.* Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the common market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war [or] serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

*Article 225.* If measures taken in the circumstances referred to in Articles 223 and 224 have the effect of distorting the conditions of competition in the common market, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in this Treaty.

By way of derogation from the procedure laid down in Articles 169 and 170, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 223 and 224. The Court of Justice shall give its ruling *in camera*.

*Article 226.* 1. If, during the transitional period, difficulties arise which are serious and liable to persist in any sector of the economy or which could bring about serious deterioration in the economic situation of a given area, a Member State may apply for authorisation to take protective measures in order to rectify the situation and adjust the sector concerned to the economy of the common market.

2. On application by the State concerned, the Commission shall, by emergency procedure, determine without delay the protective measures which it considers necessary, specifying the circumstances and the manner in which they are to be put into effect.

3. The measures authorised under paragraph 2 may involve derogations from the rules of this Treaty, to such an extent and for such periods as are strictly necessary in order to attain the objectives referred to in paragraph 1. Priority shall be given to such measures as will least disturb the functioning of the common market.

*Article 227.* 1. This Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the United Kingdom of Great Britain and Northern Ireland.\*

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\* Paragraph 1 as amended by Article 26 (1) of the Act of Accession, modified by Article 15 (1) of the Adaptation Decision.

2. With regard to Algeria and the French overseas departments, the general and particular provisions of this Treaty relating to:

- The free movement of goods,
- Agriculture, save for Article 40 (4),
- The liberalisation of services,
- The rules on competition,
- The protective measures provided for in Articles 108, 109 and 226,
- The institutions,

shall apply as soon as this Treaty enters into force.

The conditions under which the other provisions of this Treaty are to apply shall be determined, within two years of the entry into force of this Treaty, by decisions of the Council, acting unanimously on a proposal from the Commission.

The institutions of the Community will, within the framework of the procedures provided for in this Treaty, in particular Article 226, take care that the economic and social development of these areas is made possible.

3. The special arrangements for association set out in Part Four of this Treaty shall apply to the overseas countries and territories listed in Annex IV to this Treaty.

This Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in the aforementioned list.\*

4. The provisions of this Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. \*\*Notwithstanding the preceding paragraphs:

(a) This Treaty shall not apply to the Faroe Islands. The Government of the Kingdom of Denmark may, however, give notice, by a declaration deposited by 31 December 1975 at the latest with the Government of the Italian Republic, which shall transmit a certified copy thereof to each of the Governments of the other Member States, that this Treaty shall apply to those Islands. In that event, this Treaty shall apply to those Islands from the first day of the second month following the deposit of the declaration.

(b) This Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.

(c) This Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

*Article 228.* 1. Where this Treaty provides for the conclusion of agreements between the Community and one or more States or an international organisation, such agreements shall be negotiated by the Commission. Subject to

\* Second subparagraph added by Article 26 (2) of the Act of Accession.

\*\* Paragraph 5 added by Article 26 (3) of the Act of Accession, modified by Article 15 (2) of the Adaptation Decision.

the powers vested in the Commission in this field, such agreements shall be concluded by the Council, after consulting the Assembly where required by this Treaty.

The Council, the Commission or a Member State may obtain beforehand the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 236.

2. Agreements concluded under these conditions shall be binding on the institutions of the Community and on Member States.

*Article 229.* It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations, of its specialised agencies and of the General Agreement on Tariffs and Trade.

The Commission shall also maintain such relations as are appropriate with all international organisations.

*Article 230.* The Community shall establish all appropriate forms of cooperation with the Council of Europe.

*Article 231.* The Community shall establish close cooperation with the Organisation for European Economic Cooperation, the details to be determined by common accord.

*Article 232.* 1. The provisions of this Treaty shall not affect the provisions of the Treaty establishing the European Coal and Steel Community, in particular as regards the rights and obligations of Member States, the powers of the institutions of that Community and the rules laid down by that Treaty for the functioning of the common market in coal and steel.

2. The provisions of this Treaty shall not derogate from those of the Treaty establishing the European Atomic Energy Community.

*Article 233.* The provisions of this Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of this Treaty.

*Article 234.* The rights and obligations arising from agreements concluded before the entry into force of this Treaty between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of this Treaty.

To the extent that such agreements are not compatible with this Treaty, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under this Treaty by each Member State form an integral part of the establishment of the Community and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantages by all the other Member States.

*Article 235.* If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Assembly, take the appropriate measures.

*Article 236.* The Government of any Member State or the Commission may submit to the Council proposals for the amendment of this Treaty.

If the Council, after consulting the Assembly and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the Governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.

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

*Article 237.* Any European State may apply to become a member of the Community. It shall address its application to the Council, which shall act unanimously after obtaining the opinion of the Commission.

The conditions of admission and the adjustments to this Treaty necessitated thereby shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the Contracting States in accordance with their respective constitutional requirements.

*Article 238.* The Community may conclude with a third State, a union of States or an international organisation agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council, acting unanimously after consulting the Assembly.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article 236.

*Article 239.* The Protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof.

*Article 240.* This Treaty is concluded for an unlimited period.

#### *Setting up of the Institutions*

*Article 241.* The Council shall meet within one month of the entry into force of this Treaty.

*Article 242.* The Council shall, within three months of its first meeting, take all appropriate measures to constitute the Economic and Social Committee.

*Article 243.* The Assembly shall meet within two months of the first meeting of the Council, having been convened by the President of the Council, in order to elect its officers and draw up its rules of procedure. Pending the election of its officers, the oldest member shall take the chair.

*Article 244.* The Court of Justice shall take up its duties as soon as its members have been appointed. Its first President shall be appointed for three years in the same manner as its members.

The Court of Justice shall adopt its rules of procedure within three months of taking up its duties.

No matter may be brought before the Court of Justice until its rules of procedure have been published. The time within which an action must be brought shall run only from the date of this publication.

Upon his appointment, the President of the Court of Justice shall exercise the powers conferred upon him by this Treaty.

*Article 245.* The Commission shall take up its duties and assume the responsibilities conferred upon it by this Treaty as soon as its members have been appointed.

Upon taking up its duties, the Commission shall undertake the studies and arrange the contacts needed for making an overall survey of the economic situation of the Community.

*Article 246.* 1. The first financial year shall run from the date on which this Treaty enters into force until 31 December following. Should this Treaty, however, enter into force during the second half of the year, the first financial year shall run until 31 December of the following year.

2. Until the budget for the first financial year has been established, Member States shall make the Community interest-free advances which shall be deducted from their financial contributions to the implementation of the budget.

3. Until the Staff Regulations of officials and the Conditions of Employment of other servants of the Community provided for in Article 212 have been laid down, each institution shall recruit the Staff it needs and to this end conclude contracts of limited duration.

Each institution shall examine together with the Council any question concerning the number, remuneration and distribution of posts.

#### *Final provisions*

*Article 247.* This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step. If, however, such deposit is made less than fifteen days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

*Article 248.* 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 Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK

ADENAUER

PINEAU

ANTONIO SEGNI

BECH

J. LUNS

J. CH. SNOY ET D'OPPUERS

HALLSTEIN

M. FAURE

GAETANO MARTINO

LAMBERT SCHAUS

J. LINTHORST HOMAN

## ANNEXES

[Annexes I and II<sup>1</sup> are not published herein in accordance with article 12(2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.]

ANNEX III. LIST OF INVISIBLE TRANSACTIONS  
REFERRED TO IN ARTICLE 106 OF THIS TREATY

- Maritime freights, including chartering, harbour expenses, disbursements for fishing vessels, etc.
- Inland waterway freights, including chartering.
- Road transport: passengers and freights, including chartering.
- Air transport: passengers and freights, including chartering.  
Payment by passengers of international air tickets and excess luggage charges; payment of international air freight charges and chartered flights.  
Receipts from the sale of international air tickets, excess luggage charges, international air freight charges, and chartered flights.
- For all means of maritime transport: harbour services (bunkering and provisioning, maintenance, repairs, expenses for crews, etc.).  
For all means of inland waterway transport: harbour services (bunkering and provisioning, maintenance and minor repairs of equipment, expenses for crews, etc.).  
For all means of commercial road transport: fuel, oil, minor repairs, garaging, expenses for drivers and crews, etc.  
For all means of air transport: operating costs and general overheads, including repairs to aircraft and to air transport equipment.
- Warehousing and storage charges, customs clearance.
- Customs duties and fees.
- Transit charges.
- Repair and assembly charges.  
Processing, finishing, processing of work under contract, and other services of the same nature.
- Repair of ships.  
Repair of means of transport other than ships and aircraft.
- Technical assistance (assistance relating to the production and distribution of goods and services at all stages, given over a period limited according to the specific purpose of such assistance, and including e.g. advice or visits by experts, preparation of plans and blueprints, supervision of manufacture, market research, training of personnel).
- Commission and brokerage.  
Profits arising out of transit operations or sales of trans-shipment.  
Banking commissions and charges.  
Representation expenses.

<sup>1</sup> For the English translation of annexes I and II, see United Nations, *Treaty Series*, vol. 298, pp. 95 to 116.

- Advertising by all media.
- Business travel.
- Participation by subsidiary companies and branches in overhead expenses of parent companies situated abroad and vice versa.
- Contracting (construction and maintenance of buildings, roads, bridges, ports, etc. carried out by specialised firms, and, generally, at fixed prices after open tender).
- Differences, margins and deposits due in respect of operations on commodity terminal markets in conformity with normal bona fide commercial practice.
- Tourism.
- Travel for private reasons (education).
- Travel for private reasons (health).
- Travel for private reasons (family).
- Subscriptions to newspapers, periodicals, books, musical publications.  
Newspapers, periodicals, books, musical publications and records.
- Printed films, commercial, documentary, educational, etc. (rentals, dues, subscriptions, reproduction and synchronisation fees, etc.).
- Membership fees.
- Current maintenance and repair of private property abroad.
- Government expenditure (official representation abroad, contributions to international organisations).
- Taxes, court expenses, registration fees for patents and trade marks.  
Claims for damages.  
Refunds in the case of cancellation of contracts and refunds of uncalled-for payments.  
Fines.
- Periodical settlements in connection with public transport and postal, telegraphic and telephone services.
- Exchange authorisations granted to own or foreign nationals emigrating.  
Exchange authorisations granted to own or foreign nationals returning to their country of origin.
- Salaries and wages (of frontier or seasonal workers and of other non-residents, without prejudice to the right of a country to regulate terms of employment of foreign nationals).
- Emigrants' remittances (without prejudice to the right of a country to regulate immigration).
- Fees.
- Dividends and shares in profits.
- Interest on debentures, mortgages, etc.
- Rent.
- Contractual amortisation (with the exception of transfers in connection with amortisation having the character either of anticipated repayments or of the discharge of accumulated arrears).
- Profits from business activity.



- Authors' royalties.  
Patents, designs, trade marks and inventions (the assignment and licensing of patent rights, designs, trade marks and inventions, whether or not legally protected, and transfers arising out of such assignment or licensing).
- Consular receipts.
- Pensions and other income of a similar nature.  
Maintenance payments resulting from a legal obligation or from a decision of a court and financial assistance in cases of hardship.  
Transfers by instalments of assets deposited in one member country by persons residing in another member country whose personal income in that country is not sufficient to cover their living expenses.
- Transactions and transfers in connection with direct insurance.
- Transactions and transfers in connection with reinsurance and retrocession.
- Opening and reimbursement of commercial or industrial credits.
- Transfers of minor amounts abroad.
- Charges for documentation of all kinds incurred on their own account by authorised dealers in foreign exchange.
- Sports prizes and racing earnings.
- Inheritances.
- Dowries.

ANNEX IV. OVERSEAS COUNTRIES AND TERRITORIES  
TO WHICH THE PROVISIONS OF PART IV OF THIS TREATY APPLY\*. \*\*.

- French West Africa: Senegal, French Sudan, French Guinea, Ivory Coast, Dahomey, Mauritania, Niger and Upper Volta;\*\*\*\*
- French Equatorial Africa: Middle Congo, Ubangi-Shari, Chad and Gabon;\*\*\*\*

\* As amended by

- Article 1 of the Convention of 13 November 1962<sup>1</sup> amending the Treaty establishing the European Economic Community (*Official Journal of the European Communities*, No. 150, 1 October 1964, p. 2414), and
- Article 24 (2) of the Act of Accession, modified by Article 13 of the Adaptation Decision.

\*\* Annex I to the Council Decision of 29 June 1976 on the association of the overseas countries and territories with the European Economic Community (*Official Journal of the European Communities*, No. L 176, 1 July 1976) contains a list of the overseas countries and territories to which the provisions of Part Four of the Treaty apply. This Decision was amended by Council Decision 77/155/EEC of 14 February 1977 adjusting Decision 76/568/EEC (*Official Journal of the European Communities*, No. L 46, 18 February 1977) and most recently by Decision 78/465/EEC of 30 May 1978 (*Official Journal of the European Communities*, No. L 147, 3 June 1978).

\*\*\* The provisions of Part Four of the Treaty applied to Surinam, by virtue of a Supplementary Act of the Kingdom of the Netherlands to complete its instruments of ratification, from 1 September 1962 to 16 July 1976.

\*\*\*\*The provisions of Part Four of the Treaty no longer apply to these countries and territories, which have become independent and whose names may have been changed. The relations between the European Economic Community and certain African States and Madagascar were the subject of the Conventions of Association signed at Yaoundé on 20 July 1963 and 29 July 1969. The relations with certain African, Caribbean and Pacific States were subsequently the subject of the ACP-EEC Convention of Lomé, signed on 28 February 1975 (*Official Journal of the European Communities*, No. L 25, 30 January 1976), which entered into force on 1 April 1976.

<sup>1</sup> United Nations, *Treaty Series*, vol. 1464, No. A-4300.

- Saint Pierre and Miquelon,\* the Comoro Archipelago,\*\* Madagascar\*\*\* and dependencies,\*\*\* French Somaliland,\*\*\* New Caledonia and dependencies, French Settlements in Oceania,\*\*\*\* Southern and Antarctic Territories;
- The autonomous Republic of Togoland;\*\*\*
- The trust territory of the Cameroons under French administration;\*\*\*
- The Belgian Congo and Ruanda-Urundi;\*\*\*
- The trust territory of Somaliland under Italian administration;\*\*\*
- Netherlands New Guinea;\*\*\*
- The Netherlands Antilles;
- Anglo-French Condominium of the New Hebrides;
- The Bahamas;\*\*\*
- Bermuda;\*\*\*\*\*
- Brunei;
- Associated States in the Caribbean: Antigua, Dominica, Grenada,\*\*\* St. Lucia, St. Vincent, St. Kitts-Nevis-Anguilla;†
- British Honduras;††
- Cayman Islands;
- Falkland Islands and Dependencies;
- Gilbert and Ellice Islands;†††
- Central and Southern Line Islands;\*\*\*\*\*
- British Solomon Islands;††††
- Turks and Caicos Islands;
- British Virgin Islands;
- Montserrat;
- Pitcairn;
- St. Helena and Dependencies;
- The Seychelles;†††††
- British Antarctic Territory;
- British Indian Ocean Territory.‡

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\* Has become a French overseas department.

\*\* The provisions of Part Four of the Treaty no longer apply to this Archipelago, except for Mayotte which has remained on the list of overseas countries and territories.

\*\*\* See footnote \*\*\*\* on the previous page.

\*\*\*\* New name: French Polynesia; Wallis and Futuna Islands.

\*\*\*\*\* These territories are not included in the overseas countries and territories covered by the Decision mentioned in footnote \*\* on the previous page.

† New name: Nevis and Anguilla.

†† New name: Belize.

††† New name: Gilbert Islands; Tuvalu.

†††† New name: Solomon Islands.

††††† See footnote \*\*\*\* on p. 81.

‡ New name: British Indian Ocean Territories.

## II. PROTOCOLS

### PROTOCOL ON THE STATUTE OF THE EUROPEAN INVESTMENT BANK

The High Contracting Parties,

Desiring to lay down the Statute of the European Investment Bank provided for in Article 129 of this Treaty,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

*Article 1.* The European Investment Bank established by Article 129 of this Treaty (hereinafter called the "Bank") is hereby constituted; it shall perform its functions and carry on its activities in accordance with the provisions of this Treaty and of this Statute.

The seat of the Bank shall be determined by common accord of the Governments of the Member States.

*Article 2.* The task of the Bank shall be that defined in Article 130 of this Treaty.

*Article 3\*.* In accordance with Article 129 of this Treaty, the following shall be members of the Bank:

- The Kingdom of Belgium;
- The Kingdom of Denmark;
- The Federal Republic of Germany;
- The French Republic;
- Ireland;
- The Italian Republic;
- The Grand Duchy of Luxembourg;
- The Kingdom of the Netherlands;
- The United Kingdom of Great Britain and Northern Ireland.

*Article 4.* 1. The capital of the Bank shall be seven thousand and eighty-seven million five hundred thousand units of account, subscribed by the Member States as follows:

Germany.....	1 575 000 000
France.....	1 575 000 000
United Kingdom.....	1 575 000 000
Italy.....	1 260 000 000
Belgium.....	414 750 000
Netherlands.....	414 750 000
Denmark.....	210 000 000

\* Text as amended by Article 1 of Protocol No. 1<sup>1</sup> annexed to the Act of Accession, modified by Article 35 of the Adaptation Decision.

<sup>1</sup> United Nations, *Treaty Series*, vol. 1375, p. 56.

Ireland.....	52 500 000
Luxembourg .....	10 500 000.*

The value of the unit of account shall be equal to the sum of the following amounts of the national currencies of the Member States:

German mark .....	0.828
Pound sterling .....	0.0885
French franc.....	1.15
Italian lira .....	109
Dutch guilder .....	0.286
Belgian franc .....	3.66
Luxembourg franc.....	0.14
Danish krone .....	0.217
Irish pound.....	0.00759.**

The Board of Governors, acting unanimously on a proposal from the Board of Directors, may alter the definition of the unit of account.\*\*\*

The Member States shall be liable only up to the amount of their share of the capital subscribed and not paid up.

2. The admission of a new member shall entail an increase in the subscribed capital corresponding to the capital brought in by the new member.

3. The Board of Governors may, acting unanimously, decide to increase the subscribed capital.

4. The share of a member in the subscribed capital may not be transferred, pledged or attached.

*Article 5\*\*\*\*.* 1. The subscribed capital shall be paid in by Member States to the extent of 12.85714286% of the amounts laid down in Article 4 (1). \*\*\*\*\*

2. In the event of an increase in the subscribed capital, the Board of Governors, acting unanimously, shall fix the percentage to be paid up and the arrangements for payment.

3. The Board of Directors may require payment of the balance of the subscribed capital, to such extent as may be required for the Bank to meet its obligations towards those who have made loans to it.

Each Member State shall make this payment in proportion to its share of the subscribed capital in the currencies required by the Bank to meet these obligations.

\* First subparagraph of paragraph 1 as amended by the Decision of the Board of Governors of 19 June 1978 (*Official Journal of the European Communities*, No. L 199, 24 July 1978).

\*\* Second subparagraph of paragraph 1 as amended by the Decision of the Board of Governors of 30 December 1977 (*Official Journal of the European Communities*, No. L 199, 24 July 1978).

\*\*\* Second subparagraph of paragraph 1 as supplemented by Article 1 of the Treaty<sup>1</sup> amending the Protocol on the Statute of the Bank.

\*\*\*\* Text as amended by Article 3 of Protocol No. 1 annexed to the Act of Accession.

\*\*\*\*\* Paragraph 1 as amended by the Decision of the Board of Governors of 19 June 1978 (*Official Journal of the European Communities*, No. L 199, 24 July 1978).

<sup>1</sup> United Nations, *Treaty Series*, vol. 1437, No. A-4300.

*Article 6.* 1. The Board of Governors may, acting by a qualified majority on a proposal from the Board of Directors, decide that Member States shall grant the Bank special interest-bearing loans if and to the extent that the Bank requires such loans to finance specific projects and the Board of Directors shows that the Bank is unable to obtain the necessary funds on the capital markets on terms appropriate to the nature and purpose of the projects to be financed.

2. Special loans may not be called for until the beginning of the fourth year after the entry into force of this Treaty. They shall not exceed 400 million units of account in the aggregate or 100 million units of account per annum.

3. The term of special loans shall be related to the term of the loans or guarantees which the Bank proposes to grant by means of the special loans; it shall not exceed twenty years. The Board of Governors may, acting by a qualified majority on a proposal from the Board of Directors, decide upon the prior repayment of special loans.

4. Special loans shall bear interest at 4% per annum, unless the Board of Governors, taking into account the trend and level of interest rates on the capital markets, decides to fix a different rate.

5. Special loans shall be granted by Member States in proportion to their share in the subscribed capital; payment shall be made in national currency within six months of such loans being called for.

6. Should the bank go into liquidation, special loans granted by Member States shall be repaid only after the other debts of the Bank have been settled.

*Article 7.* 1. Should the parity of the currency of a Member State in relation to the unit of account defined in Article 4 be reduced, that State shall adjust the amount of its capital share paid up in its own currency in proportion to the change in parity by making a supplementary payment to the Bank. The amount to be adjusted may not, however, exceed the aggregate amount of the loans granted by the Bank in the currency concerned and of the assets of the Bank in that currency. The payment shall be made within two months or, in so far as it relates to loans, on the dates when they fall due.

2. Should the parity of the currency of a Member State in relation to the unit of account defined in Article 4 be increased, the Bank shall adjust the amount of the capital share paid up by that State in its own currency in proportion to the change in parity by making a repayment to that State. The amount to be adjusted may not, however, exceed the aggregate amount of the loans granted by the Bank in the currency concerned and of the assets of the Bank in that currency. The repayment shall be made within two months or, in so far as it relates to loans, on the dates when they fall due.

3. For the purpose of this Article, the parity of the currency of a Member State in relation to the unit of account defined in Article 4 shall be taken at the rate for converting the unit of account into this currency and vice versa based on market rates.\*

4. In the event of a uniform proportionate change in the par values of the currencies of all members of the International Monetary Fund or of all members of the Bank, the Board of Governors may decide that paragraphs 1 and 2 shall not

\* Paragraph 3 as amended by the Decision of the Board of Governors of 30 December 1977 (*Official Journal of the European Communities*, No. L 199, 24 July 1978).

apply. Furthermore it may, acting unanimously on a proposal from the Board of Directors, alter the method of converting sums expressed in units of account into national currencies and vice versa.\*

*Article 8.* The Bank shall be directed and managed by a Board of Governors, a Board of Directors and a Management Committee.

*Article 9.* 1. The Board of Governors shall consist of the Ministers designated by the Member States.

2. The Board of Governors shall lay down general directives for the credit policy of the Bank, with particular reference to the objectives to be pursued as progress is made in the attainment of the common market.

The Board of Governors shall ensure that these directives are implemented.

3. The Board of Governors shall in addition:

- (a) Decide whether to increase the subscribed capital in accordance with Article 4 (3) and Article 5 (2);\*\*
- (b) Exercise the powers provided in Article 6 in respect of special loans;
- (c) Exercise the powers provided in Articles 11 and 13 in respect of the appointment and the compulsory retirement of the members of the Board of Directors and of the Management Committee, and those powers provided in the second subparagraph of Article 13 (1);\*\*
- (d) Authorise the derogation provided for in Article 18 (1);
- (e) Approve the annual report of the Board of Directors;
- (f) Approve the annual balance sheet and profit and loss account;
- (g) Exercise the powers and functions provided in Articles 4, 7, 14, 17, 26 and 27;\*\*\*
- (h) Approve the rules of procedure of the Bank.

4. Within the framework of this Treaty and this Statute, the Board of Governors shall be competent to take, acting unanimously, any decisions concerning the suspension of the operations of the Bank and, should the event arise, its liquidation.

*Article 10\*\*\*\*.* Save as otherwise provided in this Statute, decisions of the Board of Governors shall be taken by a majority of its members. This majority must represent at least 40% of the subscribed capital. Voting by the Board of Governors shall be in accordance with the provisions of Article 148 of this Treaty.

*Article 11.* 1. The Board of Directors shall have sole power to take decisions in respect of granting loans and guarantees and raising loans; it shall fix the interest rates on loans granted and the commission on guaranties; it shall see that the Bank is properly run; it shall ensure that the Bank is managed in accordance with the provisions of this Treaty and of this Statute and with the general directives laid down by the Board of Governors.

\* Second sentence of paragraph 4 as added by Article 2 of the Treaty amending the Protocol on the Statute of the Bank.

\*\* Subparagraphs (a) and (c) as amended by Article 4 of Protocol No. 1 annexed to the Act of Accession.

\*\*\* Subparagraph (g) as amended by Article 3 of the Treaty amending the Protocol on the Statute of the Bank.

\*\*\*\* Text as amended by Article 5 of Protocol No. 1 annexed to the Act of Accession.

At the end of the financial year the Board of Directors shall submit a report to the Board of Governors and shall publish it when approved.

2. The Board of Directors shall consist of 18 directors and 10 alternates.\*

The directors shall be appointed by the Board of Governors for five years as shown below:

- 3 directors nominated by the Federal Republic of Germany;
- 3 directors nominated by the French Republic;
- 3 directors nominated by the Italian Republic;
- 3 directors nominated by the United Kingdom of Great Britain and Northern Ireland;
- 1 director nominated by the Kingdom of Belgium;
- 1 director nominated by the Kingdom of Denmark;
- 1 director nominated by Ireland;
- 1 director nominated by the Grand Duchy of Luxembourg;
- 1 director nominated by the Kingdom of the Netherlands;
- 1 director nominated by the Commission.\*\*

The alternates shall be appointed by the Board of Governors for five years as shown below:

- 2 alternates nominated by the Federal Republic of Germany;
- 2 alternates nominated by the French Republic;
- 2 alternates nominated by the Italian Republic;
- 2 alternates nominated by the United Kingdom of Great Britain and Northern Ireland;
- 1 alternate nominated by common accord of the Benelux countries;
- 1 alternate nominated by the Commission.\*\*

The appointments of the directors and the alternates shall be renewable.\*\*

Alternates may take part in the meetings of the Board of Directors. Alternates nominated by a State, or by common accord of several States, or by the Commission, may replace directors nominated by that State, by one of those States or by the Commission respectively. Alternates shall have no right of vote except where they replace one director or more than one director or where they have been delegated for this purpose in accordance with Article 12 (1).\*\*

The President of the Management Committee or, in his absence, one of the Vice-Presidents, shall preside over meetings of the Board of Directors but shall not vote.

Members of the Board of Directors shall be chosen from persons whose independence and competence are beyond doubt; they shall be responsible only to the Bank.

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\* First, second, third, fourth and fifth subparagraphs of paragraph 2 as amended by Article 6 of Protocol No. 1 annexed to the Act of Accession, modified by Article 37 of the Adaptation Decision.

\*\* See [above] note.

3. A director may be compulsorily retired by the Board of Governors only if he no longer fulfils the conditions required for the performance of his duties; the Board must act by a qualified majority.

If the annual report is not approved, the Board of Directors shall resign.

4. Any vacancy arising as a result of death, voluntary resignation, compulsory retirement or collective resignation shall be filled in accordance with paragraph 2. A member shall be replaced for the remainder of his term of office, save where the entire Board of Directors is being replaced.

5. The Board of Governors shall determine the remuneration of members of the Board of Directors. The Board of Governors shall, acting unanimously, lay down what activities are incompatible with the duties of a director or an alternate.

*Article 12.* 1. Each director shall have one vote on the Board of Directors. He may delegate this vote in all cases, according to procedures to be laid down in the rules of procedure of the Bank.\*

2. Save as otherwise provided in this Statute, decisions of the Board of Directors shall be taken by a simple majority of the members entitled to vote. A qualified majority shall require twelve votes in favour.\*\* The rules of procedure of the Bank shall lay down how many members of the Board of Directors constitute the quorum needed for the adoption of decisions.

*Article 13.* 1. \*\*\*The Management Committee shall consist of a President and four Vice-Presidents appointed for six years by the Board of Governors on a proposal from the Board of Directors. Their appointments shall be renewable.

The Board of Governors, acting unanimously, may vary the number of members on the Management Committee.

2. On a proposal from the Board of Directors adopted by a qualified majority, the Board of Governors may, acting in its turn by a qualified majority, compulsorily retire a member of the Management Committee.

3. The Management Committee shall be responsible for the current business of the Bank, under the authority of the President and the supervision of the Board of Directors.

It shall prepare the decisions of the Board of Directors, in particular decisions on the raising of loans and the granting of loans and guarantees; it shall ensure that these decisions are implemented.

4. The Management Committee shall act by a majority when delivering opinions on proposals for raising loans or granting loans and guarantees.

5. The Board of Governors shall determine the remuneration of members of the Management Committee and shall lay down what activities are incompatible with their duties.

6. The President or, if he is prevented, a Vice-President shall represent the Bank in judicial and other matters.

7. The officials and other employees of the Bank shall be under the authority of the President. They shall be engaged and discharged by him. In the

\* Paragraph 1 as amended by Article 7 of Protocol No. 1 annexed to the Act of Accession.

\*\* Second sentence as amended by Article 8 of Protocol No. 1 annexed to the Act of Accession, modified by Article 38 of the Adaptation Decision.

\*\*\* Paragraph 1 as amended by Article 9 of Protocol No. 1 annexed to the Treaty of Accession.



selection of staff, account shall be taken not only of personal ability and qualifications but also of an equitable representation of nationals of Member States.

8. The Management Committee and the staff of the Bank shall be responsible only to the Bank and shall be completely independent in the performance of their duties.

*Article 14.* 1. A Committee consisting of three members, appointed on the grounds of their competence by the Board of Governors, shall annually verify that the operations of the Bank have been conducted and its books kept in a proper manner.

2. The Committee shall confirm that the balance sheet and profit and loss account are in agreement with the accounts and faithfully reflect the position of the Bank in respect of its assets and liabilities.

*Article 15.* The Bank shall deal with each Member State through the authority designated by that State. In the conduct of financial operations the Bank shall have recourse to the bank of issue of the Member State concerned or to other financial institutions approved by that State.

*Article 16.* 1. The Bank shall cooperate with all international organisations active in fields similar to its own.

2. The Bank shall seek to establish all appropriate contacts in the interests of cooperation with banking and financial institutions in the countries to which its operations extend.

*Article 17.* At the request of a Member State or of the Commission, or on its own initiative, the Board of Governors shall, in accordance with the same provisions as governed their adoption, interpret or supplement the directives laid down by it under Article 9 of this Statute.

*Article 18.* 1. Within the framework of the task set out in Article 130 of this Treaty, the Bank shall grant loans to its members or to private or public undertakings for investment projects to be carried out in the European territories of Member States, to the extent that funds are not available from other sources on reasonable terms.

However, by way of derogation authorised by the Board of Governors, acting unanimously on a proposal from the Board of Directors, the Bank may grant loans for investment projects to be carried out, in whole or in part, outside the European territories of Member States.

2. As far as possible, loans shall be granted only on condition that other sources of finance are also used.

3. When granting a loan to an undertaking or to a body other than a Member State, the Bank shall make the loan conditional either on a guarantee from the Member State in whose territory the project will be carried out or on other adequate guarantees.

4. The Bank may guarantee loans contracted by public or private undertakings or other bodies for the purpose of carrying out projects provided for in Article 130 of this Treaty.

5. The aggregate amount outstanding at any time of loans and guarantees granted by the Bank shall not exceed 250% of its subscribed capital.

6. The Bank shall protect itself against exchange risks by including in contracts for loans and guarantees such clauses as it considers appropriate.

*Article 19.* 1. Interest rates on loans to be granted by the Bank and commission on guarantees shall be adjusted to conditions prevailing on the capital market and shall be calculated in such a way that the income therefrom shall enable the Bank to meet its obligations, to cover its expenses and to build up a reserve fund as provided for in Article 24.

2. The Bank shall not grant any reduction in interest rates. Where a reduction in the interest rate appears desirable in view of the nature of the project to be financed, the Member State concerned or some other agency may grant aid towards the payment of interest to the extent that this is compatible with Article 92 of this Treaty.

*Article 20.* In its loan and guarantee operations, the Bank shall observe the following principles:

1. It shall ensure that its funds are employed as rationally as possible in the interests of the Community.

It may grant loans or guarantees only:

(a) Where, in the case of projects carried out by undertakings in the production sector, interest and amortisation payments are covered out of operating profits or, in other cases, either by a commitment entered into by the State in which the project is carried out or by some other means; and

(b) Where the execution of the project contributes to an increase in economic productivity in general and promotes the attainment of the common market.

2. It shall neither acquire any interest in an undertaking nor assume any responsibility in its management unless this is required to safeguard the rights of the Bank in ensuring recovery of funds lent.

3. It may dispose of its claims on the capital market and may, to this end, require its debtors to issue bonds or other securities.

4. Neither the Bank nor the Member States shall impose conditions requiring funds lent by the Bank to be spent within a specified Member State.

5. The Bank may make its loans conditional on international invitations to tender being arranged.

6. The Bank shall not finance, in whole or in part, any project opposed by the Member State in whose territory it is to be carried out.

*Article 21.* 1. Applications for loans or guarantees may be made to the Bank either through the Commission or through the Member State in whose territory the project will be carried out. An undertaking may also apply direct to the Bank for a loan or guarantee.

2. Applications made through the Commission shall be submitted for an opinion to the Member State in whose territory the project will be carried out. Applications made through a Member State shall be submitted to the Commission for an opinion. Applications made direct by an undertaking shall be submitted to the Member State concerned and to the Commission.

The Member State concerned and the Commission shall deliver their opinions within two months. If no reply is received within this period, the Bank may assume that there is no objection to the project in question.

3. The Board of Directors shall rule on applications for loans or guarantees submitted to it by the Management Committee.

4. The Management Committee shall examine whether applications for loans or guarantees submitted to it comply with the provisions of this Statute, in particular with Article 20. Where the Management Committee is in favour of granting the loan or guarantee, it shall submit the draft contract to the Board of Directors; the Committee may make its favourable opinion subject to such conditions as it considers essential. Where the Management Committee is against granting the loan or guarantee, it shall submit the relevant documents together with its opinion to the Board of Directors.

5. Where the Management Committee delivers an unfavourable opinion, the Board of Directors may not grant the loan or guarantee concerned unless its decision is unanimous.

6. Where the Commission delivers an unfavourable opinion, the Board of Directors may not grant the loan or guarantee concerned unless its decision is unanimous, the director nominated by the Commission abstaining.

7. Where both the Management Committee and the Commission deliver an unfavourable opinion, the Board of Directors may not grant the loan or guarantee.

*Article 22.* 1. The Bank shall borrow on the international capital markets the funds necessary for the performance of its tasks.

2. The Bank may borrow on the capital market of a Member State either in accordance with the legal provisions applying to internal issues or, if there are no such provisions in a Member State, after the Bank and the Member State concerned have conferred together and reached agreement on the proposed loan.

The competent authorities in the Member State concerned may refuse to give their assent only if there is reason to fear serious disturbances on the capital market of that State.

*Article 23.* 1. The Bank may employ any available funds which it does not immediately require to meet its obligations in the following ways:

- (a) It may invest on the money markets;
- (b) It may, subject to the provisions of Article 20 (2), buy and sell securities issued by itself or by those who have borrowed from it;
- (c) It may carry out any other financial operation linked with its objectives.

2. Without prejudice to the provisions of Article 25, the Bank shall not, in managing its investments, engage in any currency arbitrage not directly required to carry out its lending operations or fulfil commitments arising out of loans raised or guarantees granted by it.

3. The Bank shall, in the fields covered by this Article, act in agreement with the competent authorities or with the bank of issue of the Member State concerned.

*Article 24.* 1. A reserve fund of up to 10% of the subscribed capital shall be built up progressively. If the state of the liabilities of the Bank should so jus-

tify, the Board of Directors may decide to set aside additional reserves. Until such time as the reserve fund has been fully built up, it shall be fed by:

- (a) Interest received on loans granted by the Bank out of sums to be paid up by the Member States pursuant to Article 5;
- (b) Interest received on loans granted by the Bank out of funds derived from repayment on the loans referred to in (a);

to the extent that this income is not required to meet the obligations of the Bank or to cover its expenses.

2. The resources of the reserve fund shall be so invested as to be available at any time to meet the purpose of the fund.

*Article 25.* 1. The Bank shall at all times be entitled to transfer its assets in the currency of one Member State into the currency of another Member State in order to carry out financial operations corresponding to the task set out in Article 130 of this Treaty, taking into account the provisions of Article 23 of this Statute. The Bank shall, as far as possible, avoid making such transfers if it has cash or liquid assets in the currency required.

2. The Bank may not convert its assets in the currency of a Member State into the currency of a third country without the agreement of the Member State concerned.

3. The Bank may freely dispose of that part of its capital which is paid up in gold or convertible currency and of any currency borrowed on markets outside the Community.

4. The Member States undertake to make available to the debtors of the Bank the currency needed to repay the capital and pay the interest on loans or commission on guarantees granted by the Bank for projects to be carried out in their territory.

*Article 26.* If a Member State fails to meet the obligations of membership arising from this Statute, in particular the obligation to pay its share of the subscribed capital, to grant its special loans or to service its borrowings, the granting of loans or guarantees to that Member State or its nationals may be suspended by a decision of the Board of Governors, acting by a qualified majority.

Such decision shall not release either the State or its nationals from their obligations towards the Bank.

*Article 27.* 1. If the Board of Governors decides to suspend the operations of the Bank, all its activities shall cease forthwith, except those required to ensure the due realisation, protection and preservation of its assets and the settlement of its liabilities.

2. In the event of liquidation, the Board of Governors shall appoint the liquidators and give them instructions for carrying out the liquidation.

*Article 28.* 1. In each of the Member States, the Bank shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable or immovable property and may be a party to legal proceedings.

*(Second subparagraph repealed by the second paragraph of Article 28 of the Merger Treaty)*

*[See the first paragraph of Article 28 of the Merger Treaty, which reads as follows:*

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.]

2. The property of the Bank shall be exempt from all forms of requisition or expropriation.

*Article 29.* Disputes between the Bank on the one hand, and its creditors, debtors or any other person on the other, shall be decided by the competent national courts, save where jurisdiction has been conferred on the Court of Justice.

The Bank shall have an address for service in each Member State. It may, however, in any contract, specify a particular address for service or provide for arbitration.

The property and assets of the Bank shall not be liable to attachment or to seizure by way of execution except by decision of a court.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK

ADENAUER

PINEAU

ANTONIO SEGNI

BECH

J. LUNS

J. CH. SNOY ET D'OPPUERS

HALLSTEIN

M. FAURE

GAETANO MARTINO

LAMBERT SCHAUS

J. LINTHORST HOMAN

## PROTOCOL ON GERMAN INTERNAL TRADE AND CONNECTED PROBLEMS

The High Contracting Parties,

Considering the conditions at present existing by reason of the division of Germany,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

1. Since trade between the German territories subject to the Basic Law for the Federal Republic of Germany and the German territories in which the Basic Law does not apply is a part of German internal trade, the application of this Treaty in Germany requires no change in the treatment currently accorded this trade.

2. Each Member State shall inform the other Member States and the Commission of any agreements relating to trade with the German territories in which the Basic Law for the Federal Republic of Germany does not apply, and of any implementing provisions. Each Member State shall ensure that the implementation of such agreements does not conflict with the principles of the common market and shall in particular take appropriate measures to avoid harming the economies of the other Member States.

3. Each Member State may take appropriate measures to prevent any difficulties arising for it from trade between another Member State and the German territories in which the Basic Law for the Federal Republic of Germany does not apply.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
ANTONIO SEGNI  
BECH  
J. LUNS

J. CH. SNOY ET D'OPPUERS  
HALLSTEIN  
M. FAURE  
GAETANO MARTINO  
LAMBERT SCHAUS  
J. LINTHORST HOMAN

## PROTOCOL ON CERTAIN PROVISIONS RELATING TO FRANCE

The High Contracting Parties,

Desiring to settle in accordance with the general objectives of this Treaty certain particular problems existing at the present time,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

I. *Charges and aids*

1. The Commission and the Council shall annually examine the system of aid to exports and of special charges on imports in force in the franc area.

The French Government shall, at the time of this examination, make known the measures it proposes to take to reduce and rationalise the level of the aids and charges.

It shall also inform the Council and the Commission of any new charges which it intends to introduce as a result of further liberalisation and of any adjustments to the aids and charges which it intends to make within the limit of the maximum rate of charge in force on 1 January 1957. These various measures may be discussed within those institutions.

2. If it considers that the lack of uniformity is prejudicial to certain sectors of industry in other Member States, the Council may, acting by a qualified majority on a proposal from the Commission, request the French Government to take certain measures to standardise the charges and aids in each of the following three categories: raw materials, semi-finished products and finished products. If the French Government does not take such measures, the Council shall, again by a qualified majority, authorise the other Member States to take protective measures, the conditions and details of which it shall determine.

3. Where the balance of current payments of the franc area has remained in equilibrium for more than one year, and where its monetary reserves have reached a level which is to be considered satisfactory, in particular as regards the volume of its external trade, the Council may, acting by a qualified majority on a proposal from the Commission, decide that the French Government must abolish the system of charges and aids.

If the Commission and the French Government do not agree on the question whether the level of the monetary reserves of the franc area can be considered satisfactory, they shall refer the matter for an opinion to a person or body chosen by common accord as arbitrator. In the event of disagreement, the arbitrator shall be designated by the President of the Court of Justice.

If it is decided that the system of charges and aids must be abolished, this shall be done in such a manner as to avoid risk of disturbance to the equilibrium of the balance of payments; it may, in particular, be done progressively. Once the system has been abolished, the provisions of this Treaty shall apply in their entirety.

The expression "balance of current payments" shall have the meaning given to it by international organisations and by the International Monetary Fund; it shall comprise the trade balance and the invisible transactions which have the character of income or services.

## II. *Payment for overtime*

1. The Member States consider that the establishment of the common market will result, by the end of the first stage, in a situation in which the basic number of hours beyond which overtime is paid for and the average rate of additional payment for overtime in industry will correspond to the average obtaining in France in 1956.

2. If this situation does not come about by the end of the first stage, the Commission shall authorise France to take, in respect of the sectors of industry affected by disparities in the method of payment for overtime, protective measures, the conditions and details of which the Commission shall determine, unless, during this stage, the average increase in the wage level in the same sectors of industry in other Member States, by comparison with the average for 1956, exceeds the increase which has occurred in France by a percentage fixed by the Commission with the approval of the Council acting by a qualified majority.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
ANTONIO SEGNI  
BECH  
J. LUNS

J. CH. SNOY ET D'OPPUERS  
HALLSTEIN  
M. FAURE  
GAETANO MARTINO  
LAMBERT SCHAUS  
J. LINTHORST HOMAN



## PROTOCOL ON ITALY

The High Contracting Parties,

Desiring to settle certain particular problems relating to Italy,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

The Member States of the Community,

Take note of the fact that the Italian Government is carrying out a ten-year programme of economic expansion designed to rectify the disequilibria in the structure of the Italian economy, in particular by providing an infrastructure for the less developed areas in Southern Italy and in the Italian islands and by creating new jobs in order to eliminate unemployment;

Recall that the principles and objectives of this programme of the Italian Government have been considered and approved by organisations for international cooperation of which the Member States are members;

Recognise that it is in their common interest that the objectives of the Italian programme should be attained;

Agree, in order to facilitate the accomplishment of this task by the Italian Government, to recommend to the institutions of the Community that they should employ all the methods and procedures provided in this Treaty and, in particular, make appropriate use of the resources of the European Investment Bank and the European Social Fund;

Are of the opinion that the institutions of the Community should, in applying this Treaty, take account of the sustained effort to be made by the Italian economy in the coming years and of the desirability of avoiding dangerous stresses in particular within the balance of payments or the level of employment, which might jeopardise the application of this Treaty in Italy;

Recognise that in the event of Articles 108 and 109 being applied it will be necessary to take care that any measures required of the Italian Government do not prejudice the completion of its programme for economic expansion and for raising the standard of living of the population.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK

ADENAUER

PINEAU

ANTONIO SEGNI

BECH

J. LUNS

J. CH. SNOY ET D'OPPUERS

HALLSTEIN

M. FAURE

GAETANO MARTINO

LAMBERT SCHAUS

J. LINTHORST HOMAN

## PROTOCOL ON THE GRAND DUCHY OF LUXEMBOURG

The High Contracting Parties,

Desiring to settle certain particular problems relating to the Grand Duchy of Luxembourg,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

*Article 1.* 1. By reason of the special position of its agriculture, the Grand Duchy of Luxembourg is hereby authorised to maintain quantitative restrictions on imports of the products included in the list annexed to the Decision of the Contracting Parties to the General Agreement on Tariffs and Trade of 3 December 1955 concerning the agriculture of Luxembourg.

Belgium, Luxembourg and the Netherlands shall apply the system provided for in the third paragraph of Article 6 of the Convention on the Economic Union of Belgium and Luxembourg of 25 July 1921.<sup>1</sup>

2. The Grand Duchy of Luxembourg shall take all measures of a structural, technical or economic nature that will make possible the progressive integration of its agriculture in the common market. The Commission may make recommendations to the Grand Duchy concerning the measures to be taken.

At the end of the transitional period the Council shall, acting by a qualified majority on a proposal from the Commission, decide to what extent the derogations accorded the Grand Duchy of Luxembourg shall be maintained, altered or terminated.

Any Member State concerned may appeal against this decision to an arbitration board appointed in accordance with Article 8 (4) of this Treaty.

*Article 2.* When framing the regulations on freedom of movement for workers provided for in Article 48 (3) of this Treaty, the Commission shall take account, as regards the Grand Duchy of Luxembourg, of the special demographic situation in that country.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
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J. LINTHORST HOMAN

<sup>1</sup> League of Nations. *Treaty Series*, vol. IX, p. 223.

PROTOCOL ON GOODS ORIGINATING IN AND COMING FROM CERTAIN COUNTRIES  
AND ENJOYING SPECIAL TREATMENT WHEN IMPORTED INTO A MEMBER  
STATE

The High Contracting Parties,

Desiring to define in greater detail the application of this Treaty to certain goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

1. The application of the Treaty establishing the European Economic Community shall not require any alteration in the customs treatment applicable, at the time of the entry into force of this Treaty, to imports:

- (a) Into the Benelux countries of goods originating in and coming from Surinam\* or the Netherlands Antilles;\*\*
- (b) Into France of goods originating in and coming from Morocco, Tunisia, the Republic of Vietnam, Cambodia or Laos. This shall also apply to the French Settlements in the Condominium of the New Hebrides;\*\*\*
- (c) Into Italy of goods originating in and coming from Libya or the Trust Territory of Somaliland currently under Italian administration.\*\*\*\*

2. Goods imported into a Member State and benefiting from the treatment referred to above shall not be considered to be in free circulation in that State within the meaning of Article 10 of this Treaty when re-exported to another Member State.

3. Before the end of the first year after the entry into force of this Treaty, Member States shall communicate to the Commission and to the other Member States their rules governing the special treatment referred to in this Protocol, together with a list of the goods entitled to such treatment.

They shall also inform the Commission and the other Member States of any changes subsequently made in those lists or in the treatment.

4. The Commission shall ensure that the application of these rules cannot be prejudicial to other Member States; to this end it may take any appropriate measures as regards relations between Member States.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

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\* The provisions of Part Four of the Treaty were applied to Surinam, by virtue of a Supplementary Act of the Kingdom of the Netherlands to complete its instrument of ratification, from 1 September 1962 to 16 July 1976.

\*\* In accordance with Article 1 of the Convention of 13 November 1962 amending the Treaty establishing the European Economic Community (*Official Journal of the European Communities*, No. 150, 1 October 1964, p. 2414), the protocol no longer applies to the Netherlands Antilles.

\*\*\* The provisions of Part Four of the Treaty apply to this Condominium (see Annex IV, p. 81).

\*\*\*\* These two countries have become independent.

PROTOCOL ON THE TREATMENT TO BE APPLIED TO PRODUCTS WITHIN THE PROVINCE OF THE EUROPEAN COAL AND STEEL COMMUNITY IN RESPECT OF ALGERIA AND THE OVERSEAS DEPARTMENTS OF THE FRENCH REPUBLIC

The High Contracting Parties,

Conscious of the fact that the provisions of this Treaty relating to Algeria and the overseas departments of the French Republic raise the problem of the treatment to be applied, in respect of Algeria and those departments, to products covered by the Treaty establishing the European Coal and Steel Community,

Desiring to seek an appropriate solution in harmony with the principles of the two Treaties,

Undertake to settle this problem in a spirit of mutual cooperation within the shortest possible time and not later than the first revision of the Treaty establishing the European Coal and Steel Community.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
ANTONIO SEGNI  
BECH  
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J. LINTHORST HOMAN

## PROTOCOL ON MINERAL OILS AND CERTAIN OF THEIR DERIVATIVES

The High Contracting Parties,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

1. Each Member State may, for a period of six years after this Treaty enters into force, maintain in regard to other Member States and third countries the customs duties and charges having equivalent effect applied to products falling within headings Nos. 27.09, 27.10, 27.11, 27.12 and ex 27.13 (paraffin wax, microcrystalline wax, slack wax and scale wax) of the Brussels Nomenclature on 1 January 1957 or, if lower, on the date when this Treaty enters into force. The duty to be maintained on crude oils shall not, however, be such as to result in an increase of more than 5 per cent in the difference existing on 1 January 1957 between the duties on crude oils and those on the derivatives referred to above. Where no such difference exists, any difference subsequently introduced shall not exceed 5% of the duty which applied on 1 January 1957 to products falling within heading No. 27.09. If, before the end of this period of six years, a reduction is made in the customs duties or charges having equivalent effect in respect of products falling within heading No. 27.09, a corresponding reduction shall be made in any customs duties or charges having equivalent effect imposed on the other products referred to above.

At the end of this period, the duties maintained in accordance with the preceding subparagraph shall be completely abolished in respect of other Member States. At the same time, the common customs tariff shall be applicable to third countries.

2. Any aids to the production of mineral oils falling within heading No. 27.09 of the Brussels Nomenclature shall, where such aids prove necessary in order to bring the price of crude oils down to the world market price c.i.f. European port of a Member State, be governed by Article 92 (3) (c) of this Treaty. The Commission shall, during the first two stages, make use of the powers provided under Article 93 only to the extent required to prevent such aids being misused.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK

ADENAUER

PINEAU

ANTONIO SEGNI

BECH

J. LUNS

J. CH. SNOY ET D'OPPUERS

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J. LINTHORST HOMAN

PROTOCOL ON THE APPLICATION OF THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY TO THE NON-EUROPEAN PARTS OF THE KINGDOM OF THE NETHERLANDS

The High Contracting Parties,

Anxious, at the time of signature of the Treaty establishing the European Economic Community, to define the scope of the provisions of Article 227 of this Treaty in respect of the Kingdom of the Netherlands,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

The Government of the Kingdom of the Netherlands, by reason of the constitutional structure of the Kingdom resulting from the Statute of 29 December 1954, shall, by way of derogation from Article 227, be entitled to ratify the Treaty on behalf of the Kingdom in Europe and Netherlands New Guinea only.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
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BECH  
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J. LINTHORST HOMAN

PROTOCOL ON THE STATUTE OF THE COURT OF JUSTICE  
OF THE EUROPEAN ECONOMIC COMMUNITY

The High Contracting Parties to the Treaty establishing the European Economic Community,

Desiring to lay down the Statute of the Court provided for in Article 188 of this Treaty,

Have designated as their Plenipotentiaries for this purpose:

His Majesty the King of the Belgians: Baron J. Ch. Snoy et d'Oppuers, Secretary-General of the Ministry of Economic Affairs, Head of the Belgian Delegation to the Intergovernmental Conference;

The President of the Federal Republic of Germany: Professor Dr. Carl Friedrich Ophüls, Ambassador of the Federal Republic of Germany, Head of the German Delegation to the Intergovernmental Conference;

The President of the French Republic: Mr. Robert Marjolin, Professor of Law, Deputy Head of the French Delegation to the Intergovernmental Conference;

The President of the Italian Republic: Mr. V. Badini Confalonieri, Under-Secretary of State in the Ministry of Foreign Affairs, Head of the Italian Delegation to the Intergovernmental Conference;

Her Royal Highness the Grand Duchess of Luxembourg: Mr. Lambert Schaus, Ambassador of the Grand Duchy of Luxembourg, Head of the Luxembourg Delegation to the Intergovernmental Conference;

Her Majesty the Queen of the Netherlands: Mr. J. Linthorst Homan, Head of the Netherlands Delegation to the Intergovernmental Conference;

who, having exchanged their Full Powers, found in good and due form,

Have agreed upon the following provisions, which shall be annexed to the Treaty establishing the European Economic Community.

*Article 1.* The Court established by Article 4 of this Treaty shall be constituted and shall function in accordance with the provisions of this Treaty and of this Statute.

*Title I. JUDGES AND ADVOCATES-GENERAL*

*Article 2.* Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 3.* The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting in plenary session, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the Court competent to judge the members of the highest national judiciary.

*Article 4.* The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

*Article 5.* Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

*Article 6.* A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the President of the Assembly and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

*Article 7.* A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

*Article 8.* The provisions of Articles 2 to 7 shall apply to the Advocates-General.

## *Title II.* ORGANISATION

*Article 9.* The registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 10.* The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

*Article 11.* Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

*Article 12.* On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the rules of procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they



shall be appointed by the Council. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 13.* The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court has its seat.

*Article 14.* The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

*Article 15\*.* Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the full Court shall be valid if seven members are sitting. Decisions of the Chambers shall be valid only if three Judges are sitting; in the event of one of the Judges of a Chamber being prevented from attending, a Judge of another Chamber may be called upon to sit in accordance with conditions laid down in the rules of procedure.

*Article 16.* No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a Member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its Chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the Chamber of a Judge of the nationality of that party.

### *Title III.* PROCEDURE

*Article 17.* The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer entitled to practise before a court of a Member State.

Other parties must be represented by a lawyer entitled to practise before a court of a Member State.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the rules of procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the rules of procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are

\* Text as amended by Article 20 of the Act of Accession.

accorded by this Article to lawyers entitled to practise before a court of a Member State.

*Article 18.* The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Community whose decisions are in dispute, of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the rules of procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers entitled to practise before a court of a Member State and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

*Article 19.* A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party against whom the application is made, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 175 of this Treaty, by documentary evidence of the date on which an institution was, in accordance with that Article, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

*Article 20.* In the cases governed by Article 177 of this Treaty, the decision of the Court or tribunal of a Member State which suspends its proceedings and refers a case to the Court shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and also to the Council if the act the validity or interpretation of which is in dispute originates from the Council.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the Council, shall be entitled to submit statements of case or written observations to the Court.

*Article 21.* The Court may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions not being parties to the case to supply all information which the Court considers necessary for the proceedings.

*Article 22.* The Court may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of giving an expert opinion.

*Article 23.* Witnesses may be heard under conditions laid down in the rules of procedure.

*Article 24.* With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the rules of procedure.

*Article 25.* Witnesses and experts may be heard on oath taken in the form laid down in the rules of procedure or in the manner laid down by the law of the country of the witness or expert.

*Article 26.* The Court may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the rules of procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

*Article 27.* A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court, the Member State concerned shall prosecute the offender before its competent court.

*Article 28.* The hearing in court shall be public, unless the Court, of its own motion or on application by the parties, decides otherwise for serious reasons.

*Article 29.* During the hearings the Court may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court only through their representatives.

*Article 30.* Minutes shall be made of each hearing and signed by the President and the Registrar.

*Article 31.* The cause list shall be established by the President.

*Article 32.* The deliberations of the Court shall be and shall remain secret.

*Article 33.* Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

*Article 34.* Judgments shall be signed by the President and the Registrar. They shall be read in open court.

*Article 35.* The Court shall adjudicate upon costs.

*Article 36.* The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the rules of procedure, adjudicate upon applications to suspend execution, as provided for in Article 185 of this Treaty, or to prescribe interim measures in pursuance of Article 186, or to suspend enforcement in accordance with the last paragraph of Article 192.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the rules of procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

*Article 37.* Member States and institutions of the Community may intervene in cases before the Court.

The same right shall be open to any other person establishing an interest in the result of any case submitted to the Court, save in cases between Member States, between institutions of the Community or between Member States and institutions of the Community.

Submissions made in an application to intervene shall be limited to supporting the submissions of one of the parties.

*Article 38.* Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

*Article 39.* Member States, institutions of the Community and any other natural or legal persons may, in cases and under conditions to be determined by the rules of procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

*Article 40.* If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Community establishing an interest therein.

*Article 41.* An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognising that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of ten years from the date of the judgment.

*Article 42.* Periods of grace based on considerations of distance shall be determined by the rules of procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.

*Article 43.* Proceedings against the Community in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Community. In the latter event the proceedings must be instituted within the period of two months provided for in Article 173; the provisions of the second paragraph of Article 175 shall apply where appropriate.

*Article 44.* The rules of procedure of the Court provided for in Article 188 of this Treaty shall contain, apart from the provisions contemplated by this Statute, any other provisions necessary for applying and, where required, supplementing it.

*Article 45.* The Council may, acting unanimously, make such further adjustments to the provisions of this Statute as may be required by reason of measures taken by the Council in accordance with the last paragraph of Article 165 of this Treaty.

*Article 46.* Immediately after the oath has been taken, the President of the Council shall proceed to choose by lot the Judges and the Advocates-General whose terms of office are to expire at the end of the first three years in accordance with the second and third paragraphs of Article 167 of this Treaty.

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

DONE at Brussels this seventeenth day of April in the year one thousand nine hundred and fifty-seven.

J. CH. SNOY ET D'OPPUERS

C. F. OPHÜLS

ROBERT MARJOLIN

VITTORIO BADINI CONFALONIERI

LAMBERT SCHAUS

J. LINTHORST HOMAN

### III. IMPLEMENTING CONVENTION ON THE ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES WITH THE COMMUNITY\*

#### 1. TEXT OF THE IMPLEMENTING CONVENTION

The High Contracting Parties,

Desiring to enter into the Implementing Convention provided for in Article 136 of this Treaty,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

*Article 1.* The Member States shall, under the conditions laid down below, participate in measures which will promote the social and economic development of the countries and territories listed in Annex IV to this Treaty, by supplementing the efforts made by the authorities responsible for those countries and territories.

For this purpose, a Development Fund for the Overseas Countries and Territories is hereby established, into which the Member States shall, over a period of five years, pay the annual contributions set out in Annex A to this Convention.

The Fund shall be administered by the Commission.

*Article 2.* The authorities responsible for the countries and territories shall, in agreement with the local authorities or with the representatives of the peoples of the countries and territories concerned, submit to the Commission the social or economic projects for which financing by the Community is requested.

*Article 3.* The Commission shall draw up annually general programmes for allocation to the different classes of project of the funds made available in accordance with Annex B to this Convention.

The general programmes shall contain projects for financing:

- (a) Certain social institutions, in particular hospitals, teaching or technical research establishments and institutions for vocational guidance and advancement among the peoples concerned;
- (b) Economic investments which are in the public interest and are directly connected with the implementation of a programme containing specific productive development projects.

*Article 4.* At the beginning of each financial year the Council shall, acting by a qualified majority after consulting the Commission, determine what funds will be devoted to financing:

- (a) The social institutions referred to in Article 3 (a);
- (b) The economic investments in the public interest referred to in Article 3 (b).

The decision of the Council shall aim at a rational geographical distribution of the funds made available.

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\* This Implementing Convention, which was concluded for a period of five years, expired on 31 December 1962, without prejudice to the provisions of Annex I to the Convention of Association between the European Economic Community and the African and Malagasy States associated with that Community, signed at Yaoundé (Cameroon) on 20 July 1963 (*Official Journal of the European Communities*, No. 93, 11 June 1964).

*Article 5.* 1. The Commission shall determine how the funds made available under Article 4 (a) shall be allocated according to the various requests received for the financing of social institutions.

2. The Commission shall draw up proposals for financing the economic investment projects which it is considering under Article 4 (b).

It shall submit these proposals to the Council.

If, within one month, no Member State requests that the Council examine the proposals, they shall be deemed to be approved.

If the Council examines the proposals, it shall act by a qualified majority within two months.

3. Any funds not allocated during any one year shall be carried forward to the following years.

4. The funds allocated shall be made available to the authorities responsible for carrying out the work concerned. The Commission shall ensure that such funds are used for the purposes which have been decided upon, and are expended to the best economic advantage.

*Article 6.* Within six months of the entry into force of this Treaty, the Council shall, acting by a qualified majority on a proposal from the Commission, lay down rules for the collection and transfer of financial contributions, for budgeting and for the administration of the resources of the Development Fund.

*Article 7.* The qualified majority referred to in Articles 4, 5 and 6 shall be 67 votes. Member States shall have the following number of votes:

Belgium . . . . .	11 votes
Germany . . . . .	33 votes
France . . . . .	33 votes
Italy . . . . .	11 votes
Luxembourg . . . . .	1 vote
Netherlands . . . . .	11 votes

*Article 8.* The right of establishment shall, in each country or territory, be progressively extended to nationals, companies or firms of Member States other than the State which has special relations with the country or territory concerned. During the first year in which this Convention is applied, the manner in which this is to be effected shall be so determined by the Council, acting by a qualified majority on a proposal from the Commission, as to ensure the progressive abolition during the transitional period of any discrimination.

*Article 9.* The customs treatment to be applied to trade between Member States and the countries and territories shall be that provided for in Articles 133 and 134 of this Treaty.

*Article 10.* For the duration of this Convention, Member States shall apply to their trade with the countries and territories those provisions of the Chapter of this Treaty relating to the elimination of quantitative restrictions between Member States which they apply to trade with one another during the same period.

*Article 11.* 1. In each country or territory where import quotas exist, one year after this Convention enters into force, the quotas open to States other than

the State with which such country or territory has special relations shall be converted into global quotas open without discrimination to the other Member States. As from the same date, these quotas shall be increased annually in accordance with Article 32 and Article 33 (1), (2), (4), (5), (6) and (7) of this Treaty.

2. Where, in the case of a product which has not been liberalised, the global quota does not amount to 7% of total imports into a country or territory, a quota equal to 7% of such imports shall be introduced not later than one year after the entry into force of this Convention, and shall be increased annually in accordance with paragraph 1.

3. Where, in the case of certain products, no quota has been opened for imports into a country or territory, the Commission shall, by means of a decision, determine the manner in which the quotas to be offered to other Member States shall be opened and increased.

*Article 12.* Where import quotas established by Member States cover both imports from a State having special relations with a country or territory and imports from the country or territory concerned, the share of imports from the countries and territories shall be the subject of a global quota based on import statistics. Any such quota shall be established during the first year in which this Convention is in force and shall be increased as provided for in Article 10.

*Article 13.* The provisions of Article 10 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade.

*Article 14.* After the date of expiry of this Convention and until provisions covering association for a further period have been adopted, quotas for imports into the countries and territories on the one hand, and into the Member States on the other, of products originating in the countries and territories shall remain at the level set for the fifth year. The arrangements in respect of the right of establishment in force at the end of the fifth year shall also be maintained.

*Article 15.* 1. Tariff quotas for imports from third countries of raw coffee into Italy and the Benelux countries, and of bananas into the Federal Republic of Germany, shall be introduced in accordance with the Protocols annexed to this Convention.

2. If this Convention expires before the conclusion of a new agreement, the Member States shall, pending such new agreement, enjoy tariff quotas for bananas, cocoa beans and raw coffee at the rates of duty applying at the beginning of the second stage; such quotas shall be equal to the volume of imports from third countries in the course of the latest year for which statistics are available.

Such quotas shall, where appropriate, be increased in proportion to the increase in consumption within the importing countries.

3. Member States enjoying tariff quotas at the rates of duty applied when this Treaty enters into force under the Protocols relating to imports of raw coffee and bananas from third countries may require that, instead of the treatment provided for in paragraph 2, the tariff quotas for these products be maintained at the level reached at the date of expiry of this Convention.



Such quotas shall, where appropriate, be increased as provided in paragraph 2.

4. The Commission shall, at the request of the States concerned, determine the size of the tariff quotas referred to in the preceding paragraphs.

*Article 16.* The provisions contained in Articles 1 to 8 of this Convention shall apply to Algeria and the French overseas departments.

*Article 17.* Without prejudice to cases in which the provisions of Articles 14 and 15 apply, this Convention is concluded for a period of five years.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK

ADENAUER

PINEAU

ANTONIO SEGNI

BECH

J. LUNS

J. CH. SNOY ET D'OPPUERS

HALLSTEIN

M. FAURE

GAETANO MARTINO

LAMBERT SCHAUS

J. LINTHORST HOMAN

#### ANNEX A REFERRED TO IN ARTICLE 1 OF THIS CONVENTION

Percentages	1st year 10%	2nd year 12.5%	3rd year 16.5%	4th year 22.5%	5th year 38.5%	Total 100%
Countries	Millions of EPU units of account					
Belgium . . . . .	7	8.75	11.55	15.75	26.95	70
Germany . . . . .	20	25	33	45	77	200
France . . . . .	20	25	33	45	77	200
Italy . . . . .	4	5	6.60	9	15.40	40
Luxembourg . . . .	0.125	0.15625	0.20625	0.28125	0.48125	1.25
Netherlands . . . .	7	8.75	11.55	15.75	26.95	70

#### ANNEX B REFERRED TO IN ARTICLE 3 OF THIS CONVENTION

Percentages	1st year 10%	2nd year 12.5%	3rd year 16.5%	4th year 22.5%	5th year 38.5%	Total 100%
Overseas countries and territories of	Millions of EPU units of account					
Belgium . . . . .	3	3.75	4.95	6.75	11.55	30
France . . . . .	51.125	63.906	84.356	115.031	196.832	511.25
Italy . . . . .	0.5	0.625	0.825	1.125	1.925	5
Netherlands . . . .	3.5	4.375	5.775	7.875	13.475	35

## 2. PROTOCOLS

### PROTOCOL ON THE TARIFF QUOTA FOR IMPORT OF BANANAS (EX 08.01 of the BRUSSELS NOMENCLATURE)

The High Contracting Parties,

Have agreed upon the following provisions, which shall be annexed to this Convention:

1. From the first approximation of external duties provided for in Article 23 (1) (b) of this Treaty until the end of the second stage, the Federal Republic of Germany shall enjoy an annual duty-free import quota equal to 90% of the quantities imported in 1956, less the quantities coming from the countries and territories referred to in Article 131 of this Treaty.

2. From the end of the second stage until the end of the third stage, the quota shall be 80% of the quantity defined above.

3. The annual quotas determined in paragraphs 1 and 2 shall be increased by 50% of the difference between the total quantities imported during each preceding year and the quantities imported in 1956.

If total imports decrease in comparison with those for 1956, the annual quotas provided for above shall not exceed 90% of the imports for each preceding year during the period referred to in paragraph 1, or 80% of the imports for each preceding year during the period referred to in paragraph 2.

4. As soon as the common customs tariff applies in its entirety, the quota shall be 75% of the imports for 1956. This quota shall be increased as provided in the first subparagraph of paragraph 3.

If imports have decreased in comparison with those for 1956, the annual quota provided for above shall not exceed 75% of the imports for each preceding year.

Any decision to abolish or amend this quota shall be taken by the Council, acting by a qualified majority on a proposal from the Commission.

5. The figure for imports for 1956, less imports from the countries and territories referred to in Article 131 of this Treaty, which in accordance with the above provisions is to serve as the basis for calculating quotas, is 290 000 metric tons.

6. If the countries and territories are unable to supply in full the quantities requested by the Federal Republic of Germany, the Member States concerned declare their readiness to agree to a corresponding increase in the German tariff quota.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
ANTONIO SEGNI  
BECH  
J. LUNS

J. CH. SNOY ET D'OPPUERS  
HALLSTEIN  
M. FAURE  
GAETANO MARTINO  
LAMBERT SCHAUS  
J. LINTHORST HOMAN

At the time of signature of this Protocol, the Plenipotentiary of the Federal Republic of Germany made, on behalf of his Government, the following declaration, of which the other Plenipotentiaries took note:

The Federal Republic of Germany declares its readiness to support any measures that may be taken by German private interests to encourage sales of bananas from the associated overseas countries and territories within the Federal Republic.

For this purpose, negotiations shall be started as soon as possible between business circles in the various countries concerned in the supply and sale of bananas.

PROTOCOL ON THE TARIFF QUOTA FOR IMPORTS OF RAW COFFEE  
(EX 09.01 OF THE BRUSSELS NOMENCLATURE)

The High Contracting Parties,  
Have agreed upon the following provisions, which shall be annexed to this Convention:

A. *Italy*

During the first period of association of the overseas countries and territories with the Community and after the first change in customs duties in accordance with Article 23 of this Treaty, raw coffee imported from third countries into the territory of Italy, within an annual quota equal to the total imports into Italy of raw coffee from third countries in 1956, shall be subject to the customs duties applicable at the date of entry into force of this Treaty.

From the sixth year after the entry into force of this Treaty until the end of the second stage, the initial quota provided for in the preceding paragraph shall be reduced by 20%.

From the beginning of the third stage and throughout that stage, the quota shall be 50% of the initial quota.

For four years after the end of the transitional period, customs duties on raw coffee imported into Italy may, up to an amount not exceeding 20% of the initial quota, continue to be charged at the rate applied in that country at the date of entry into force of this Treaty.

The Commission shall examine whether the percentage and the period provided for in the preceding paragraph are justified.

The provisions of this Treaty shall apply to any quantities imported in excess of the quotas provided for above.

B. *The Benelux Countries*

From the beginning of the second stage and throughout that stage, raw coffee imported from third countries into the territories of the Benelux countries may continue to be imported free of customs duty, up to a tonnage of 85% of the total quantity of raw coffee imported during the last year for which statistics are available.

From the beginning of the third stage and throughout that stage, the duty-free imports referred to in the preceding paragraph shall be reduced to 50% of the total tonnage of raw coffee imported during the last year for which statistics are available.

The provisions of this Treaty shall apply to any quantities imported in excess of the quotas provided for above.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
ANTONIO SEGNI  
BECH  
J. LUNS

J. CH. SNOY ET D'OPPUERS  
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J. LINTHORST HOMAN

## TREATY<sup>1</sup> ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY

### I. 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, Her Royal Highness the Grand Duchess of Luxembourg, Her Majesty the Queen of the Netherlands,

Recognising that nuclear energy represents an essential resource for the development and invigoration of industry and will permit the advancement of the cause of peace,

Convinced that only a joint effort undertaken without delay can offer the prospect of achievements commensurate with the creative capacities of their countries,

Resolved to create the conditions necessary for the development of a powerful nuclear industry which will provide extensive energy resources, lead to the modernisation of technical processes and contribute, through its many other applications, to the prosperity of their peoples,

Anxious to create the conditions of safety necessary to eliminate hazards to the life and health of the public,

Desiring to associate other countries with their work and to cooperate with international organisations concerned with the peaceful development of atomic energy,

Have decided to create a European Atomic Energy Community (EURATOM) and to this end have designated as their Plenipotentiaries:

His Majesty the King of the Belgians:

Mr. Paul-Henri Spaak, Minister for Foreign Affairs,

Baron J. Ch. Sney et d'Oppuers, Secretary-General of the Ministry of Economic Affairs, Head of the Belgian Delegation to the Intergovernmental Conference;

The President of the Federal Republic of Germany:

Dr. Konrad Adenauer, Federal Chancellor,

Professor Dr. Walter Hallstein, State Secretary of the Federal Foreign Office;

The President of the French Republic:

Mr. Christian Pineau, Minister for Foreign Affairs,

Mr. Maurice Faure, Under-Secretary of State for Foreign Affairs;

<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 294, p. 259.

The President of the Italian Republic:

Mr. Antonio Segni, President of the Council of Ministers,  
Professor Gaetano Martino, Minister for Foreign Affairs;

Her Royal Highness the Grand Duchess of Luxembourg:

Mr. Joseph Bech, President of the Government, Minister for Foreign Affairs,  
Mr. Lambert Schaus, Ambassador, Head of the Luxembourg Delegation to  
the Intergovernmental Conference;

Her Majesty the Queen of the Netherlands:

Mr. Joseph Luns, Minister for Foreign Affairs,  
Mr. J. Linthorst Homan, Head of the Netherlands Delegation to the  
Intergovernmental Conference;

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

#### TITLE ONE. THE TASKS OF THE COMMUNITY

*Article 1.* By this Treaty the High Contracting Parties establish among  
themselves a European Atomic Energy Community (EURATOM).

It shall be the task of the Community to contribute to the raising of the  
standard of living in the Member States and to the development of relations with  
the other countries by creating the conditions necessary for the speedy  
establishment and growth of nuclear industries.

*Article 2.* In order to perform its task, the Community shall, as provided in  
this Treaty:

- (a) Promote research and ensure the dissemination of technical information;
- (b) Establish uniform safety standards to protect the health of workers and of the  
general public and ensure that they are applied;
- (c) Facilitate investment and ensure, particularly by encouraging ventures on the  
part of undertakings, the establishment of the basic installations necessary for  
the development of nuclear energy in the Community;
- (d) Ensure that all users in the Community receive a regular and equitable supply  
of ores and nuclear fuels;
- (e) Make certain, by appropriate supervision, that nuclear materials are not  
diverted to purposes other than those for which they are intended;
- (f) Exercise the right of ownership conferred upon it with respect to special fissile  
materials;
- (g) Ensure wide commercial outlets and access to the best technical facilities by  
the creation of a common market in specialised materials and equipment, by  
the free movement of capital for investment in the field of nuclear energy and  
by freedom of employment for specialists within the Community;
- (h) Establish with other countries and international organisations such relations  
as will foster progress in the peaceful uses of nuclear energy.

*Article 3.* 1. The tasks entrusted to the Community shall be carried out by the following institutions:

- An Assembly;
- A Council;
- A Commission;
- A Court of Justice.

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

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

3. The audit shall be carried out by a Court of Auditors acting within the limits of the powers conferred upon it by this Treaty.\*

## TITLE TWO. PROVISIONS FOR THE ENCOURAGEMENT OF PROGRESS IN THE FIELD OF NUCLEAR ENERGY

### CHAPTER I. PROMOTION OF RESEARCH

*Article 4.* 1. The Commission shall be responsible for promoting and facilitating nuclear research in the Member States and for complementing it by carrying out a Community research and training programme.

2. The activity of the Commission in this respect shall be carried out within the fields listed in Annex I to this Treaty.

This list may be amended by the Council, acting by a qualified majority on a proposal from the Commission. The latter shall consult the Scientific and Technical Committee established under Article 134.

*Article 5.* For purposes of coordinating and complementing research undertaken in Member States, the Commission shall, either by a specific request addressed to a given recipient and conveyed to the Government concerned, or by a general published request, call upon Member States, persons or undertakings to communicate to it their programmes relating to the research which it specifies in the request.

After giving those concerned full opportunity to comment, the Commission may deliver a reasoned opinion on each of the programmes communicated to it. The Commission shall deliver such an opinion if the State, person or undertaking which has communicated the programme so requests.

By such opinions the Commission shall discourage unnecessary duplication and shall direct research towards sectors which are insufficiently explored. The Commission may not publish these programmes without the consent of the State, person or undertaking which has communicated them.

The Commission shall publish at regular intervals a list of those sectors of nuclear research which it considers to be insufficiently explored.

\* Third paragraph added under Article 19 of the Treaty amending Certain Financial Provisions.<sup>1</sup>

<sup>1</sup> United Nations, *Treaty Series*, vol. 1435, No. A-3729.

The Commission may bring together representatives of public and private research centres as well as any experts engaged in research in the same or related fields for mutual consultation and exchanges of information.

*Article 6.* To encourage the carrying out of research programmes communicated to it the Commission may:

- (a) Provide financial assistance within the framework of research contracts, without, however, offering subsidies;
- (b) Supply, either free of charge or against payment, for carrying out such programmes, any source materials or special fissile materials which it has available;
- (c) Place installations, equipment or expert assistance at the disposal of Member States, persons or undertakings, either free of charge or against payment;
- (d) Promote joint financing by the Member States, persons or undertakings concerned.

*Article 7.* Community research and training programmes shall be determined by the Council, acting unanimously on a proposal from the Commission, which shall consult the Scientific and Technical Committee.

These programmes shall be drawn up for a period of not more than five years.

The funds required for carrying out these programmes shall be included each year in the research and investment budget of the Community.

The Commission shall ensure that these programmes are carried out and shall submit an annual report thereon to the Council.

The Commission shall keep the Economic and Social Committee informed of the broad outlines of Community research and training programmes.

*Article 8.* 1. After consulting the Scientific and Technical Committee, the Commission shall establish a Joint Nuclear Research Centre.

This Centre shall ensure that the research programmes and other tasks assigned to it by the Commission are carried out.

It shall also ensure that a uniform nuclear terminology and a standard system of measurements are established.

It shall set up a central bureau for nuclear measurements.

2. The activities of the Centre may, for geographical or functional reasons, be carried out in separate establishments.

*Article 9.* 1. After obtaining the opinion of the Economic and Social Committee the Commission may, within the framework of the Joint Nuclear Research Centre, set up schools for the training of specialists, particularly in the fields of prospecting for minerals, the production of high-purity nuclear materials, the processing of irradiated fuels, nuclear engineering, health and safety and the production and use of radioisotopes.

The Commission shall determine the details of such training.

2. An institution of university status shall be established; the way in which it will function shall be determined by the Council, acting by a qualified majority on a proposal from the Commission.



*Article 10.* The Commission may, by contract, entrust the carrying out of certain parts of the Community research programme to Member States, persons or undertakings, or to third countries, international organisations or nationals of third countries.

*Article 11.* The Commission shall publish the research programmes referred to in Articles 7, 8 and 10, and also regular progress reports on their implementation.

## CHAPTER II. DISSEMINATION OF INFORMATION

### *Section I. INFORMATION OVER WHICH THE COMMUNITY HAS POWER OF DISPOSAL*

*Article 12.* Member States, persons or undertakings shall have the right, on application to the Commission, to obtain non-exclusive licences under patents, provisionally protected patent rights, utility models or patent applications owned by the Community, where they are able to make effective use of the inventions covered thereby.

Under the same conditions, the Commission shall grant sub-licences under patents, provisionally protected patent rights, utility models or patent applications, where the Community holds contractual licences conferring power to do so.

The Commission shall grant such licences or sub-licences on terms to be agreed with the licensees and shall furnish all the information required for their use. These terms shall relate in particular to suitable remuneration and, where appropriate, to the right of the licensee to grant sub-licences to third parties and to the obligations to treat the information as a trade secret.

Failing agreement on the terms referred to in the third paragraph, the licensees may bring the matter before the Court of Justice so that appropriate terms may be fixed.

*Article 13.* The Commission shall communicate to Member States, persons and undertakings information acquired by the Community which is not covered by the provisions of Article 12, whether such information is derived from its own research programme or communicated to the Commission with authority to make free use of it.

The Commission may, however, make the disclosure of such information conditional on its being treated as confidential and not passed on to third parties.

The Commission may not disclose information which has been acquired subject to restrictions on its use or dissemination — such as information known as classified information — unless it ensures compliance with these restrictions.

### *Section II. OTHER INFORMATION*

#### *(a) Dissemination by amicable agreement*

*Article 14.* The Commission shall endeavour, by amicable agreement, to secure both the communication of information which is of use to the Community in the attainment of its objectives and the granting of licences under patents, provisionally protected patent rights, utility models or patent applications covering such information.

*Article 15.* The Commission shall establish a procedure by which Member States, persons and undertakings may use it as an intermediary for exchanging provisional or final results of their research, in so far as these results have not been acquired by the Community under research contracts awarded by the Commission.

This procedure must be such as to ensure the confidential nature of the exchange. The results communicated may, however, be transmitted by the Commission to the Joint Nuclear Research Centre for documentation purposes; this shall not entail any right of use to which the communicating party has not agreed.

(b) *Compulsory communication to the Commission*

*Article 16.* 1. As soon as an application for a patent or a utility model relating to a specifically nuclear subject is filed with a Member State, that State shall ask the applicant to agree that the contents of the application be communicated to the Commission forthwith.

If the applicant agrees, this communication shall be made within three months of the date of filing the application. If the applicant does not agree, the Member State shall, within the same period, notify the Commission of the existence of the application.

The Commission may require a Member State to communicate the contents of an application of whose existence it has been notified.

The Commission shall make any such request within two months of the date of notification. Any extension of this period shall entail a corresponding extension of the period referred to in the sixth subparagraph of this paragraph.

On receiving such a request from the Commission, the Member State shall again ask the applicant to agree to communication of the contents of the application. If the applicant agrees, communication shall be made forthwith.

If the applicant does not agree, the Member State shall nevertheless be required to make this communication to the Commission within eighteen months of the date on which the application was filed.

2. Member States shall inform the Commission, within eighteen months of the filing date, of the existence of any as yet unpublished application for a patent or utility model which seems to them, *prima facie*, to deal with a subject which, although not specifically nuclear, is directly connected with and essential to the development of nuclear energy in the Community.

If the Commission so requests, the contents of the application shall be communicated to it within two months.

3. In order that publication may take place as soon as possible, Member States shall reduce to a minimum the time taken to process applications for patents or utility models relating to subjects referred to in paragraphs 1 and 2 concerning which a request has been made by the Commission.

4. The Commission shall treat the above-mentioned communications as confidential. They may only be made for documentation purposes. The Commission may, however, make use of the inventions communicated to it, either with the consent of the applicant or in accordance with Articles 17 to 23.

5. The provisions of this Article shall not apply when an agreement concluded with a third State or an international organisation precludes communication.

(c) *Grant of licences by arbitration or under compulsory powers*

*Article 17.* 1. Failing amicable agreement, non-exclusive licences may be granted either by arbitration or under compulsory powers in accordance with Articles 18 to 23:

(a) To the Community or to Joint Undertakings accorded this right under Article 48 in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with nuclear research, where the granting of such licences is necessary for the continuance of their own research or indispensable to the operation of their installations.

If the Commission so requests, such licences shall include the right to authorise third parties to make use of the invention, where they are carrying out work for or orders placed by the Community or Joint Undertakings;

(b) To persons or undertakings which have applied to the Commission for them in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with and essential to the development of nuclear energy in the Community, provided that all the following conditions are fulfilled:

- (i) At least four years have elapsed since the filing of the patent application, save in the case of an invention relating to a specifically nuclear subject;
- (ii) The requirements arising out of the development of nuclear energy, in the Commission's conception of such development, in the territory of a Member State where an invention is protected, are not being met with regard to that invention;
- (iii) The proprietor, having been called upon to meet such requirements either himself or through his licensees, has not complied with this request;
- (iv) The persons or undertakings applying for licences are in a position to meet such requirements effectively by making use of the invention.

Member States may not, in order to meet such requirements, take any coercive measures provided for in their national legislation which will limit the protection accorded to the invention, save at the prior request of the Commission.

2. A non-exclusive licence may not be granted as provided for in paragraph 1 where the proprietor can establish the existence of legitimate reasons, in particular that he has not had sufficient time at his disposal.

3. The granting of a licence pursuant to paragraph 1 shall confer a right to full compensation, the amount of which shall be agreed between the proprietor of the patent, provisionally protected patent right or utility model and the licensee.

4. The provisions of this Article shall not affect those of the Paris Convention for the Protection of Industrial Property.

*Article 18.* An Arbitration Committee is hereby established for the purposes provided for in this Section. The Council shall appoint the members and lay down the rules of procedure of this Committee, acting on a proposal from the Court of Justice.

An appeal, having suspensory effect, may be brought by the parties before the Court of Justice against a decision of the Arbitration Committee within one month of notification thereof. The Court of Justice shall confine its examination to the formal validity of the decision and to the interpretation of the provisions of this Treaty by the Arbitration Committee.

The final decisions of the Arbitration Committee shall have the force of *res judicata* between the parties concerned. They shall be enforceable as provided in Article 164.

*Article 19.* Where, failing amicable agreement, the Commission intends to secure the granting of licences in one of the cases provided for in Article 17, it shall give notice of its intention to the proprietor of the patent, provisionally protected patent right, utility model or patent application, and shall specify in such notice the name of the applicant for and the scope of the licence.

*Article 20.* The proprietor may, within one month of receipt of the notice referred to in Article 19, propose to the Commission and, where appropriate, to the applicant that they conclude a special agreement to refer the matter to the Arbitration Committee.

Should the Commission or the applicant refuse to enter into such an agreement, the Commission shall not require the Member State or its appropriate authorities to grant the licence or cause it to be granted.

If, when the matter is referred to it under a special agreement, the Arbitration Committee finds that the request from the Commission complies with the provisions of Article 17, it shall give a reasoned decision containing a grant of the licence to the applicant and laying down the terms of the licence and the remuneration therefor, to the extent that the parties have not reached agreement on these points.

*Article 21.* If the proprietor does not propose that the matter be referred to the Arbitration Committee, the Commission may call upon the Member State concerned or its appropriate authorities to grant the licence or cause it to be granted.

If, having heard the proprietor's case, the Member State, or its appropriate authorities, considers that the conditions of Article 17 have not been complied with, it shall notify the Commission of its refusal to grant the licence or to cause it to be granted.

If it refuses to grant the licence or to cause it to be granted, or if, within four months of the date of the request, no information is forthcoming with regard to the granting of the licence, the Commission shall have two months in which to bring the matter before the Court of Justice.

The proprietor must be heard in the proceedings before the Court of Justice.

If the judgment of the Court of Justice establishes that the conditions of Article 17 have been complied with, the Member State concerned, or its appropriate authorities, shall take such measures as enforcement of that judgment may require.

*Article 22.* 1. If the proprietor of the patent, provisionally protected patent right or utility model and the licensee fail to agree on the amount of compensation, the parties concerned may conclude a special agreement to refer the matter to the Arbitration Committee.

By doing so, the parties waive the right to institute any proceedings other than those provided for in Article 18.

2. If the licensee refuses to conclude a special agreement, the licence he has been granted shall be deemed void.

If the proprietor refuses to conclude a special agreement, the compensation referred to in this Article shall be determined by the appropriate national authorities.

*Article 23.* After the lapse of one year, the decisions of the Arbitration Committee or of the appropriate national authorities may, if there are new facts to justify it, be revised with respect to the terms of the licence.

Such revision shall be a matter for the body which gave the decision.

### *Section III. SECURITY PROVISIONS*

*Article 24.* Information which the Community acquires as a result of carrying out its research programme, and the disclosure of which is liable to harm the defence interests of one or more Member States, shall be subject to a security system in accordance with the following provisions:

1. The Council shall, acting on a proposal from the Commission, adopt security regulations which, account being taken of the provisions of this Article, lay down the various security gradings to be applied and the security measures appropriate to each grading.

2. Where the Commission considers that the disclosure of certain information is liable to harm the defence interests of one or more Member States, it shall provisionally apply to that information the security grading required in that case by the security regulations.

It shall communicate such information forthwith to the Member States, which shall provisionally ensure its security in the same manner.

Member States shall inform the Commission within three months whether they wish to maintain the grading provisionally applied, substitute another or declassify the information.

Upon the expiry of this period, the highest grading of those requested shall be applied. The Commission shall notify the Member States accordingly.

At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

3. The provisions of Articles 12 and 13 shall not apply to information subject to a security grading.

Nevertheless, provided that the appropriate security measures are observed,

(a) The information referred to in Articles 12 and 13 may be communicated by the Commission:

- (i) To a Joint Undertaking;
- (ii) To a person or undertaking other than a Joint Undertaking, through the Member State in whose territory that person or undertaking operates.

(b) The information referred to in Article 13 may be communicated by a Member State to a person or to an undertaking other than a Joint Undertaking, operating in the territory of that State, provided that the Commission is notified of this communication.

(c) Each Member State has, however, the right to require the Commission to grant a licence under Article 12 to meet the needs of that State or those of a person or undertaking operating in its territory.

*Article 25.* 1. A Member State notifying the existence or communicating the contents of an application for a patent or utility model relating to a subject specified in Article 16 (1) or (2) shall, where appropriate, draw attention to the need to apply a given security grading for defence reasons, at the same time stating the probable duration of such grading.

The Commission shall pass on to the other Member States all communications received in accordance with the preceding sub-paragraph. The Commission and the Member States shall take those measures which, under the security regulations, correspond to the grading required by the State of origin.

2. The Commission may also pass on these communications to Joint Undertakings or, through a Member State, to a person or to an undertaking other than a Joint Undertaking operating in the territory of that State.

Inventions which are the subject of applications referred to in paragraph 1 may be used only with the consent of the applicant or in accordance with Articles 17 to 23.

The communications and, where appropriate, the use referred to in this paragraph shall be subject to the measures which, under the security regulations, correspond to the security grading required by the State of origin.

The communications shall in all cases be subject to the consent of the State of origin. Consent to communication and use may be withheld only for defence reasons.

3. At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

*Article 26.* 1. Where information covered by patents, patent applications, provisionally protected patent rights, utility models or applications for utility models has been classified in accordance with Articles 24 and 25, the States which have applied for such classification may not refuse to allow corresponding applications to be filed in the other Member States.

Each Member State shall take the necessary measures to maintain the security of such rights and applications in accordance with the procedure laid down in its own laws and regulations.

2. No applications relating to information classified in accordance with Article 24 may be filed outside the Member States except with the unanimous consent of the latter. Should Member States fail to make known their attitude, their consent shall be deemed to have been obtained on the expiry of six months from the date on which the information was communicated to the Member States by the Commission.

*Article 27.* Compensation for any damage suffered by the applicant as a result of classification for defence reasons shall be governed by the provisions of the national laws of the Member States and shall be the responsibility of the State which applied for such classification or which either obtained the upgrading or extension of the classification or caused the filing of applications outside the Community to be prohibited.

Where several Member States have either obtained the upgrading or extension of the classification or caused the filing of applications outside the Community to be prohibited, they shall be jointly responsible for making good any damage arising out of their action.

The Community may not claim any compensation under this Article.

#### *Section IV.* SPECIAL PROVISIONS

*Article 28.* Where, as a result of their communication to the Commission, unpublished applications for patents or utility models, or patents or utility models classified for defence reasons, are improperly used or come to the knowledge of an unauthorised person, the Community shall make good the damage suffered by the party concerned.

Without prejudice to its own rights against the person responsible for the damage, the Community shall, to the extent that it has made good such damage, acquire any rights of action enjoyed by those concerned against third parties. This shall not affect the right of the Community to take action against the person responsible for the damage in accordance with the general provisions in force.

*Article 29.* Where an agreement or contract for the exchange of scientific or industrial information in the nuclear field between a Member State, a person or an undertaking on the one hand, and a third State, an international organisation or a national of a third State on the other, requires, on either part, the signature of a State acting in its sovereign capacity, it shall be concluded by the Commission.

Subject to the provisions of Articles 103 and 104, the Commission may, however, on such conditions as it considers appropriate, authorise a Member State, a person or an undertaking to conclude such agreements.

#### CHAPTER III. HEALTH AND SAFETY

*Article 30.* Basic standards shall be laid down within the Community for the protection of the health of workers and the general public against the dangers arising from ionizing radiations.

The expression "basic standards" means:

- (a) Maximum permissible doses compatible with adequate safety;
- (b) Maximum permissible levels of exposure and contamination;
- (c) The fundamental principles governing the health surveillance of workers.

*Article 31.* The basic standards shall be worked out by the Commission after it has obtained the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts, and in particular public health experts, in the Member States. The Commission shall obtain the opinion of the Economic and Social Committee on these basic standards.

After consulting the Assembly the Council shall, on a proposal from the Commission, which shall forward to it the opinions obtained from these Committees, establish the basic standards; the Council shall act by a qualified majority.

*Article 32.* At the request of the Commission or of a Member State, the basic standards may be revised or supplemented in accordance with the procedure laid down in Article 31.

The Commission shall examine any request made by a Member State.

*Article 33.* Each Member State shall lay down the appropriate provisions, whether by legislation, regulation or administrative action, to ensure compliance with the basic standards which have been established and shall take the necessary measures with regard to teaching, education and vocational training.

The Commission shall make appropriate recommendations for harmonising the provisions applicable in this field in the Member States.

To this end, the Member States shall communicate to the Commission the provisions applicable at the date of entry into force of this Treaty and any subsequent draft provisions of the same kind.

Any recommendations the Commission may wish to issue with regard to such draft provisions shall be made within three months of the date on which such draft provisions are communicated.

*Article 34.* Any Member State in whose territories particularly dangerous experiments are to take place shall take additional health and safety measures, on which it shall first obtain the opinion of the Commission.

The assent of the Commission shall be required where the effects of such experiments are liable to affect the territories of other Member States.

*Article 35.* Each Member State shall establish the facilities necessary to carry out continuous monitoring of the level of radioactivity in the air, water and soil and to ensure compliance with the basic standards.

The Commission shall have the right of access to such facilities; it may verify their operation and efficiency.

*Article 36.* The appropriate authorities shall periodically communicate information on the checks referred to in Article 35 to the Commission so that it is kept informed of the level of radioactivity to which the public is exposed.

*Article 37.* Each Member State shall provide the Commission with such general data relating to any plan for the disposal of radioactive waste in whatever form as will make it possible to determine whether the implementation of such plan is liable to result in the radioactive contamination of the water, soil or airspace of another Member State.

The Commission shall deliver its opinion within six months, after consulting the group of experts referred to in Article 31.

*Article 38.* The Commission shall make recommendations to the Member States with regard to the level of radioactivity in the air, water and soil.

In cases of urgency, the Commission shall issue a directive requiring the Member State concerned to take, within a period laid down by the Commission,



all necessary measures to prevent infringement of the basic standards and to ensure compliance with regulations.

Should the State in question fail to comply with the Commission directive within the period laid down, the Commission or any Member State concerned may forthwith, by way of derogation from Articles 141 and 142, bring the matter before the Court of Justice.

*Article 39.* The Commission shall set up within the framework of the Joint Nuclear Research Centre, as soon as the latter has been established, a health and safety documentation and study section.

This section shall in particular have the task of collecting the documentation and information referred to in Articles 33, 36 and 37 and of assisting the Commission in carrying out the tasks assigned to it by this Chapter.

#### CHAPTER IV. INVESTMENT

*Article 40.* In order to stimulate action by persons and undertakings and to facilitate coordinated development of their investment in the nuclear field, the Commission shall periodically publish illustrative programmes indicating in particular nuclear energy production targets and all the types of investment required for their attainment.

The Commission shall obtain the opinion of the Economic and Social Committee on such programmes before their publication.

*Article 41.* Persons and undertakings engaged in the industrial activities listed in Annex II to this Treaty shall communicate to the Commission investment projects relating to new installations and also to replacements or conversions which fulfil the criteria as to type and size laid down by the Council on a proposal from the Commission.

The list of industrial activities referred to above may be altered by the Council, acting by a qualified majority on a proposal from the Commission, which shall first obtain the opinion of the Economic and Social Committee.

*Article 42.* The projects referred to in Article 41 shall be communicated to the Commission and, for information purposes, to the Member State concerned not later than three months before the first contracts are concluded with the suppliers or, if the work is to be carried out by the undertaking with its own resources, three months before the work begins.

The Council may, acting on a proposal from the Commission, alter this time limit.

*Article 43.* The Commission shall discuss with the persons or undertakings all aspects of investment projects which relate to the objectives of this Treaty.

It shall communicate its views to the Member State concerned.

*Article 44.* The Commission may, with the consent of the Member States, persons and undertakings concerned, publish any investment projects communicated to it.

#### CHAPTER V. JOINT UNDERTAKINGS

*Article 45.* Undertakings which are of fundamental importance to the development of the nuclear industry in the Community may be established as

Joint Undertakings within the meaning of this Treaty, in accordance with the following Articles.

*Article 46.* 1. Every project for establishing a Joint Undertaking, whether originating from the Commission, a Member State or any other quarter, shall be the subject of an inquiry by the Commission.

For this purpose, the Commission shall obtain the views of Member States and of any public or private body which in its opinion can usefully advise it.

2. The Commission shall forward to the Council any project for establishing a Joint Undertaking, together with its reasoned opinion.

If the Commission delivers a favourable opinion on the need for the proposed Joint Undertaking, it shall submit proposals to the Council concerning:

- (a) Location;
- (b) Statutes;
- (c) The scale of and timetable for financing;
- (d) Possible participation by the Community in the financing of the Joint Undertaking;
- (e) Possible participation by a third State, an international organisation or a national of a third State in the financing or management of the Joint Undertaking;
- (f) The conferring of any or all of the advantages listed in Annex III to this Treaty.

The Commission shall attach a detailed report on the project as a whole.

*Article 47.* The Council may, when the matter has been submitted to it by the Commission, request the latter to supply such further information or to undertake such further inquiries as the Council may consider necessary.

If the Council, acting by a qualified majority, considers that a project forwarded by the Commission with an unfavourable opinion should nevertheless be carried out, the Commission shall submit to the Council the proposals and the detailed report referred to in Article 46.

Where the opinion of the Commission is favourable or in the case referred to in the preceding paragraph, the Council shall act by a qualified majority on each of the proposals from the Commission.

The Council shall, however, act unanimously in respect of:

- (a) Participation by the Community in the financing of the Joint Undertaking;
- (b) Participation by a third State, an international organisation or a national of a third State in the financing or management of the Joint Undertaking.

*Article 48.* The Council may, acting unanimously on a proposal from the Commission, make applicable to each Joint Undertaking any or all of the advantages listed in Annex III to this Treaty; each Member State shall for its part ensure that these advantages are conferred.

The Council may, in accordance with the same procedure, lay down the conditions governing the conferment of these advantages.

*Article 49.* Joint Undertakings shall be established by Council decision.

Each Joint Undertaking shall have legal personality.

In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under their respective national laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

Save as otherwise provided in this Treaty or in its own statutes, each Joint Undertaking shall be governed by the rules applying to industrial or commercial undertakings; its statutes may make subsidiary reference to the national laws of the Member States.

Save where jurisdiction is conferred upon the Court of Justice by this Treaty, disputes in which Joint Undertakings are concerned shall be determined by the appropriate national courts or tribunals.

*Article 50.* The statutes of Joint Undertakings shall be amended, where necessary, in accordance with the special provisions which they contain for this purpose.

Such amendments shall not, however, enter into force until they have been approved by the Council, acting in accordance with the procedure laid down in Article 47 on a proposal from the Commission.

*Article 51.* The Commission shall be responsible for carrying out all decisions of the Council relating to the establishment of Joint Undertakings until the bodies responsible for the operation of such Undertakings have been set up.

#### CHAPTER VI. SUPPLIES

*Article 52.* 1. The supply of ores, source materials and special fissile materials shall be ensured, in accordance with the provisions of this Chapter, by means of a common supply policy on the principle of equal access to sources of supply.

2. For this purpose and under the conditions laid down in this Chapter:

- (a) All practices designed to secure a privileged position for certain users shall be prohibited;
- (b) An Agency is hereby established; it shall have a right of option on ores, source materials and special fissile materials produced in the territories of Member States and an exclusive right to conclude contracts relating to the supply of ores, source materials and special fissile materials coming from inside the Community or from outside.

The Agency may not discriminate in any way between users on grounds of the use which they intend to make of the supplies requested unless such use is unlawful or is found to be contrary to the conditions imposed by suppliers outside the Community on the consignment in question.

#### *Section I.* THE AGENCY

*Article 53.* The Agency shall be under the supervision of the Commission, which shall issue directives to it, possess a right of veto over its decisions and appoint its Director-General and Deputy Director-General.

Any act, whether implied or expressed, performed by the Agency in the exercise of its right of option or of its exclusive right to conclude supply contracts,

may be referred by the parties concerned to the Commission, which shall give a decision thereon within one month.

*Article 54.* The Agency shall have legal personality and financial autonomy.

The Council shall lay down the statutes of the Agency, acting by a qualified majority on a proposal from the Commission.

The statutes may be amended in accordance with the same procedure.

The statutes shall determine the Agency's capital and the terms upon which it is to be subscribed. The major part of the capital shall always belong to the Community and to the Member States. The contributions to the capital shall be determined by common accord of the Member States.

The rules for the commercial management of the activities of the Agency shall be laid down in the statutes. The latter may provide for a charge on transactions to defray the operating expenses of the Agency.

*Article 55.* The Member States shall communicate or cause to be communicated to the Agency all the information necessary to enable it to exercise its right of option and its exclusive right to conclude supply contracts.

*Article 56.* The Member States shall be responsible for ensuring that the Agency may operate freely in their territories.

They may establish one or more bodies having authority to represent, in relations with the Agency, producers and users in the non-European territories under their jurisdiction.

## *Section II.* ORES, SOURCE MATERIALS AND SPECIAL FISSILE MATERIALS COMING FROM INSIDE THE COMMUNITY

*Article 57.* 1. The right of option of the Agency shall cover:

- (a) The acquisition of rights to use and consume materials owned by the Community under the provisions of Chapter VIII;
- (b) The acquisition of the right of ownership in all other cases.

2. The Agency shall exercise its right of option by concluding contracts with producers of ores, source materials and special fissile materials.

Subject to Articles 58, 62 and 63, every producer shall offer to the Agency the ores, source materials or special fissile materials which he produces within the territories of Member States before they are used, transferred or stored.

*Article 58.* Where a producer carries out several stages of production from extraction of the ore up to and including production of the metal, he may offer the product to the Agency at whichever stage of production he chooses.

The same shall apply to two or more connected undertakings, where the connection has been duly communicated to the Commission and discussed with it in accordance with the procedures laid down in Articles 43 and 44.

*Article 59.* If the Agency does not exercise its right of option on the whole or any part of the output of a producer, the latter

- (a) May, either by using his own resources or under contract, process or cause to be processed the ores, source materials or special fissile materials, provided that he offers to the Agency the product of such processing;

(b) Shall be authorised by a decision of the Commission to dispose of his available production outside the Community, provided that the terms he offers are not more favourable than those previously offered to the Agency. However, special fissile materials may be exported only through the Agency and in accordance with the provisions of Article 62.

The Commission may not grant such authorisation if the recipients of the supplies fail to satisfy it that the general interests of the Community will be safeguarded or if the terms and conditions of such contracts are contrary to the objectives of this Treaty.

*Article 60.* Potential users shall periodically inform the Agency of the supplies they require, specifying the quantities, the physical and chemical nature, the place of origin, the intended use, delivery dates and price terms, which are to form the terms and conditions of the supply contract which they wish to conclude.

Similarly, producers shall inform the Agency of offers which they are able to make, stating all the specifications, and in particular the duration of contracts, required to enable their production programmes to be drawn up. Such contracts shall be of not more than ten years' duration save with the agreement of the Commission.

The Agency shall inform all potential users of the offers and of the volume of applications which it has received and shall call upon them to place their orders by a specified time limit.

When the Agency has received all such orders, it shall make known the terms on which it can meet them.

If the Agency cannot meet in their entirety all the orders received, it shall, subject to the provisions of Articles 68 and 69, share out the supplies proportionately among the orders relating to each offer.

Agency rules, which shall require approval by the Commission, shall determine the manner in which demand is to be balanced against supply.

*Article 61.* The Agency shall meet all orders unless prevented from so doing by legal or material obstacles.

When concluding a contract, the Agency may, while complying with the provisions of Article 52, require users to make appropriate advance payments either as security or to assist in meeting the Agency's own long-term commitments to producers where these are essential to carrying out the order.

*Article 62.* 1. The Agency shall exercise its right of option on special fissile materials produced in the territories of Member States in order

- (a) To meet demand from users within the Community in accordance with Article 60; or
- (b) To store such materials itself; or
- (c) To export such materials with the authorisation of the Commission which shall comply with the second subparagraph of Article 59 (b).

2. Nevertheless, while continuing to be subject to the provisions of Chapter VII, such materials and any fertile wastes shall be left in the possession of the producer, so that he may

- (a) Store them with the authorisation of the Agency; or

- (b) Use them within the limits of his own requirements; or
- (c) Make them available to undertakings in the Community, within the limits of their requirements, where, for carrying out a programme duly communicated to the Commission, these undertakings have with the producer a direct connection which has neither the aim nor the effect of limiting production, technical development or investment or of improperly creating inequalities between users in the Community.

3. The provisions of Article 89 (1) (a) shall apply to special fissile materials which are produced in the territories of Member States and on which the Agency has not exercised its right of option.

*Article 63.* Ores, source materials and special fissile materials produced by Joint Undertakings shall be allotted to users in accordance with the rules laid down in the statutes or agreements of such Undertakings.

### *Section III.* ORES, SOURCE MATERIALS AND SPECIAL FISSILE MATERIALS COMING FROM OUTSIDE THE COMMUNITY

*Article 64.* The Agency, acting where appropriate within the framework of agreements concluded between the Community and a third State or an international organisation, shall, subject to the exceptions provided for in this Treaty, have the exclusive right to enter into agreements or contracts whose principal aim is the supply of ores, source materials or special fissile materials coming from outside the Community.

*Article 65.* Article 60 shall apply [to] applications from users and to contracts between users and the Agency relating to the supply of ores, source materials or special fissile materials coming from outside the Community.

The Agency may, however, decide on the geographical origin of supplies provided that conditions which are at least as favourable as those specified in the order are thereby secured for the user.

*Article 66.* Should the Commission find, on application by the users concerned, that the Agency is not in a position to deliver within a reasonable period of time all or part of the supplies ordered, or that it can only do so at excessively high prices, the users shall have the right to conclude directly contracts relating to supplies from outside the Community, provided that such contracts meet in essential respects the requirements specified in their orders.

This right shall be granted for a period of one year; it may be extended if the situation which justified its granting continues.

Users who avail themselves of the right provided for in this Article shall communicate to the Commission the direct contracts which they propose to conclude. The Commission may, within one month, object to the conclusion of such contracts if they are contrary to the objectives of this Treaty.

### *Section IV.* PRICES

*Article 67.* Save where exceptions are provided for in this Treaty, prices shall be determined as a result of balancing supply against demand as provided in Article 60; the national regulations of the Member States shall not contravene such provisions.

*Article 68.* Pricing practices designed to secure a privileged position for certain users in violation of the principle of equal access laid down in the provisions of this Chapter shall be prohibited.

If the Agency finds that any such practices are being employed it shall report them to the Commission.

The Commission may, if it accepts the findings, set the prices of the offers in issue at a level compatible with the principle of equal access.

*Article 69.* The Council may fix prices, acting unanimously on a proposal from the Commission.

When the Agency lays down, in pursuance of Article 60, the terms on which orders can be met, it may propose to the users who have placed orders that prices be equalised.

#### *Section V. PROVISIONS RELATING TO SUPPLY POLICY*

*Article 70.* Within the limits set by the budget of the Community, the Commission may, on such conditions as it shall determine, give financial support to prospecting programmes in the territories of Member States.

The Commission may make recommendations to the Member States with a view to the development of prospecting for and exploitation of mineral deposits.

The Member States shall submit annually to the Commission a report on the development of prospecting and production, on probable reserves and on investment in mining which has been made or is planned in their territories. The reports shall be submitted to the Council, together with an opinion from the Commission which shall state in particular what action has been taken by Member States on recommendations made to them under the preceding paragraph.

If, when the matter has been submitted to it by the Commission, the Council finds by a qualified majority that, although the prospects for extraction appear economically justified on a long-term basis, prospecting activities and the expansion of mining operations continue to be markedly inadequate, the Member State concerned shall, for as long as it has failed to remedy this situation, be deemed to have waived, both for itself and for its nationals, the right of equal access to other sources of supply within the Community.

*Article 71.* The Commission shall make all appropriate recommendations to Member States with regard to revenue or mining regulations.

*Article 72.* The Agency may, from material available inside or outside the Community, build up the necessary commercial stocks to facilitate supplies to or normal deliveries by the Community.

The Commission may, where necessary, decide to build up emergency stocks. The method of financing such stocks shall be approved by the Council, acting by a qualified majority on a proposal from the Commission.

#### *Section VI. SPECIAL PROVISIONS*

*Article 73.* Where an agreement or contract between a Member State, a person or an undertaking on the one hand, and a third State, an international organisation or a national of a third State on the other, provides *inter alia* for delivery of products which come within the province of the Agency, the prior

consent of the Commission shall be required for the conclusion or renewal of that agreement or contract, as far as delivery of the products is concerned.

*Article 74.* The Commission may exempt from the provisions of this Chapter the transfer, import or export of small quantities of ores, source materials or special fissile materials such as are normally used in research.

The Agency shall be notified of every transfer, import or export operation effected by virtue of this provision.

*Article 75.* The provisions of this Chapter shall not apply to commitments relating to the processing, conversion or shaping of ores, source materials or special fissile materials and entered into,

- (a) By several persons or undertakings, where the material is to return to the original person or undertaking after being processed, converted or shaped; or
- (b) By a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped outside the Community and then returned to the original person or undertaking; or
- (c) By a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped inside the Community and is then returned either to the original organisation or national or to any other consignee likewise outside the Community designated by such organisation or national.

The persons and undertakings concerned shall, however, notify the Agency of the existence of such commitments and, as soon as the contracts are signed, of the quantities of material involved in the movements. The Commission may prevent the commitments referred to in subparagraph (b) from being undertaken if it considers that the conversion or shaping cannot be carried out efficiently and safely and without the loss of material to the detriment of the Community.

The materials to which such commitments relate shall be subject in the territories of the Member States to the safeguards laid down in Chapter VII. The provisions of Chapter VIII shall not, however, be applicable to special fissile materials covered by the commitments referred to in subparagraph (c).

*Article 76.* On the initiative of a Member State or of the Commission, and particularly if unforeseen circumstances create a situation of general shortage, the Council may, acting unanimously on a proposal from the Commission and after consulting the Assembly, amend the provisions of this Chapter. The Commission shall inquire into any request made by a Member State.

Seven years after the entry into force of this Treaty, the Council may confirm these provisions in their entirety. Failing confirmation, new provisions relating to the subject matter of this Chapter shall be adopted in accordance with the procedure laid down in the preceding paragraph.

#### CHAPTER VII. SAFEGUARDS

*Article 77.* In accordance with the provisions of this Chapter, the Commission shall satisfy itself that, in the territories of Member States,

- (a) Ores, source materials and special fissile materials are not diverted from their intended uses as declared by the users;



- (b) The provisions relating to supply and any particular safeguarding obligations assumed by the Community under an agreement concluded with a third State or an international organisation are complied with.

*Article 78.* Anyone setting up or operating an installation for the production, separation or other use of source materials or special fissile materials or for the processing of irradiated nuclear fuels shall declare to the Commission the basic technical characteristics of the installations, to the extent that knowledge of these characteristics is necessary for the attainment of the objectives set out in Article 77.

The Commission must approve the techniques to be used for the chemical processing of irradiated materials, to the extent necessary to attain the objectives set out in Article 77.

*Article 79.* The Commission shall require that operating records be kept and produced in order to permit accounting for ores, source materials and special fissile materials used or produced. The same requirement shall apply in the case of the transport of source materials and special fissile materials.

Those subject to such requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and to the first paragraph of this Article.

The nature and the extent of the requirements referred to in the first paragraph of this Article shall be defined in a regulation made by the Commission and approved by the Council.

*Article 80.* The Commission may require that any excess special fissile materials recovered or obtained as by-products and not actually being used or ready for use shall be deposited with the Agency or in other stores which are or can be supervised by the Commission.

Special fissile materials deposited in this way must be returned forthwith to those concerned at their request.

*Article 81.* The Commission may send inspectors into the territories of Member States. Before sending an inspector on his first assignment in the territory of a Member State, the Commission shall consult the State concerned; such consultation shall suffice to cover all future assignments of this inspector.

On presentation of a document establishing their authority, inspectors shall at all times have access to all places and data and to all persons who, by reason of their occupation, deal with materials, equipment or installations subject to the safeguards provided for in this Chapter, to the extent necessary in order to apply such safeguards to ores, source materials and special fissile materials and to ensure compliance with the provisions of Article 77. Should the State concerned so request, inspectors appointed by the Commission shall be accompanied by representatives of the authorities of that State; however, the inspectors shall not thereby be delayed or otherwise impeded in the performance of their duties.

If the carrying out of an inspection is opposed, the Commission shall apply to the President of the Court of Justice for an order to ensure that the inspection be carried out compulsorily. The President of the Court of Justice shall give a decision within three days.

If there is danger in delay, the Commission may itself issue a written order, in the form of a decision, to proceed with the inspection. This order shall be

submitted without delay to the President of the Court of Justice for subsequent approval.

After the order or decision has been issued, the authorities of the State concerned shall ensure that the inspectors have access to the places specified in the order or decision.

*Article 82.* Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in Article 79. They shall report any infringement to the Commission.

The Commission may issue a directive calling upon the Member State concerned to take, by a time limit set by the Commission, all measures necessary to bring such infringement to an end; it shall inform the Council thereof.

If the Member State does not comply with the Commission directive by the time limit set, the Commission or any Member State concerned may, in derogation from Articles 141 and 142, refer the matter to the Court of Justice direct.

*Article 83.* 1. In the event of an infringement on the part of persons or undertakings of the obligations imposed on them by this Chapter, the Commission may impose sanctions on such persons or undertakings.

These sanctions shall be, in order of severity:

- (a) A warning;
- (b) The withdrawal of special benefits such as financial or technical assistance;
- (c) The placing of the undertaking for a period not exceeding four months under the administration of a person or board appointed by common accord of the Commission and the State having jurisdiction over the undertaking;
- (d) Total or partial withdrawal of source materials or special fissile materials.

2. Decisions taken by the Commission in implementation of paragraph 1 and requiring the surrender of materials shall be enforceable. They may be enforced in the territories of Member States in accordance with Article 164.

By way of derogation from Article 157, appeals brought before the Court of Justice against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice may, however, on application by the Commission or by any Member State concerned, order that the decision be enforced forthwith.

There shall be an appropriate legal procedure to ensure the protection of interests that have been prejudiced.

3. The Commission may make any recommendations to Member States concerning laws or regulations which are designed to ensure compliance in their territories with the obligations arising under this Chapter.

4. Member States shall ensure that sanctions are enforced and, where necessary, that the infringements are remedied by those committing them.

*Article 84.* In the application of the safeguards, no discrimination shall be made on grounds of the use for which ores, source materials and special fissile materials are intended.

The scope of and procedure for the safeguards and the powers of the bodies responsible for their application shall be confined to the attainment of the objectives set out in this Chapter.

The safeguards may not extend to materials intended to meet defence requirements which are in the course of being specially processed for this purpose or which, after being so processed, are, in accordance with an operational plan, placed or stored in a military establishment.

*Article 85.* Where new circumstances so require, the procedures for applying the safeguards laid down in this Chapter may, at the request of a Member State or of the Commission, be adapted by the Council, acting unanimously on a proposal from the Commission and after consulting the Assembly. The Commission shall examine any such request made by a Member State.

#### CHAPTER VIII. PROPERTY OWNERSHIP

*Article 86.* Special fissile materials shall be the property of the Community.

The Community's right of ownership shall extend to all special fissile materials which are produced or imported by a Member State, a person or an undertaking and are subject to the safeguards provided for in Chapter VII.

*Article 87.* Member States, persons or undertakings shall have the unlimited right of use and consumption of special fissile materials which have properly come into their possession, subject to the obligations imposed on them by this Treaty, in particular those relating to safeguards, the right of option conferred on the Agency and health and safety.

*Article 88.* The Agency shall keep a special account in the name of the Community, called "Special Fissile Materials Financial Account".

*Article 89.* 1. In the Special Fissile Materials Financial Account:

(a) The value of special fissile materials left in the possession of or put at the disposal of a Member State, person or undertaking shall be credited to the Community and debited to that Member State, person or undertaking.

(b) The value of special fissile materials which are produced or imported by a Member State, person or undertaking and become the property of the Community shall be debited to the Community and credited to that Member State, person or undertaking. A similar entry shall be made when a Member State, person or undertaking restores to the Community special fissile materials previously left in the possession of or put at the disposal of that State, person or undertaking.

2. Variations in value affecting the quantities of special fissile material shall be expressed for accounting purposes in such a way as not to give rise to any loss or gain to the Community. Any loss or gain shall be borne by or accrue to the holder.

3. Balances arising from the transactions referred to above shall become payable forthwith upon the request of the creditor.

4. Where the Agency undertakes transactions for its own account, it shall, for the purposes of this Chapter, be deemed to be an undertaking.

*Article 90.* Where new circumstances so require, the provisions of this Chapter relating to the Community's right of ownership may, at the request of a Member State or of the Commission, be adjusted by the Council, acting

unanimously on a proposal from the Commission and after consulting the Assembly. The Commission shall examine any such request made by a Member State.

*Article 91.* The system of ownership applicable to all objects, materials and assets which are not vested in the Community under this Chapter shall be determined by the law of each Member State.

#### CHAPTER IX. THE NUCLEAR COMMON MARKET

*Article 92.* The provisions of this Chapter shall apply to the goods and products specified in the Lists forming Annex IV to this Treaty.

These Lists may, at the request of the Commission or of a Member State, be amended by the Council, acting on a proposal from the Commission.

*Article 93.* Member States shall abolish between themselves, one year after the entry into force of this Treaty, all customs duties on imports and exports or charges having equivalent effect, and all quantitative restrictions on imports and exports, in respect of:

- (a) Products in List A<sup>1</sup> and A<sup>2</sup>;
- (b) Products in List B if subject to a common customs tariff and accompanied by a certificate issued by the Commission stating that they are intended to be used for nuclear purposes.

Non-European territories under the jurisdiction of a Member State may, however, continue to levy import and export duties or charges having equivalent effect where they are of an exclusively fiscal nature. The rates of such duties and charges and the system governing them shall not give rise to any discrimination between that State and the other Member States.

*Article 94.* The Member States shall set up a common customs tariff in accordance with the following provisions:

(a) With regard to products specified in List A<sup>1</sup>, the common customs tariff shall be fixed at the level of the lowest tariff in force in any Member State on 1 January 1957.

(b) With regard to products specified in List A<sup>2</sup>, the Commission shall take all appropriate measures to ensure that negotiations between Member States shall begin within three months of the entry into force of this Treaty. If, on some of these products, no agreement can be reached within one year of the entry into force of this Treaty, the Council shall, acting by a qualified majority on a proposal from the Commission, determine the applicable duties in the common customs tariff.

(c) The common customs tariff on the products specified in Lists A<sup>1</sup> and A<sup>2</sup> shall be applied from the end of the first year following the entry into force of this Treaty.

*Article 95.* The Council may, acting unanimously on a proposal from the Commission, decide on the earlier application of the duties in the common customs tariff on products in List B where such a measure would tend to contribute to the development of nuclear energy in the Community.

*Article 96.* The Member States shall abolish all restrictions based on nationality affecting the right of nationals of any Member State to take skilled

employment in the field of nuclear energy, subject to the limitations resulting from the basic requirements of public policy, public security or public health.

After consulting the Assembly, the Council may, acting by a qualified majority on a proposal from the Commission, which shall first request the opinion of the Economic and Social Committee, issue directives for the application of this Article.

*Article 97.* No restrictions based on nationality may be applied to natural or legal persons, whether public or private, under the jurisdiction of a Member State, where they desire to participate in the construction of nuclear installations of a scientific or industrial nature in the Community.

*Article 98.* Member States shall take all measures necessary to facilitate the conclusion of insurance contracts covering nuclear risks.

Within two years of the entry into force of this Treaty, the Council, acting by a qualified majority on a proposal from the Commission, which shall first request the opinion of the Economic and Social Committee, shall, after consulting the Assembly, issue directives for the application of this Article.

*Article 99.* The Commission may make any recommendations for facilitating movements of capital intended to finance the industrial activities listed in Annex II to this Treaty.

*Article 100.* Each Member State undertakes to authorise, in the currency of the Member State in which the creditor or the beneficiary resides, any payments connected with the movement of goods, services or capital, and any transfers of capital and earnings, to the extent that the movement of goods, services, capital and persons between Member States has been liberalised pursuant to this Treaty.

#### CHAPTER X. EXTERNAL RELATIONS

*Article 101.* The Community may, within the limits of its powers and jurisdiction, enter into obligations by concluding agreements or contracts with a third State, an international organisation or a national of a third State.

Such agreements or contracts shall be negotiated by the Commission in accordance with the directives of the Council: they shall be concluded by the Commission with the approval of the Council, which shall act by a qualified majority.

Agreements or contracts whose implementation does not require action by the Council and can be effected within the limits of the relevant budget shall, however, be negotiated and concluded solely by the Commission; the Commission shall keep the Council informed.

*Article 102.* Agreements or contracts concluded with a third State, an international organisation or a national of a third State to which, in addition to the Community, one or more Member States are parties, shall not enter into force until the Commission has been notified by all the Member States concerned that those agreements or contracts have become applicable in accordance with the provisions of their respective national laws.

*Article 103.* Member States shall communicate to the Commission draft agreements or contracts with a third State, an international organisation or a national of a third State to the extent that such agreements or contracts concern matters within the purview of this Treaty.

If a draft agreement or contract contains clauses which impede the application of this Treaty, the Commission shall, within one month of receipt of such communication, make its comments known to the State concerned.

The State shall not conclude the proposed agreement or contract until it has satisfied the objections of the Commission or complied with a ruling by the Court of Justice, adjudicating urgently upon an application from the State, on the compatibility of the proposed clauses with the provisions of this Treaty. An application may be made to the Court of Justice at any time after the State has received the comments of the Commission.

*Article 104.* No person or undertaking concluding or renewing an agreement or contract with a third State, an international organisation or a national of a third State after the entry into force of this Treaty may invoke that agreement or contract in order to evade the obligations imposed by this Treaty.

Each Member State shall take such measures as it considers necessary in order to communicate to the Commission, at the request of the latter, all information relating to agreements or contracts concluded after the entry into force of this Treaty, within the purview thereof, by a person or undertaking with a third State, an international organisation or a national of a third State. The Commission may require such communication only for the purpose of verifying that such agreements or contracts do not contain clauses impeding the implementation of this Treaty.

On application by the Commission, the Court of Justice shall give a ruling on the compatibility of such agreements or contracts with the provisions of this Treaty.

*Article 105.* The provisions of this Treaty shall not be invoked so as to prevent the implementation of agreements or contracts concluded before its entry into force by a Member State, a person or an undertaking with a third State, an international organisation or a national of a third State where such agreements or contracts have been communicated to the Commission not later than thirty days after the entry into force of this Treaty.

Agreements or contracts concluded between the signature and the entry into force of this Treaty by a person or an undertaking with a third State, an international organisation or a national of a third State shall not, however, be invoked as grounds for failure to implement this Treaty if, in the opinion of the Court of Justice, ruling on an application from the Commission, one of the decisive reasons on the part of either of the parties in concluding the agreement or contract was an intention to evade the provisions of this Treaty.

*Article 106.* Member States which, before the entry into force of this Treaty, have concluded agreements with third States providing for cooperation in the field of nuclear energy shall be required to undertake jointly with the Commission the necessary negotiations with these third States in order to ensure that the rights and obligations arising out of such agreements shall as far as possible be assumed by the Community.

Any new agreement ensuing from such negotiations shall require the consent of the Member State or States signatory to the agreements referred to above and the approval of the Council, which shall act by a qualified majority.

## TITLE THREE. PROVISIONS GOVERNING THE INSTITUTIONS

## CHAPTER I. THE INSTITUTIONS OF THE COMMUNITY

*Section I. THE ASSEMBLY*

*Article 107.* The Assembly, which shall consist of representatives of the peoples of the States brought together in the Community, shall exercise the advisory and supervisory powers which are conferred upon it by this Treaty.

*Article 108.* 1. The Assembly shall consist of delegates who shall be designated by the respective Parliaments from among their members in accordance with the procedure laid down by each Member State.\*

2. The number of these delegates shall be as follows:

Belgium.....	14
Denmark.....	10
Germany.....	36
France.....	36
Ireland.....	10
Italy.....	36
Luxembourg.....	6
Netherlands.....	14
United Kingdom.....	36.**. ***

3. The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States.\*\*\*\*

The Council shall, acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

\* EDITORIAL NOTE. Paragraph 1 will cease to have effect on the date of the sitting held by the first Assembly elected pursuant to the Article on the election of representatives to the Assembly (see Article 14 of the Act<sup>1</sup>).

See Article 1 of the Act, which reads as follows:

“The representatives in the Assembly of the peoples of the States brought together in the Community shall be elected by direct universal suffrage.”

<sup>1</sup> United Nations, *Treaty Series*, vol. 1456, No. A-3729.

\*\* Paragraph 2 as amended by Article 10 of the Act of Accession,<sup>1</sup> modified by Article 4 of the Adaptation Decision.<sup>2</sup>

\*\*\* EDITORIAL NOTE. Paragraph 2 will cease to have effect on the date of the sitting held by the first Assembly elected pursuant to the Article on the election of representatives to the Assembly (see Article 14 of the Act).

See Article 2 of the Act, which reads as follows:

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

Belgium.....	24
Denmark.....	16
Germany.....	81
France.....	81
Ireland.....	15
Italy.....	81
Luxembourg.....	6
Netherlands.....	25
United Kingdom.....	81.”

<sup>1</sup> United Nations, *Treaty Series*, vol. 1375, p. 12.

<sup>2</sup> *Ibid.*, p. 118.

\*\*\*\* In this connection, see also Article 7 (1) and (2) of the Act concerning the election of the representatives of the Assembly.

*Article 109.* The Assembly shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.\* \*\*

The Assembly may meet in extraordinary session at the request of a majority of its members or at the request of the Council or of the Commission.

*Article 110.* The Assembly shall elect its President and its officers from among its members.

Members of the Commission may attend all meetings and shall, at their request, be heard on behalf of the Commission.

The Commission shall reply orally or in writing to questions put to it by the Assembly or by its members.

The Council shall be heard by the Assembly in accordance with the conditions laid down by the Council in its rules of procedure.

*Article 111.* Save as otherwise provided in this Treaty, the Assembly shall act by an absolute majority of the votes cast.

The rules of procedure shall determine the quorum.

*Article 112.* The Assembly shall adopt its rules of procedure, acting by a majority of its members.

The proceedings of the Assembly shall be published in the manner laid down in its rules of procedure.

*Article 113.* The Assembly shall discuss in open session the annual general report submitted to it by the Commission.

*Article 114.* If a motion of censure on the activities of the Commission 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.

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the members of the Assembly, the members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 127.

## *Section II. THE COUNCIL*

*Article 115.* The Council shall carry out its duties and exercise its powers of decision in accordance with the provisions of this Treaty.

It shall take all measures within its powers to coordinate the actions of the Member States and of the Community.

*Article 116. (Article repealed by Article 7 of the Merger Treaty)*

[See Article 2 of the Merger Treaty, which reads as follows:

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:

\* First paragraph as amended by Article 27 (1) of the Merger Treaty.<sup>1</sup>

\*\* For the second sentence of this paragraph, see also Article 10 (3) of the Act concerning the election of the representatives of the Assembly.

<sup>1</sup> See p. 197 of this volume.



Belgium, Denmark, Germany, France, Ireland, Italy, Luxembourg, Netherlands, United Kingdom.\*]

*Article 117. (Article repealed by Article 7 of the Merger Treaty)*

[*See Article 3 of the Merger Treaty, which reads as follows:*

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 118.* 1. Save as otherwise provided in this Treaty, the Council shall act by a majority of its members.

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

Belgium.....	5
Denmark.....	3
Germany.....	10
France.....	10
Ireland.....	3
Italy.....	10
Luxembourg.....	2
Netherlands.....	5
United Kingdom.....	10.

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

— Forty-one votes in favour where this Treaty requires them to be adopted on a proposal from the Commission;

— Forty-one votes in favour, cast by at least six members, in other cases.

3. Abstentions by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

*Article 119.* Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal.

As long as the Council has not acted, the Commission may alter its original proposal, in particular where the Assembly has been consulted on that proposal.

*Article 120.* Where a vote is taken, any member of the Council may also act on behalf of not more than one other member.

*Article 121. (Article repealed by Article 7 of the Merger Treaty)*

[*See Articles 5 and 4 of the Merger Treaty, which read as follows:*

*Article 5.* The Council shall adopt its rules of procedure.

*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.]

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

\*\* Paragraph 2 as amended by Article 14 of the Act of Accession, modified by Article 8 of the Adaptation Decision.

*Article 122.* The Council may request the Commission to undertake any studies which the Council considers desirable for the attainment of the common objectives and to submit to it any appropriate proposals.

*Article 123. (Article repealed by Article 7 of the Merger Treaty)*

[*See Article 6 of the Merger Treaty, which reads as follows:*

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.]

### *Section III. THE COMMISSION*

*Article 124.* In order to ensure the development of nuclear energy within the Community, the Commission shall:

- Ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied;
- Formulate recommendations or deliver opinions in the fields covered by this Treaty, if the Treaty expressly so provides or if the Commission considers it necessary;
- Have its own power of decision and participate in the shaping of measures taken by the Council and by the Assembly in the manner provided for in this Treaty;
- Exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.

*Article 125. Article repealed by Article 19 of the Merger Treaty)*

[*See Article 18 of the Merger Treaty, which reads as follows:*

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 126. (Article repealed by Article 19 of the Merger Treaty)*

[*See Article 10 of the Merger Treaty, which reads as follows:*

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.

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

<sup>1</sup> United Nations, *Treaty Series*, vol. 1374, p. 440.

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.

The members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the member concerned be, according to the circumstances, either compulsorily retired in accordance with the provisions of Article 13\* or deprived of his right to a pension or other benefits in its stead.]

*Article 127. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 11 of the Merger Treaty, which reads as follows:

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 128. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 12 of the Merger Treaty, which reads as follows:

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 129. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 13 of the Merger Treaty, which reads as follows:

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 130. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 14 of the Merger Treaty, which reads as follows:

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

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\* Article 13 of the Merger Treaty. See Article 129 below.

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 131. (Article repealed by Article 19 of the Merger Treaty)*

[See Articles 15 and 16 of the Merger Treaty, which read as follows:

*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 132. (Article repealed by Article 19 of the Merger Treaty)*

[See Article 17 of the Merger Treaty, which reads as follows:

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.]

*Article 133\*\*\**

*Article 134.* 1. A Scientific and Technical Committee is hereby set up; it shall be attached to the Commission and shall have advisory status.

The Committee must be consulted where this Treaty so provides. The Committee may be consulted in all cases in which the Commission considers this appropriate.

2. The Committee shall consist of twenty-seven members, appointed by the Council after consultation with the Commission.\*\*\*\*

The members of the Committee shall be appointed in their personal capacity for five years. Their appointment shall be renewable. They shall not be bound by any mandatory instructions.

The Scientific and Technical Committee shall each year elect its chairman and officers from among its members.

*Article 135.* The Commission may undertake any consultations and establish any study groups necessary to the performance of its tasks.

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

\*\* Article 10 of the Merger Treaty. See Article 126 above.

\*\*\* Article repealed by Article 19 of the Merger Treaty.

\*\*\*\* First subparagraph as amended by Article 23 of the Act of Accession, modified by Article 12 of the Adaptation Decision.

#### Section IV. THE COURT OF JUSTICE

*Article 136.* The Court of Justice shall ensure that in the interpretation and application of this Treaty the law is observed.

*Article 137.* The Court of Justice shall consist of nine Judges.\*

The Court of Justice shall sit in plenary session. It may, however, form Chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with rules laid down for these purposes.

Whenever the Court of Justice hears cases brought before it by a Member State or by one of the institutions of the Community or, to the extent that the Chambers of the Court do not have the requisite jurisdiction under the Rules of Procedure, has to give preliminary rulings on questions submitted to it pursuant to Article 150, it shall sit in plenary session.\*\*

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 139.

*Article 138.* The Court of Justice shall be assisted by four Advocates-General.\*\*\*

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court of Justice, in order to assist the Court in the performance of the task assigned to it in Article 136.

Should the Court of Justice so request, the Council may, acting unanimously, increase the number of Advocates-General and make the necessary adjustments to the third paragraph of Article 139.

*Article 139.* The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the Governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges. Five and four Judges shall be replaced alternately.\*\*\*\*

Every three years there shall be a partial replacement of the Advocates-General. Two Advocates-General shall be replaced on each occasion.\*\*\*\*\*

Retiring Judges and Advocates-General shall be eligible for reappointment.

\* First paragraph as amended by Article 17 of the Act of Accession, modified by Article 9 of the Adaptation Decision.

\*\* Third paragraph as amended by Article 1 of the Council Decision of 26 November 1974 (*Official Journal of the European Communities*, No. L 318, 28 November 1974, p. 22).

\*\*\* First paragraph as amended by Article 1 of the Council Decision of 1 January 1973<sup>1</sup> increasing the number of Advocates-General (*Official Journal of the European Communities*, No. L 2, 1 January 1973, p. 29).

<sup>1</sup> United Nations, *Treaty Series*, vol. 1374, p. 426.

\*\*\*\* Second paragraph as amended by Article 19 of the Act of Accession, modified by Article 10 of the Adaptation Decision.

\*\*\*\*\* Third paragraph as amended by Article 2 of the Council Decision of 1 January 1973 increasing the number of Advocates-General (*Official Journal of the European Communities*, No. L 2, 1 January 1973, p. 29).

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.

*Article 140.* The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

*Article 141.* If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

*Article 142.* A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

*Article 143.* If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

*Article 144.* The Court of Justice shall have unlimited jurisdiction in:

- (a) Proceedings instituted under Article 12 to have the appropriate terms fixed for the granting by the Commission of licences or sub-licences;
- (b) Proceedings instituted by persons or undertakings against sanctions imposed on them by the Commission under Article 83.

*Article 145.* If the Commission considers that a person or undertaking has committed an infringement of this Treaty to which the provisions of Article 83 do not apply, it shall call upon the Member State having jurisdiction over that person or undertaking to cause sanctions to be imposed in respect of the infringement in accordance with its national law.

If the State concerned does not comply with such a request within the period laid down by the Commission, the latter may bring an action before the Court of Justice to have the infringement of which the person or undertaking is accused established.

*Article 146.* The Court of Justice shall review the legality of acts of the Council and the Commission other than recommendations or opinions. It shall for this purpose have jurisdiction in actions brought by a Member State, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

*Article 147.* If the action is well founded, the Court of Justice shall declare the act concerned to be void.

In the case of regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

*Article 148.* Should the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

*Article 149.* The institution whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 188.

*Article 150.* The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) The interpretation of this Treaty;
- (b) The validity and interpretation of acts of the institutions of the Community;
- (c) The interpretation of the statutes of bodies established by an act of the Council, save where those statutes provide otherwise.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

*Article 151.* The Court of Justice shall have jurisdiction in disputes relating to the compensation for damage provided for in the second paragraph of Article 188.

*Article 152.* The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment.

*Article 153.* The Court of Justice shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Community, whether that contract be governed by public or private law.

*Article 154.* The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

*Article 155.* Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

*Article 156.* Notwithstanding the expiry of the period laid down in the third paragraph of Article 146, any party may, in proceedings in which a regulation of the Council or of the Commission is in issue, plead the grounds specified in the first paragraph of Article 146, in order to invoke before the Court of Justice the inapplicability of that regulation.

*Article 157.* Save as otherwise provided in this Treaty, actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

*Article 158.* The Court of Justice may in any cases before it prescribe any necessary interim measures.

*Article 159.* The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 164.

*Article 160.* The Statute of the Court of Justice is laid down in a separate Protocol.

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

## CHAPTER II. PROVISIONS COMMON TO SEVERAL INSTITUTIONS

*Article 161.* In order to carry out their task the Council and the Commission shall, in accordance with the provisions of this Treaty, make regulations, issue directives, take decisions, make recommendations or deliver opinions.

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

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

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

Recommendations and opinions shall have no binding force.



*Article 162.* Regulations, directives and decisions of the Council and of the Commission shall state the reasons on which they are based and shall refer to any proposals or opinions which were required to be obtained pursuant to this Treaty.

*Article 163.* Regulations shall be published in the Official Journal of the Community. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.

Directives and decisions shall be notified to those to whom they are addressed and shall take effect upon such notification.

*Article 164.* Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the Government of each Member State shall designate for this purpose and shall make known to the Commission, to the Court of Justice and to the Arbitration Committee set up by Article 18.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

#### CHAPTER III. THE ECONOMIC AND SOCIAL COMMITTEE

*Article 165.* An Economic and Social Committee is hereby established. It shall have advisory status.

The Committee shall consist of representatives of the various categories of economic and social activity.

*Article 166.* The number of members of the Committee shall be as follows:

Belgium.....	12
Denmark.....	9
Germany.....	24
France.....	24
Ireland.....	9
Italy.....	24
Luxembourg.....	6
Netherlands.....	12
United Kingdom.....	24.*

The members of the Committee shall be appointed by the Council, acting unanimously, for four years. Their appointments shall be renewable.

The members of the Committee shall be appointed in their personal capacity and may not be bound by any mandatory instructions.

\* First paragraph as amended by Article 21 of the Act of Accession, modified by Article 11 of the Adaptation Decision.

*Article 167.* 1. For the appointment of the members of the Committee, each Member State shall provide the Council with a list containing twice as many candidates as there are seats allotted to its nationals.

The composition of the Committee shall take account of the need to ensure adequate representation of the various categories of economic and social activity.

2. The Council shall consult the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors to which the activities of the Community are of concern.

*Article 168.* The Committee shall elect its chairman and officers from among its members for a term of two years.

It shall adopt its rules of procedure and shall submit them to the Council for its approval, which must be unanimous.

The Committee shall be convened by its chairman at the request of the Council or of the Commission.

*Article 169.* The Committee may be divided into specialised sections.

These specialised sections shall operate within the general terms of reference of the Committee. They may not be consulted independently of the Committee.

Subcommittees may also be established within the Committee to prepare, on specific questions or in specific fields, draft opinions to be submitted to the Committee for its consideration.

The rules of procedure shall lay down the methods of composition and the terms of reference of the specialised sections and of the subcommittees.

*Article 170.* The Committee must be consulted by the Council or by the Commission where this Treaty so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate.

The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than ten days from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee and that of the specialised section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.

#### TITLE FOUR. FINANCIAL PROVISIONS

*Article 171.* 1. Estimates shall be drawn up for each financial year of all revenue and expenditure of the Community, other than those of the Agency and the Joint Undertakings, and such revenue and expenditure shall be shown either in the operating budget or in the research and investment budget.

The revenue and expenditure shown in each budget shall be in balance.

2. The revenue and expenditure of the Agency, which shall operate in accordance with commercial principles, shall be budgeted for in a special account.

The manner of estimating, implementing and auditing such revenue and expenditure shall be laid down, with due regard to the statutes of the Agency, in financial regulations made pursuant to Article 183.

3. The estimates of revenue and expenditure, together with the operating accounts and the balance sheets of the Joint Undertakings for each financial year, shall be placed before the Commission, the Council and the Assembly in accordance with the statutes of those Undertakings.

*Article 172.* 1. The operating budget revenue shall include, irrespective of any other current revenue, financial contributions of Member States on the following scale:

Belgium.....	7.9
Germany.....	28
France.....	28
Italy.....	28
Luxembourg.....	0.2
Netherlands.....	7.9

2. The research and investment budget revenue shall include, irrespective of any other resources, financial contributions of Member States on the following scale:

Belgium.....	9.9
Germany.....	30
France.....	30
Italy.....	23
Luxembourg.....	0.2
Netherlands.....	6.9

3. The scales may be modified by the Council, acting unanimously.

4. Loans for the financing of research or investment shall be raised on terms fixed by the Council in the manner provided for in Article 177 (5).

The Community may borrow on the capital market of a Member State, either in accordance with the legal provisions applying to internal issues, or, if there are no such provisions in a Member State, after the Member State concerned and the Commission have conferred together and have reached agreement upon the proposed loan.

The competent authorities of the Member State concerned may refuse to give their assent only if there is reason to fear serious disturbances on the capital market of that State.

*Article 173.* The financial contributions of Member States provided for in Article 172 may be replaced in whole or in part by the proceeds of levies collected by the Community in Member States.

To this end, the Commission shall submit to the Council proposals concerning the assessment of such levies, the method of fixing their rate and the procedure for their collection.

After consulting the Assembly on these proposals the Council may, acting unanimously, lay down the appropriate provisions, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

*Article 174.* 1. The expenditure shown in the operating budget shall include in particular:

- (a) Administrative expenditure;
- (b) Expenditure relating to safeguards and to health and safety.

2. The expenditure shown in the research and investment budget shall include in particular:

- (a) Expenditure relating to the implementation of the Community research programme;
- (b) Any participation in the capital of the Agency and in its investment expenditure;
- (c) Expenditure relating to the equipment of training establishments;
- (d) Any participation in Joint Undertakings or in certain joint operations.

*Article 175.* The expenditure shown in the operating budget shall be authorised for one financial year, unless the regulations made pursuant to Article 183 provide otherwise.

In accordance with conditions to be laid down pursuant to Article 183, 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 to cover expenditure 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 183.

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

*Article 176.* 1. Subject to the limits resulting from programmes or decisions involving expenditure which, in pursuance of this Treaty, require the unanimous approval of the Council, allocations for research and investment expenditure shall include:

- (a) Commitment appropriations, covering a series of items which constitute a separate unit and form a coherent whole;
- (b) Payment appropriations which represent the maximum amount payable each year in respect of the commitments entered into under subparagraph (a).

2. The schedule of due dates for commitments and payments shall be annexed to the corresponding draft budget proposed by the Commission.

3. Appropriations for research and investment 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 183.

4. Unused payment authorizations shall be carried forward to the next financial year by decision of the Commission, unless the Council decides otherwise.

*Article 177\**. 1. The financial year shall run from 1 January to 31 December.

Within the meaning of this Article, "budget" shall include the operating budget and the research and investment budget.

2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall include an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If within this period the Assembly has not amended the draft budget or proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

(a) The Council may, acting by a qualified majority, modify any of the amendments adopted by the Assembly.

(b) With regard to the proposed modifications:

— Where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified

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\* Text as amended by Article 20 of the Treaty amending Certain Financial Provisions.

majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted;

- Where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected;
- Where, in pursuance of one of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

The draft shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or if the modifications proposed by the latter have been rejected or modified, the modified draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within 15 days of the draft budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications may, acting by a majority of its members and three-fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the budget accordingly. If within this period the Assembly has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the budget has been finally adopted.

8. However, the Assembly, acting by a majority of its members and two-thirds of the votes cast may, if there are important reasons, reject the draft budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Economic Policy Committee, declare what this maximum rate is, as it results from:

- The trend, in terms of volume, of the gross national product within the Community,
- The average variation in the budgets of the Member States, and
- The trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this

during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the Assembly, the Council or the Commission considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three-fifths of the votes cast.

10. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

*Article 178\**. If, at the beginning of a financial year, the budget has not yet been voted, a sum equivalent to not more than one-twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget in accordance with the provisions of the Regulations made pursuant to Article 183; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one-twelfth of those provided for in the draft budget in the course of preparation.

The Council may, acting by a qualified majority, provided that the other conditions laid down in the first subparagraph are observed, authorise expenditure in excess of one-twelfth.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the Assembly; within 30 days the Assembly, acting by a majority of its members and three-fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one-twelfth referred to in the first subparagraph. This part of the decision of the Council shall be suspended until the Assembly has taken its decision. If, within this period, the Assembly has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

The decisions referred to in the second and third subparagraphs shall lay down the necessary measures relating to resources to ensure application of this Article.

*Article 179*. The Commission shall implement the budgets, in accordance with the provisions of the regulations made pursuant to Article 183, 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.

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\* Text as amended by Article 21 of the Treaty amending Certain Financial Provisions.

Within the budgets, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 183, transfer appropriations from one chapter to another or from one subdivision to another.

*Article 179a\**. The Commission shall submit annually to the Council and to the Assembly the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

*Article 180\*\**. 1. A Court of Auditors is hereby established.

2. The Court of Auditors shall consist of nine members.

3. The members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

4. The members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the Assembly.

However, when the first appointments are made, four members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

5. The members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government, or from any other body. They shall refrain from any action incompatible with their duties.

6. The members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

7. Apart from normal replacement, or death, the duties of a member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 8.

The vacancy thus caused shall be filled for the remainder of the member's term of office.

Save in the case of compulsory retirement under the provisions of paragraph 8, members of the Court of Auditors shall remain in office until they have been replaced.

8. A member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the

\* Article added by Article 22 of the Treaty amending Certain Financial Provisions.

\*\* Text as amended by Article 23 of the Treaty amending Certain Financial Provisions.



request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

9. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

10. The provisions of the Protocol on the Privileges and Immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the members of the Court of Auditors.

*Article 180a\**. 1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Communities.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The institutions of the Community and the national audit bodies or, if the latter do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*.

The Court of Auditors may also, at any time, submit observations on specific questions and deliver opinions at the request of one of the institutions of the Community.

It shall adopt its annual reports or opinions by a majority of its members.

It shall assist the Assembly and the Council in exercising their powers of control over the implementation of the budget.

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\* Article added by Article 24 of the Treaty amending Certain Financial Provisions.

*Article 180b\**. The Assembly, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the Assembly in turn shall examine the accounts and the financial statement referred to in Article 179a, and the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors.

*Article 181*. The budgets and the account provided for in Article 171 (1) and (2) shall be drawn up in the unit of account determined in accordance with the provisions of the financial regulations made pursuant to Article 183.

The financial contributions provided for in Article 172 shall be placed at the disposal of the Community by the Member States in their national currencies.

The available balances of these contributions shall be deposited with the Treasuries of Member States or with bodies designated by them. While on deposit, such funds shall retain the value corresponding to the parity, at the date of deposit, in relation to the unit of account referred to in the first paragraph.

The balances may be invested on terms to be agreed between the Commission and the Member State concerned.

*Article 182*. 1. The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings of currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

2. The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institutions approved by that State.

3. As regards expenditure which the Community has to incur in the currencies of third countries, the Commission shall, before the budgets are finally adopted, submit to the Council a programme indicating anticipated revenue and expenditure in the different currencies.

This programme shall be approved by the Council, acting by a qualified majority. It may be modified in the course of the financial year in accordance with the same procedure.

4. Member States shall provide the Commission with the currency of third countries needed for the expenditure shown in the programme provided for in paragraph 3 according to the scales laid down in Article 172. Amounts collected by the Commission in the currency of third countries shall be transferred to Member States in accordance with the same scales.

5. The Commission may freely make use of any amounts in the currency of third countries derived from loans it has raised in such countries.

6. The Council may, acting unanimously on a proposal from the Commission, apply, in whole or in part, to the Agency and to Joint Undertakings the

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\* Article added by Article 25 of the Treaty amending Certain Financial Provisions.

exchange arrangements provided for in the preceding paragraphs, and, where appropriate, adapt these arrangements to their operational requirements.

*Article 183\**. The Council, acting unanimously on a proposal from the Commission and after consulting the Assembly and obtaining the opinion of the Court of Auditors, shall:

- (a) Make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) Determine the methods and procedure whereby the budget revenue provided for under the arrangements relating to the Communities' own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;
- (c) Lay down rules concerning the responsibility of authorising officers and accounting officers and concerning appropriate arrangements for inspection.

#### TITLE FIVE. GENERAL PROVISIONS

*Article 184.* The Community shall have legal personality.

*Article 185.* In each of the Member States, the Community shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Community shall be represented by the Commission.

*Article 186.* (*Article repealed by Article 24 (2) of the Merger Treaty*)

[*See Article 24 (1) of the Merger Treaty which reads as follows:*

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.]

*Article 187.* The Commission may, within the limits and under the conditions laid down by the Council in accordance with the provisions of this Treaty, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

*Article 188.* The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

\* Text as amended by Article 26 of the Treaty amending Certain Financial Provisions.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in the Staff Regulations or in the Conditions of Employment applicable to them.

*Article 189.* The seat of the institutions of the Community shall be determined by common accord of the Governments of the Member States.

*Article 190.* The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the rules of procedure of the Court of Justice, be determined by the Council, acting unanimously.

*Article 191.* (*Article repealed by the second paragraph of Article 28 of the Merger Treaty*)

*[See the first paragraph of Article 28 of the Merger Treaty which reads as follows:*

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

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

*Article 193.* Member States undertake not to submit a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

*Article 194.* 1. The members of the institutions of the Community, the members of committees, the officials and other servants of the Community and any other persons who by reason of their duties or their public or private relations with the institutions or installations of the Community or with Joint Undertakings are called upon to acquire or obtain cognizance of any facts, information, knowledge, documents or objects which are subject to a security system in accordance with provisions laid down by a Member State or by an institution of the Community, shall be required, even after such duties or relations have ceased, to keep them secret from any unauthorised person and from the general public.

Each Member State shall treat any infringement of this obligation as an act prejudicial to its rules on secrecy and as one falling, both as to merits and jurisdiction, within the scope of its laws relating to acts prejudicial to the security of the State or to disclosure of professional secrets. Such Member State shall, at the request of any Member State concerned or of the Commission, prosecute anyone within its jurisdiction who commits such an infringement.

2. Each Member State shall communicate to the Commission all provisions regulating within its territories the classification and secrecy of information, knowledge, documents or objects covered by this Treaty.

The Commission shall ensure that these provisions are communicated to the other Member States.

Each Member State shall take all appropriate measures to facilitate the gradual establishment of as uniform and comprehensive a security system as possible. The Commission may, after consulting the Member States concerned, make recommendations for this purpose.

3. The institutions of the Community, their installations and also the Joint Undertakings shall be required to apply the rules of the security system in force in the territory in which each of them is situated.

4. Any authorisation granted either by an institution of the Community or by a Member State to a person carrying out his activities within the field covered by this Treaty to have access to facts, information, documents or objects covered by this Treaty which are subject to a security system, shall be recognised by every other institution and every other Member State.

5. The provisions of this Article shall not prevent application of special provisions resulting from agreements concluded between a Member State and a third State or an international organisation.

*Article 195.* The institutions of the Community, the Agency and the Joint Undertakings shall, in applying this Treaty, comply with the conditions of access to ores, source materials and special fissile materials laid down in national rules and regulations made for reasons of public policy or public health.

*Article 196.* For the purposes of this Treaty, save as otherwise provided therein:

(a) "Person" means any natural person who pursues all or any of his activities in the territories of Member States within the field specified in the relevant chapter of this Treaty.

(b) "Undertaking" means any undertaking or institution which pursues all or any of its activities in the territories of Member States within the field specified in the relevant chapter of this Treaty, whatever its public or private legal status.

*Article 197.* For the purposes of this Treaty:

1. "Special fissile materials" means plutonium-239; uranium-233; uranium enriched in uranium-235 or uranium-233; and any substance containing one or more of the foregoing isotopes and such other fissile materials as may be specified by the Council, acting by a qualified majority on a proposal from the Commission; the expression "special fissile materials" does not, however, include source materials.

2. "Uranium enriched in uranium-235 or uranium-233" means uranium containing uranium-235 or uranium-233 or both in an amount such that the abundance ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 occurring in nature.

3. "Source materials" means uranium containing the mixture of isotopes occurring in nature; uranium whose content in uranium-235 is less than the normal; thorium; any of the foregoing in the form of metal, alloy, chemical compound or concentrate; any other substance containing one or more of the foregoing in such a concentration as shall be specified by the Council, acting by a qualified majority on a proposal from the Commission.

4. "Ores" means any ore containing, in such average concentration as shall be specified by the Council acting by a qualified majority on a proposal from the

Commission, substances from which the source materials defined above may be obtained by the appropriate chemical and physical processing.

*Article 198.* Save as otherwise provided, this Treaty shall apply to the European territories of Member States and to non-European territories under their jurisdiction.

It shall also apply to the European territories for whose external relations a Member State is responsible.

\*Notwithstanding the previous paragraphs:

(a) This Treaty shall not apply to the Faroe Islands. The Government of the Kingdom of Denmark may, however, give notice, by a declaration deposited by 31 December 1975 at the latest, with the Government of the Italian Republic, which shall transmit a certified copy thereof to each of the Governments of the other Member States, that this Treaty shall apply to those Islands. In that event, this Treaty shall apply to those Islands from the first day of the second month following the deposit of the declaration.

(b) This Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.

(c) This Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not listed in Annex IV to the Treaty establishing the European Economic Community.

(d) This Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of New Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

*Article 199.* It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations, of its specialised agencies and of the General Agreement on Tariffs and Trade.

The Commission shall also maintain such relations as are appropriate with all international organizations.

*Article 200.* The Community shall establish all appropriate forms of cooperation with the Council of Europe.

*Article 201.* The Community shall establish close cooperation with the Organisation for European Economic Cooperation, the details to be determined by common accord.

*Article 202.* The provisions of this Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of this Treaty.

*Article 203.* If action by the Community should prove necessary to attain one of the objectives of the Community and this Treaty has not provided the

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\* Third paragraph added by Article 27 of the Act of Accession, modified by Article 16 of the Adaptation Decision.

necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Assembly, take the appropriate measures.

*Article 204.* The Government of any Member State or the Commission may submit to the Council proposals for amendment of this Treaty.

If the Council, after consulting the Assembly and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the Governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.

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

*Article 205.* Any European State may apply to become a member of the Community. It shall address its application to the Council, which shall act unanimously after obtaining the opinion of the Commission.

The conditions of admission and the adjustments to this Treaty necessitated thereby shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the Contracting States in accordance with their respective constitutional requirements.

*Article 206.* The Community may conclude with a third State, a union of States or an international organisation agreements establishing an association involving reciprocal rights and obligations, common action and special procedures.

These agreements shall be concluded by the Council, acting unanimously after consulting the Assembly.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article 204.

*Article 207.* The Protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof.

*Article 208.* This Treaty is concluded for an unlimited period.

## TITLE SIX. PROVISIONS RELATING TO THE INITIAL PERIOD

### *Section I.* SETTING UP OF THE INSTITUTIONS

*Article 209.* The Council shall meet within one month of the entry into force of this Treaty.

*Article 210.* The Council shall, within three months of its first meeting, take all appropriate measures to constitute the Economic and Social Committee.

*Article 211.* The Assembly shall meet within two months of the first meeting of the Council, having been convened by the President of the Council, in order to elect its officers and draw up its rules of procedure. Pending the election of its officers, the oldest member shall take the chair.

*Article 212.* The Court of Justice shall take up its duties as soon as its members have been appointed. Its first President shall be appointed for three years in the same manner as its members.

The Court of Justice shall adopt its rules of procedure within three months of taking up its duties.

No matter may be brought before the Court of Justice until its rules of procedure have been published. The time within which an action must be brought shall run only from the date of this publication.

Upon his appointment, the President of the Court of Justice shall exercise the powers conferred upon him by this Treaty.

*Article 213.* The Commission shall take up its duties and assume the responsibilities conferred upon it by this Treaty as soon as its members have been appointed.

Upon taking up its duties, the Commission shall undertake the studies and arrange the contacts with Member States, undertakings, workers and consumers needed for making an overall survey of the situation of nuclear industries in the Community. The Commission shall submit a report on this subject to the Assembly within six months.

*Article 214.* 1. The first financial year shall run from the date when this Treaty enters into force until 31 December following. Should this Treaty, however, enter into force during the second half of the year, the first financial year shall run until 31 December of the following year.

2. Until the budgets for the first financial year have been established, Member States shall make the Community interest-free advances which shall be deducted from their financial contributions to the implementation of these budgets.

3. Until the Staff Regulations of officials and the Conditions of Employment of other servants of the Community provided for in Article 186 have been laid down, each institution shall recruit the staff it needs and to this end conclude contracts of limited duration.

Each institution shall examine together with the Council any question concerning the number, remuneration and distribution of posts.

## *Section II.* PROVISIONS FOR THE INITIAL APPLICATION OF THIS TREATY

*Article 215.* 1. An initial research and training programme, which is set out in Annex V to this Treaty and the cost of which shall not, unless the Council unanimously decides otherwise, exceed 215 million EPU units of account, shall be carried out within five years of the entry into force of this Treaty.

2. A breakdown of the expenditure necessary for the implementation of this programme is set out by way of illustration under main subdivisions in Annex V.

The Council may, acting by a qualified majority on a proposal from the Commission, modify this programme.

*Article 216.* The Commission proposals on the way in which the institution of university status referred to in Article 9 is to function shall be submitted to the Council within one year of the entry into force of this Treaty.

*Article 217.* The security regulations provided for in Article 24 concerning the security gradings applicable to the dissemination of information shall be adopted by the Council within six months of the entry into force of this Treaty.



*Article 218.* The basic standards shall be determined in accordance with the provisions of Article 31 within one year of the entry into force of this Treaty.

*Article 219.* Provisions laid down by law, regulation or administrative action to ensure the protection of the health of the general public and of workers in the territories of Member States against the dangers arising from ionising radiations shall, in accordance with Article 33, be communicated to the Commission by these States within three months of the entry into force of this Treaty.

*Article 220.* The Commission proposals relating to the statutes of the Agency which are provided for in Article 54 shall be submitted to the Council within three months of the entry into force of this Treaty.

### *Section III.* TRANSITIONAL PROVISIONS

*Article 221.* The provisions of Articles 14 to 23 and of Articles 25 to 28 shall apply to patents, provisionally protected patent rights and utility models, and also to patent and utility model applications in existence before the entry into force of this Treaty, under the following conditions:

1. When assessing the period of time referred to in Article 17 (2), allowance shall be made, in favour of the owner, for the new situation created by the entry into force of this Treaty.

2. With regard to the communication of an invention which is not secret, where either or both of the periods of three and eighteen months referred to in Article 16 have expired at the date on which this Treaty enters into force, a further period of six months shall run from that date.

If either or both of those periods remain unexpired at that date, they shall be extended by six months from the date of their normal expiry.

3. The same provisions shall apply to the communication of a secret invention in accordance with Article 16 and Article 25 (1); in such case, however, the date of entry into force of the security regulations referred to in Article 24 shall be the date taken as the starting point for the new period or for the extension of a current period.

*Article 222.* During the period between the date of entry into force of this Treaty and the date fixed by the Commission on which the Agency takes up its duties, agreements and contracts for the supply of ores, source materials or special fissile materials shall be concluded or renewed only with the prior approval of the Commission.

The Commission shall refuse to approve the conclusion or renewal of any agreements and contracts which it considers would prejudice the implementation of this Treaty. It may in particular make its approval dependent upon the insertion in agreements and contracts of clauses permitting the Agency to take part in carrying them out.

*Article 223.* By way of derogation from the provisions of Article 60, reactors installed in the territories of a Member State which may go critical before the expiry of a period of seven years from the date of entry into force of this Treaty shall, during a period of not more than ten years from that date, in order to take account of work and studies already initiated, be granted priority which may be exercised in respect both of supplies of ores or source materials coming from

the territories of that State and also of supplies of source materials or special fissile materials which are the subject of a bilateral agreement concluded before the entry into force of this Treaty and communicated to the Commission in accordance with Article 105.

The same priority shall be granted during the same period of ten years in respect of supplies for any isotope separation plant, whether or not it constitutes a Joint Undertaking, which comes into operation in the territory of a Member State before the expiry of a period of seven years from the date of entry into force of this Treaty.

The Agency shall conclude the appropriate contracts, after the Commission has ascertained that the conditions for the exercise of the right of priority have been fulfilled.

#### *Final provisions*

*Article 224.* This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step. If, however, such deposit is made less than fifteen days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

*Article 225.* 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 Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
ANTONIO SEGNI  
BECH  
J. LUNS

J. CH. SNOY ET D'OPPUERS  
HALLSTEIN  
M. FAURE  
GAETANO MARTINO  
LAMBERT SCHAUS  
J. LINTHORST HOMAN

## ANNEXES

*[Annexes I to V<sup>1</sup> are not published herein in accordance with article 12(2) of the General Assembly regulations to give effect to Article 102 of the Charter of the United Nations as amended in the last instance by General Assembly resolution 33/141 A of 19 December 1978.]*

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<sup>1</sup> For the English translation of annexes I to V, see United Nations, *Treaty Series*, vol. 298, pp. 237 to 248.

## II. PROTOCOLS

PROTOCOL ON THE APPLICATION OF THE TREATY ESTABLISHING THE EUROPEAN  
ATOMIC ENERGY COMMUNITY TO THE NON-EUROPEAN PARTS OF THE  
KINGDOM OF THE NETHERLANDS

The High Contracting Parties,

Anxious, at the time of signature of the Treaty establishing the European Atomic Energy Community, to define the scope of the provisions of Article 198 of this Treaty in respect of the Kingdom of the Netherlands,

Have agreed upon the following provisions, which shall be annexed to this Treaty:

The Government of the Kingdom of the Netherlands, by reason of the constitutional structure of the Kingdom resulting from the Statute of 29 December 1954, shall, by way of derogation from Article 198, be entitled to ratify this Treaty either on behalf of the Kingdom of the Netherlands in its entirety or on behalf of the Kingdom in Europe and Netherlands New Guinea. In the event of ratification being limited to the Kingdom in Europe and Netherlands New Guinea, the Government of the Kingdom of the Netherlands may at any time, by notification to the Government of the Italian Republic as depositary of the instruments of ratification, declare this Treaty also applicable either to Surinam, or to the Netherlands Antilles, or to both Surinam and the Netherlands Antilles.

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK

ADENAUER

PINEAU

ANTONIO SEGNI

BECH

J. LUNS

J. CH. SNOY ET D'OPPUERS

HALLSTEIN

M. FAURE

GAETANO MARTINO

LAMBERT SCHAUS

J. LINTHORST HOMAN

PROTOCOL ON THE STATUTE OF THE COURT OF JUSTICE  
OF THE EUROPEAN ATOMIC ENERGY COMMUNITY

The High Contracting Parties to the Treaty establishing the European Atomic Energy Community,

Desiring to lay down the Statute of the Court provided for in Article 160 of this Treaty,

Have designated as their Plenipotentiaries for this purpose:

His Majesty the King of the Belgians: Baron J. Ch. Snoy et d'Oppuers, Secretary-General of the Ministry of Economic Affairs, Head of the Belgian Delegation to the Intergovernmental Conference;

The President of the Federal Republic of Germany: Professor Dr. Carl Friedrich Ophüls, Ambassador of the Federal Republic of Germany, Head of the German Delegation to the Intergovernmental Conference;

The President of the French Republic: Mr. Robert Marjolin, Professor of Law, Deputy Head of the French Delegation to the Intergovernmental Conference;

The President of the Italian Republic: Mr. V. Badini Confalonieri, Under-Secretary of State in the Ministry of Foreign Affairs, Head of the Italian Delegation to the Intergovernmental Conference;

Her Royal Highness the Grand Duchess of Luxembourg: Mr. Lambert Schaus, Ambassador of the Grand Duchy of Luxembourg, Head of the Luxembourg Delegation to the Intergovernmental Conference;

Her Majesty the Queen of the Netherlands: Mr. J. Linthorst Homan, Head of the Netherlands Delegation to the Intergovernmental Conference;

who, having exchanged their Full Powers, found in good and due form,

Have agreed upon the following provisions, which shall be annexed to the Treaty establishing the European Atomic Energy Community.

*Article 1.* The Court established by Article 3 of this Treaty shall be constituted and shall function in accordance with the provisions of this Treaty and of this Statute.

TITLE I. JUDGES AND ADVOCATES-GENERAL

*Article 2.* Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 3.* The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting in plenary session, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the Court competent to judge the members of the highest national judiciary.

*Article 4.* The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

*Article 5.* Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

When a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

*Article 6.* A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the President of the Assembly and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

*Article 7.* A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

*Article 8.* The provisions of Articles 2 to 7 shall apply to the Advocates-General.

## TITLE II. ORGANISATION

*Article 9.* The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

*Article 10.* The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

*Article 11.* Officials and other servants shall be attached to the Court to enable it to function. They shall be responsible to the Registrar under the authority of the President.

*Article 12.* On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the rules of procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

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

*Article 13.* The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court has its seat.

*Article 14.* The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

*Article 15\*.* Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations. Decisions of the full Court shall be valid if seven members are sitting. Decisions of the Chambers shall be valid only if three Judges are sitting; in the event of one of the Judges of a Chamber being prevented from attending, a Judge of another Chamber may be called upon to sit in accordance with conditions laid down in the rules of procedure.

*Article 16.* No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or on which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its Chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the Chamber of a Judge of the nationality of that party.

### TITLE III. PROCEDURE

*Article 17.* The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by an adviser or a lawyer entitled to practise before a court of a Member State.

Other parties must be represented by a lawyer entitled to practise before a court of a Member State.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the rules of procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the rules of procedure.

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\* Text as amended by Article 20 of the Act of Accession.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers entitled to practise before a court of a Member State.

*Article 18.* The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Community whose decisions are in dispute of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the rules of procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers entitled to practise before a court of a Member State and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

*Article 19.* A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party against whom the application is made, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 148 of this Treaty, by documentary evidence of the date on which an institution was, in accordance with that Article, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

*Article 20.* A case governed by Article 18 of this Treaty shall be brought before the Court by an appeal addressed to the Registrar. The appeal shall contain the name and permanent address of the applicant and the description of the signatory, a reference to the decision against which the appeal is brought, the names of the respondents, the subject matter of the dispute, the submissions and a brief statement of the grounds on which the appeal is based.

The appeal shall be accompanied by a certified copy of the decision of the Arbitration Committee which is contested.

If the Court rejects the appeal, the decision of the Arbitration Committee shall become final.

If the Court annuls the decision of the Arbitration Committee, the matter may be re-opened, where appropriate, on the initiative of one of the parties in the case, before the Arbitration Committee. The latter shall conform to any decisions on points of law given by the Court.

*Article 21.* In the cases governed by Article 150 of this Treaty, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court shall be notified to the Court by the court or tribunal



concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and also to the Council if the act the validity or interpretation of which is in dispute originates from the Council.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the Council, shall be entitled to submit statements of case or written observations to the Court.

*Article 22.* The Court may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions not being parties to the case to supply all information which the Court considers necessary for the proceedings.

*Article 23.* The Court may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of giving an expert opinion.

*Article 24.* Witnesses may be heard under conditions laid down in the rules of procedure.

*Article 25.* With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the rules of procedure.

*Article 26.* Witnesses and experts may be heard on oath taken in the form laid down in the rules of procedure or in the manner laid down by the law of the country of the witness or expert.

*Article 27.* The Court may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the rules of procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

*Article 28.* A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court, the Member State concerned shall prosecute the offender before its competent court.

*Article 29.* The hearing in court shall be public, unless the Court, of its own motion or on application by the parties, decides otherwise for serious reasons.

*Article 30.* During the hearings the Court may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court only through their representatives.

*Article 31.* Minutes shall be made of each hearing and signed by the President and the Registrar.

*Article 32.* The cause list shall be established by the President.

*Article 33.* The deliberations of the Court shall be and shall remain secret.

*Article 34.* Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

*Article 35.* Judgments shall be signed by the President and the Registrar. They shall be read in open court.

*Article 36.* The Court shall adjudicate upon costs.

*Article 37.* The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the rules of procedure, adjudicate upon applications to suspend execution, as provided for in Article 157 of this Treaty, or to prescribe interim measures in pursuance of Article 158, or to suspend enforcement in accordance with the last paragraph of Article 164.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the rules of procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

*Article 38.* Member States and institutions of the Community may intervene in cases before the Court.

The same right shall be open to any other person establishing an interest in the result of any case submitted to the Court, save in cases between Member States, between institutions of the Community or between Member States and institutions of the Community.

Submissions made in an application to intervene shall be limited to supporting the submissions of one of the parties.

*Article 39.* Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

*Article 40.* Member States, institutions of the Community and any other natural or legal persons may, in cases and under conditions to be determined by the rules of procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

*Article 41.* If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Community establishing an interest therein.

*Article 42.* An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognizing that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of ten years from the date of the judgment.

*Article 43.* Periods of grace based on considerations of distance shall be determined by the rules of procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.

*Article 44.* Proceedings against the Community in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Community. In the latter event the proceedings must be instituted within the period of two months provided for in Article 146; the provisions of the second paragraph of Article 148 shall apply where appropriate.

*Article 45.* The rules of procedure of the Court provided for in Article 160 of this Treaty shall contain, apart from the provisions contemplated by this Statute, any other provisions necessary for applying and, where required, supplementing it.

*Article 46.* The Council may, acting unanimously, make such further adjustments to the provisions of this Statute as may be required by reason of measures taken by the Council in accordance with the last paragraph of Article 137 of this Treaty.

*Article 47.* Immediately after the oath has been taken, the President of the Council shall proceed to choose by lot the Judges and the Advocates-General whose terms of office are to expire at the end of the first three years in accordance with the second and third paragraphs of Article 139 of this Treaty.

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

DONE at Brussels this seventeenth day of April in the year one thousand nine hundred and fifty-seven.

J. CH. SNOY ET D'OPPUERS

C. F. OPHÜLS

ROBERT MARJOLIN

VITTORIO BADINI CONFALONIERI

LAMBERT SCHAUS

J. LINTHORST HOMAN

TREATIES REVISING THE TREATIES ESTABLISHING THE  
EUROPEAN COMMUNITIES AND ACTS RELATING TO THE  
COMMUNITIES

CONVENTION<sup>1</sup> ON CERTAIN INSTITUTIONS COMMON TO THE  
EUROPEAN COMMUNITIES

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

Anxious to limit the number of institutions responsible for carrying out similar tasks in the European Communities which they have constituted,

Have decided to create for these Communities certain single institutions and to this end have designated as their Plenipotentiaries:

His Majesty the King of the Belgians:

Mr. Paul-Henri Spaak, Minister for Foreign Affairs;

Baron J. Ch. Snoy et d'Oppuers, Secretary-General of the Ministry of Economic Affairs, Head of the Belgian Delegation to the Intergovernmental Conference;

The President of the Federal Republic of Germany:

Dr. Konrad Adenauer, Federal Chancellor;

Professor Dr. Walter Hallstein, State Secretary of the Federal Foreign Office;

The President of the French Republic:

Mr. Christian Pineau, Minister for Foreign Affairs;

Mr. Maurice Faure, Under-Secretary of State for Foreign Affairs;

The President of the Italian Republic:

Mr. Antonio Segni, President of the Council of Ministers;

Professor Gaetano Martino, Minister for Foreign Affairs;

Her Royal Highness the Grand Duchess of Luxembourg:

Mr. Joseph Bech, President of the Government, Minister for Foreign Affairs;

Mr. Lambert Schaus, Ambassador, Head of the Luxembourg Delegation to the Intergovernmental Conference;

Her Majesty the Queen of the Netherlands:

Mr. Joseph Luns, Minister for Foreign Affairs;

Mr. J. Linthorst Homan, Head of the Netherlands Delegation to the Intergovernmental Conference;

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<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 294, p. 411.

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

### *Section I. THE ASSEMBLY*

*Article 1.* The powers and jurisdiction which the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community confer upon the Assembly shall be exercised, in accordance with those Treaties, by a single Assembly composed and designated as provided in Article 138 of the Treaty establishing the European Economic Community and in Article 108 of the Treaty establishing the European Atomic Energy Community.

*Article 2.* 1. Upon taking up its duties, the single Assembly referred to in Article 1 shall take the place of the Common Assembly provided for in Article 21 of the Treaty establishing the European Coal and Steel Community. It shall exercise the powers and jurisdiction conferred upon the Common Assembly by that Treaty in accordance with the provisions thereof.

2. To this end, Article 21 of the Treaty establishing the European Coal and Steel Community shall be repealed on the date when the single Assembly referred to in Article 1 takes up its duties, and the following provisions substituted therefor:

“*Article 21.* 1. The Assembly shall consist of delegates who shall be designated by the respective Parliaments from among their members in accordance with the procedure laid down by each Member State.

2. The number of these delegates shall be as follows:

Germany .....	36
Belgium .....	14
France .....	36
Italy .....	36
Luxembourg .....	6
Netherlands .....	14

3. The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States.

The Council shall, acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.”

### *Section II. THE COURT OF JUSTICE*

*Article 3.* The jurisdiction which the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community confer upon the Court of Justice shall be exercised, in accordance with those Treaties, by a single Court of Justice composed and appointed as provided in Articles 165 to 167 of the Treaty establishing the European Economic Community and in Articles 137 to 139 of the Treaty establishing the European Atomic Energy Community.

*Article 4.* 1. Upon taking up its duties, the single Court of Justice referred to in Article 3 shall take the place of the Court provided for in Article 32 of the Treaty establishing the European Coal and Steel Community. It shall exercise the jurisdiction conferred upon that Court by that Treaty in accordance with the provisions thereof.

The President of the single Court of Justice referred to in Article 3 shall exercise the powers conferred by the Treaty establishing the European Coal and Steel Community upon the President of the Court provided for in that Treaty.

2. To this end, on the date when the single Court of Justice referred to in Article 3 takes up its duties:

(a) Article 32 of the Treaty establishing the European Coal and Steel Community shall be repealed and the following provisions substituted therefor:

“*Article 32.* The Court shall consist of seven Judges.

The Court shall sit in plenary session. It may, however, form chambers, each consisting of three or five Judges, either to undertake certain preparatory inquiries or to adjudicate on particular categories of cases in accordance with rules laid down for these purposes.

Whenever the Court hears cases brought before it by a Member State or by one of the institutions of the Community or has to give preliminary rulings on questions submitted to it pursuant to Article 41, it shall sit in plenary session.

Should the Court so request, the Council may, acting unanimously, increase the number of Judges and make the necessary adjustments to the second and third paragraphs of this Article and to the second paragraph of Article 32 *b.*”

“*Article 32a.* The Court shall be assisted by two Advocates-General.

It shall be the duty of the Advocate-General acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases brought before the Court, in order to assist the Court in the performance of the task assigned to it in Article 31.

Should the Court so request, the Council may, acting unanimously, increase the number of Advocates-General and make the necessary adjustments to the third paragraph of Article 32 *b.*”

“*Article 32b.* The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the Governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges. Three and four Judges shall be replaced alternately. The three Judges whose terms of office are to expire at the end of the first three years shall be chosen by lot.

Every three years there shall be a partial replacement of the Advocates-General. The Advocate-General whose term of office is to expire at the end of the first three years shall be chosen by lot.

Retiring Judges and Advocates-General shall be eligible for reappointment.

The Judges shall elect the President of the Court from among their number for a term of three years. He may be re-elected.”

“*Article 32 c.* The Court shall appoint its Registrar and lay down the rules governing his service.”

(b) The provisions of the Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Coal and Steel Community, in so far as they are in conflict with Articles 32 to 32 c of that Treaty, shall be repealed.

### *Section III. THE ECONOMIC AND SOCIAL COMMITTEE*

*Article 5.* 1. The functions which the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community confer upon the Economic and Social Committee shall be exercised, in accordance with those Treaties, by a single Economic and Social Committee composed and appointed as provided in Article 194 of the Treaty establishing the European Economic Community and in Article 166 of the Treaty establishing the European Atomic Energy Community.

2. The single Economic and Social Committee referred to in paragraph 1 shall include a section specialising in, and may include subcommittees competent for, the fields or questions dealt with in the Treaty establishing the European Atomic Energy Community.

3. The provisions of Articles 193 and 197 of the Treaty establishing the European Economic Community shall apply to the single Economic and Social Committee referred to in paragraph 1.

### *Section IV. THE FINANCING OF THESE INSTITUTIONS*

*Article 6. (repealed by Article 23 of the Merger Treaty)*

*[See Article 20 of the Merger Treaty, which reads as follows:*

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.

\* Paragraph (1) as amended by Article 10 of the Treaty amending Certain Budgetary Provisions.<sup>1</sup>

<sup>1</sup> See p. 210 of this volume.

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.]

#### *Final provisions*

*Article 7.* This Convention 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 Convention shall enter into force at the same time as the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community.

*Article 8.* This Convention, 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 signatory States.

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

DONE at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

P. H. SPAAK  
ADENAUER  
PINEAU  
ANTONIO SEGNI  
BECH  
J. LUNS

J. CH. SNOY ET D'OPPUERS  
HALLSTEIN  
M. FAURE  
GAETANO MARTINO  
LAMBERT SCHAUS  
J. LINTHORST HOMAN



PROTOCOL<sup>1</sup> CONCERNING IMPORTS INTO THE EUROPEAN  
ECONOMIC COMMUNITY OF PETROLEUM PRODUCTS RE-  
FINED IN THE NETHERLANDS ANTILLES\*

The High Contracting Parties,

Being desirous of giving fuller details about the system of trade applicable to imports into the European Economic Community of petroleum products refined in the Netherlands Antilles,

Have agreed on the following provisions to be appended to that Treaty:

*Article 1.* This Protocol is applicable to petroleum products coming under the Brussels Nomenclature numbers 27.10, 27.11, 27.12, ex 27.13 (paraffin wax, petroleum or shale wax and paraffin residues) and 27.14, imported for use in Member States.

*Article 2.* Member States shall undertake to grant to petroleum products refined in the Netherlands Antilles the tariff preferences resulting from the Association of the latter with the Community, under the conditions provided for in this Protocol. These provisions shall hold good whatever may be the rules of origin applied by the Member States.

*Article 3.* 1. When the Commission, at the request of a Member State or on its own initiative, establishes that imports into the Community of petroleum products refined in the Netherlands Antilles under the system provided for in Article 2 above are giving rise to real difficulties on the market of one or more Member States, it shall decide that Customs duties on the said imports shall be introduced, increased or re-introduced by the Member States in question, to such an extent and for such a period as may be necessary to meet that situation. The rates of the Customs duties thus introduced, increased or re-introduced may not exceed the Customs duties applicable to third countries for these same products.

2. The provisions of paragraph 1 can in any case be applied when imports into the Community of petroleum products refined in the Netherlands Antilles reach two million metric tons a year.

3. The Council shall be informed of decisions taken by the Commission in pursuance of paragraphs 1 and 2, including those directed at rejecting the request of a Member State. The Council shall, at the request of any Member State, assume responsibility for the matter and may at any time amend or revoke them by a decision taken by a qualified majority.

*Article 4.* 1. If a Member State considers that imports of petroleum products refined in the Netherlands Antilles, made either directly or through another Member State under the system provided for in Article 2 above, are giving rise to real difficulties on its market and that immediate action is necessary to meet them, it may on its own initiative decide to apply Customs duties to such imports, the rate of which may not exceed those of the Customs duties applicable

<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 1464, No. A-4300.

\* Added by Article 2 of the Convention of 13 November 1962 amending the Treaty establishing the European Economic Community (*Official Journal of the European Communities*, No. 150, 1 October 1964, p. 2414).

to third countries in respect of the same products. It shall notify its decision to the Commission which shall decide within one month whether the measures taken by the State should be maintained or must be amended or cancelled. The provisions of Article 3 (3) shall be applicable to such decision of the Commission.

2. When the quantities of petroleum products refined in the Netherlands Antilles imported either directly or through another Member State, under the system provided for in Article 2 above, into a Member State or States of the EEC exceed during a calendar year the tonnage shown in the Annex to this Protocol, the measures taken in pursuance of paragraph 1 by that or those Member States for the current year shall be considered to be justified; the Commission shall, after assuring itself that the tonnage fixed has been reached, formally record the measures taken. In such a case the other Member States shall abstain from formally placing the matter before the Council.

*Article 5.* If the Community decides to apply quantitative restrictions to petroleum products, no matter whence they are imported, these restrictions may also be applied to imports of such products from the Netherlands Antilles. In such a case preferential treatment shall be granted to the Netherlands Antilles as compared with third countries.

*Article 6.* 1. The provisions of Articles 2 to 5 shall be reviewed by the Council, by unanimous decision, after consulting the Assembly and the Commission, when a common definition of origin for petroleum products from third countries and Associated countries is adopted, or when decisions are taken within the framework of a common commercial policy for the products in question or when a common energy policy is established.

2. When such revision is made, however, equivalent preferences must in any case be maintained in favour of the Netherlands Antilles in a suitable form and for a minimum quantity of 2½ million metric tons of petroleum products.

3. The Community's commitments in regard to equivalent preferences as mentioned in paragraph 2 of this Article may, if necessary, be broken down country by country taking into account the tonnage indicated in the Annex to this Protocol.

*Article 7.* For the implementation of this Protocol, the Commission is responsible for following the pattern of imports into the Member States of petroleum products refined in the Netherlands Antilles. Member States shall communicate to the Commission, which shall see that it is circulated, all useful information to that end in accordance with the administrative conditions recommended by it.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have placed their signatures below this Protocol.

H. FAYAT

R. LAHR

J.-M. BOEGNER

C. RUSSO

E. SCHAUS

H. R. VAN HOUTEN

W. F. M. LAMPE

DONE at Brussels, the thirteenth day of November, one thousand nine hundred and sixty-two.

## ANNEX TO THE PROTOCOL

For the implementation of Article 4 (2) of the Protocol concerning imports into the European Economic Community of petroleum products refined in the Netherlands Antilles, the High Contracting Parties have decided that the quantity of 2 million metric tons of petroleum products from the Antilles shall be allocated among the Member States as follows:

Germany.....	625,000 metric tons
Belgo/Luxembourg Economic Union.....	200,000 metric tons
France.....	75,000 metric tons
Italy.....	100,000 metric tons
Netherlands.....	1 000,000 metric tons

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## TREATY<sup>1</sup> ESTABLISHING A SINGLE COUNCIL AND A SINGLE COMMISSION OF THE EUROPEAN COMMUNITIES\*

### 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

<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 1348, p. 3.

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

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.

*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, 32a, 78d and 78f 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

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

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, 78*b* and 78*d* 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 Rapporteurs may be required, under conditions laid down in the rules of procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

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

(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, 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.

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\* 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).

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.

*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

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



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.

*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.

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

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 78*d*. 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 78*e* 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.

#### 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 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

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

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 sub-

paragraph 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 [30] 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 78 *e* of that Treaty for the remainder of his former term of office.\*

*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.

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\* See Article 22 above.

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-passer 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 provision 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.

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DECISION<sup>1</sup> OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES ON THE PROVISIONAL LOCATION OF CERTAIN INSTITUTIONS AND DEPARTMENTS OF THE COMMUNITIES\*

The Representatives of the Governments of the Member States,

Having regard to Article 37 of the Treaty establishing a Single Council and a Single Commission of the European Communities,

Considering that it is appropriate, at the time of setting up a Single Council and a Single Commission of the European Communities, in order to settle certain problems peculiar to the Grand Duchy of Luxembourg, to designate Luxembourg as the provisional place of work of certain institutions and departments, 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 of the second paragraph of Article 1 of the Protocol on the Statute of the European Investment Bank,

Have decided:

*Article 1.* Luxembourg, Brussels and Strasbourg shall remain the provisional places of work of the institutions of the Communities.

*Article 2.* During the months of April, June and October, the Council shall hold its sessions in Luxembourg.

*Article 3.* The Court of Justice shall remain in Luxembourg.

There shall also be located in Luxembourg the judicial and quasi-judicial bodies, including those competent to apply the rules on competition, already existing or yet to be set up pursuant to the Treaties establishing the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community, or to conventions concluded within the framework of the Communities, whether between Member States or with third countries.

*Article 4.* The General Secretariat of the Assembly and its departments shall remain in Luxembourg.

*Article 5.* The European Investment Bank shall be located in Luxembourg, where its governing bodies shall meet and all its activities shall be carried on.

This provision relates in particular to the development of its present activities, especially those mentioned in Article 130 of the Treaty establishing the European Economic Community, to the possible extension of those activities to other fields and to such new tasks as may be assigned to the Bank.

An office for liaison between the Commission and the European Investment Bank shall be located in Luxembourg, with the particular task of facilitating the operations of the European Development Fund.

*Article 6.* The Monetary Committee shall meet in Luxembourg and in Brussels.

<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 1348, p. 99.

\* *Official Journal of the European Communities*, No. 152, 13 July 1967, p. 18.



*Article 7.* The financial departments of the European Coal and Steel Community shall be located in Luxembourg. These comprise the Directorate-General for Credit and Investments, the department responsible for collecting the levy and the accounts departments attached thereto.

*Article 8.* An Official Publications Office of the European Communities with a joint sales office and a medium- and long-term translation service attached shall be located in Luxembourg.

*Article 9.* Further, the following departments of the Commission shall be located in Luxembourg:

- (a) The Statistical Office and the Data Processing Department;
- (b) The hygiene and industrial safety departments of the European Economic Community and of the European Coal and Steel Community;
- (c) The Directorate-General for the Dissemination of Information, the Directorate for Health Protection and the Directorate for Safeguards of the European Atomic Energy Community;

and the appropriate administrative and technical infrastructure.

*Article 10.* The Governments of the Member States are willing to locate in Luxembourg, or to transfer thereto, other Community bodies and departments, particularly those concerned with finance, provided that their proper functioning can be ensured.

To this end, they request the Commission to present to them annually a report on the current situation concerning the location of Community bodies and departments and on the possibility of taking new steps to give effect to this provision, account being taken of the need to ensure the proper functioning of the Communities.

*Article 11.* In order to ensure the proper functioning of the European Coal and Steel Community, the Commission is requested to transfer the various departments in a gradual and coordinated manner, transferring last the departments which manage the coal and steel markets.

*Article 12.* Subject to the preceding provisions, this decision shall not affect the provisional places of work of the institutions and departments of the European Communities, as determined by previous decisions of the Governments, nor the regrouping of departments occasioned by the establishing of a Single Council and a Single Commission.

*Article 13.* This decision shall enter into force on the same date as the Treaty establishing a Single Council and a Single Commission of the European Communities.

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

TREATY<sup>1</sup> AMENDING CERTAIN BUDGETARY PROVISIONS OF THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES AND OF THE TREATY ESTABLISHING A SINGLE COUNCIL AND A SINGLE COMMISSION OF THE EUROPEAN COMMUNITIES\*

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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;

Considering that the Communities will have at their disposal their own resources in order to cover their total expenditure,

Considering that the replacement of financial contributions of Member States by the Communities' own resources requires a strengthening of the budgetary powers of the Assembly,

Resolved to associate the Assembly closely in the supervision of the implementation of the budget of the Communities,

Have decided to amend certain budgetary provisions of the Treaties establishing the European Communities and of the Treaty establishing 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. Pierre Harmel, Minister for Foreign Affairs;

The President of the Federal Republic of Germany: Mr. Walter Scheel, Minister for Foreign Affairs;

The President of the French Republic: Mr. Maurice Schumann, Minister for Foreign Affairs;

The President of the Italian Republic: Mr. Aldo Moro, Minister for Foreign Affairs;

His Royal Highness the Grand Duke of Luxembourg: Mr. Gaston Thorn, Minister for Foreign Affairs and for External Trade;

Her Majesty the Queen of the Netherlands: Mr. H. J. de Koster, Under-Secretary of State for Foreign Affairs;

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<sup>1</sup> For the French text, see United Nations, *Treaty Series*, vol. 1427, No. A-4300.

\* *Official Journal of the European Communities*, No. L 2, 2 January 1971, p. 1.

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

CHAPTER I. PROVISIONS AMENDING THE TREATY ESTABLISHING  
THE EUROPEAN COAL AND STEEL COMMUNITY

*Article 1.* The following provisions shall be substituted for Article 78 of the Treaty establishing the European Coal and Steel Community:

“*Article 78.* 1. The financial year shall run from 1 January to 31 December.

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.

2. Each institution of the Community shall, before 1 July, 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 obtain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The High Authority shall place the preliminary draft administrative budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft administrative budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft administrative budget, acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within forty-five days of the draft administrative budget being placed before it, the Assembly has given its approval, the administrative budget shall stand as finally adopted. If within this period the Assembly has not amended the draft administrative budget nor proposed any modifications thereto, the administrative budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft administrative budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft administrative budget with the High Authority and, where appropriate, with the other institutions concerned, the Council may, acting by a qualified majority, modify any of the amendments

adopted by the Assembly and shall pronounce, also by a qualified majority, on the modifications proposed by the latter. The draft administrative budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within fifteen days of the draft administrative budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and has accepted the modifications proposed by the latter, the administrative budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and has accepted the proposed modifications.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or has not accepted the modifications proposed by the latter, the draft administrative budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within fifteen days of the draft administrative budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications, shall act, by a majority of its members and three fifths of the votes cast, on the modifications to its amendments made by the Council, and shall adopt the administrative budget accordingly. If within this period the Assembly has not acted, the administrative budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the administrative budget has been finally adopted.

8. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The High Authority shall, after consulting the Conjunctural Policy Committee and the Budgetary Policy Committee, declare what this maximum rate is as it results from:

- The trend, in terms of volume, of the gross national product within the Community;
- The average variation in the budgets of the Member States; and
- The trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft administrative budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where, in exceptional cases, the Assembly, the Council or the High Authority considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three fifths of the votes cast.

9. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

10. 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 2.* The following provisions shall be added to the Treaty establishing the European Coal and Steel Community:

"*Article 78a.* By way of derogation from the provisions of Article 78, the following provisions shall apply to budgets for financial years preceding the financial year 1975:

1. The financial year shall run from 1 January to 31 December.

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.

2. Each institution of the Community shall, before 1 July, 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 preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The High Authority shall place the preliminary draft administrative budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft administrative budget shall be placed before the Assembly not later than 5 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.

If, within forty-five days of the draft administrative budget being placed before it, the Assembly has given its approval or has not proposed any modifications to the draft budget, the administrative budget shall be deemed to be finally adopted.

If within this period the Assembly has proposed modifications, the draft administrative budget together with the proposed modifications shall be forwarded to the Council.

5. The Council shall, after discussing the draft administrative budget with the High Authority and, where appropriate, with the other institutions concerned, adopt the administrative budget, within thirty days of the draft budget being placed before it, under the following conditions.

Where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted.

Where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council must act by a qualified majority in accepting the proposed modification.

Where, in pursuance of the second or third subparagraphs of this paragraph, the Council has rejected or has not accepted a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft administrative budget or fix another amount.

6. When the procedure provided for in this Article has been completed, the President of the Council shall declare that the administrative budget has been finally adopted.

7. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

8. 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 3.* The following provisions shall be substituted for the last paragraph of Article 78 *d* of the Treaty establishing the European Coal and Steel Community:

"The Council and the Assembly shall give a discharge to the High Authority in respect of the implementation of the administrative budget. To this end, the report of the Audit Board shall be examined in turn by the Council, which shall act by a qualified majority, and by the Assembly. The High Authority shall stand discharged only after the Council and the Assembly have acted."

#### CHAPTER II. PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY

*Article 4.* The following provisions shall be substituted for Article 203 of the Treaty establishing the European Economic Community:

"*Article 203.* I. The financial year shall run from 1 January to 31 December.

2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget, acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within forty-five days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If within this period the Assembly has not amended the draft budget nor proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council may, acting by a qualified majority, modify any of the amendments adopted by the Assembly and shall pronounce, also by a qualified majority, on the modifications proposed by the latter. The draft budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within fifteen days of the draft being placed before it, the Council has not modified any of the amendments adopted by the Assembly and has accepted the modifications proposed by the latter, the budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and has accepted the proposed modifications.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or has not accepted the modifications proposed by the latter, the draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within fifteen days of the draft budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications, shall act, by a majority of its members and three fifths of the votes cast, on the modifications to its amendments made by the Council, and shall adopt the budget accordingly. If within this period the Assembly has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the budget has been finally adopted.

8. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Conjunctural Policy Committee and the Budgetary Policy Committee, declare what this maximum rate is as it results from:

- The trend, in terms of volume, of the gross national product within the Community;
- The average variation in the budgets of the Member States; and
- The trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where, in exceptional cases, the Assembly, the Council or the Commission considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three fifths of the votes cast.

9. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure."

*Article 5.* The following provisions shall be added to the Treaty establishing the European Economic Community.

"*Article 203a.* By way of derogation from the provisions of Article 203, the following provisions shall apply to budgets for financial years preceding the financial year 1975:

1. The financial year shall run from 1 January to 31 December.



2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft budget shall be placed before the Assembly not later than 5 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 budget.

If, within forty-five days of the draft budget being placed before it, the Assembly has given its approval or has not proposed any modifications to the draft budget, the budget shall be deemed to be finally adopted.

If within this period the Assembly has proposed modifications, the draft budget together with the proposed modifications shall be forwarded to the Council.

5. The Council shall, after discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, adopt the budget, within thirty days of the draft budget being placed before it, under the following conditions.

Where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted.

Where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council must act by a qualified majority in accepting the proposed modification.

Where, in pursuance of the second or third subparagraph of this paragraph, the Council has rejected or has not accepted a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

6. When the procedure provided for in this Article has been completed, the President of the Council shall declare that the budget has been finally adopted.

7. Each institution shall exercise the powers conferred upon it by this Article, with the due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure."

*Article 6.* The following provisions shall be substituted for the last paragraph of Article 206 of the Treaty establishing the European Economic Community:

"The Council and the Assembly shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the report of the Audit Board shall be examined in turn by the Council, which shall act by a qualified majority, and by the Assembly. The Commission shall stand discharged only after the Council and the Assembly have acted."

#### CHAPTER III. PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY

*Article 7.* The following provisions shall be substituted for Article 177 of the Treaty establishing the European Atomic Energy Community:

"*Article 177.* 1. The financial year shall run from 1 January to 31 December.

Within the meaning of this Article, "budget" shall include the operating budget and the research and investment budget.

2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft budget shall be placed before the Assembly not later than 5 October of the year preceding that in which the budget is to be implemented.

The Assembly shall have the right to amend the draft budget, acting by a majority of its members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within forty-five days of the draft budget being placed before it, the Assembly has given its approval, the budget shall stand as finally adopted. If

within this period the Assembly has not amended the draft budget nor proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the Assembly has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council may, acting by a qualified majority, modify any of the amendments adopted by the Assembly and shall pronounce, also by a qualified majority, on the modifications proposed by the latter. The draft budget shall be modified on the basis of the proposed modifications accepted by the Council.

If, within fifteen days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the Assembly and has accepted the modifications proposed by the latter, the budget shall be deemed to be finally adopted. The Council shall inform the Assembly that it has not modified any of the amendments and has accepted the proposed modifications.

If within this period the Council has modified one or more of the amendments adopted by the Assembly or has not accepted the modifications proposed by the latter, the draft budget shall again be forwarded to the Assembly. The Council shall inform the Assembly of the results of its deliberations.

6. Within fifteen days of the draft budget being placed before it, the Assembly, which shall have been notified of the action taken on its proposed modifications, shall act, by a majority of its members and three fifths of the votes cast, on the modifications to its amendments made by the Council, and shall adopt the budget accordingly. If within this period the Assembly has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the Assembly shall declare that the budget has been finally adopted.

8. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from the Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Conjunctural Policy Committee and the Budgetary Policy Committee, declare what this maximum rate is as it results from:

- The trend, in terms of volume, of the gross national product within the Community;
- The average variation in the budgets of the Member States; and
- The trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this

during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the Assembly may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where, in exceptional cases, the Assembly, the Council or the Commission considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the Assembly, acting by a majority of its members and three fifths of the votes cast.

9. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure."

*Article 8.* The following provisions shall be added to the Treaty establishing the European Atomic Energy Community:

"*Article 177a.* By way of derogation from the provisions of Article 177, the following provisions shall apply to budgets for financial years preceding the financial year 1975:

1. The financial year shall run from 1 January to 31 December.

Within the meaning of this Article, "budget" shall include the operating budget and the research and investment budget.

2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall contain an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

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

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

4. The draft budget shall be placed before the Assembly not later than 5 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 budget.

If, within forty-five days of the draft budget being placed before it, the Assembly has given its approval or has not proposed any modifications to the draft budget, the budget shall be deemed to be finally adopted.

If within this period the Assembly has proposed modifications, the draft budget together with the proposed modifications shall be forwarded to the Council.

5. The Council shall, after discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, adopt the budget, within thirty days of the draft budget being placed before it, under the following conditions.

Where a modification proposed by the Assembly does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted.

Where a modification proposed by the Assembly has the effect of increasing the total amount of the expenditure of an institution, the Council must act by a qualified majority in accepting the proposed modification.

Where, in pursuance of the second or third subparagraph of this paragraph, the Council has rejected or has not accepted a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

6. When the procedure provided for in this Article has been completed, the President of the Council shall declare that the budget has been finally adopted.

7. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of this Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure."

*Article 9.* The following provisions shall be substituted for the last paragraph of Article 180 of the Treaty establishing the European Atomic Energy Community:

"The Council and the Assembly shall give a discharge to the Commission in respect of the implementation of each budget. To this end, the report of the Audit Board shall be examined in turn by the Council, which shall act by a qualified majority, and by the Assembly. The Commission shall stand discharged only after the Council and the Assembly have acted."

#### CHAPTER IV. PROVISIONS AMENDING THE TREATY ESTABLISHING A SINGLE COUNCIL AND A SINGLE COMMISSION OF THE EUROPEAN COMMUNITIES

*Article 10.* The following provisions shall be substituted for Article 20 (1) of the Treaty establishing a Single Council and a Single Commission of the European Communities:

"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.”

#### CHAPTER V. FINAL PROVISIONS

*Article 11.* 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.

*Article 12.* This Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

If, however, the notification provided for in Article 7 of the Decision of 21 April 1970 on the replacement of financial contributions from Member States by the Communities’ own resources has not been given before that date by all the signatory States, this Treaty shall enter into force on the first day of the month after the last notification has been given.

If this Treaty enters into force during the budgetary procedure, the Council shall, after consulting the Commission, lay down the measures required in order to facilitate the application of this Treaty to the remainder of the budgetary procedure.

*Article 13.* 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 Luxembourg this twenty-second day of April in the year one thousand nine hundred and seventy.

Pour Sa Majesté le roi des Belges :  
Voor Zijne Majesteit de Koning der Belgen:

PIERRE HARMEL

Für den Präsidenten der Bundesrepublik Deutschland:

WALTER SCHEEL

Pour le président de la République française :

MAURICE SCHUMANN

Per il Presidente della Repubblica italiana :

ALDO MORO

Pour Son Altesse Royale le Grand-Duc de Luxembourg :

GASTON THORN

Voor Hare Majesteit de Koningin der Nederlanden :

H. J. DE KOSTER

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