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**SKUPNA VARNOSTNA IN OBRAMBNA POLITIKA
EVROPSKE UNIJE
(razvoj in pomen)**

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SEZNAM KRATIC

CJTF	Skupne združene namenske sile <i>(ang. Combined Joint Task Forces)</i>
ECSC	Evropska skupnost za jeklo in premog <i>(ang. European Coal and Steel Community)</i>
EPC	Evropsko politično sodelovanje <i>(ang. European Political Cooperation)</i>
ERRF	Evropske sile za hitro posredovanje <i>(ang. European Rapid Reaction Force)</i>
EC	Evropske skupnosti <i>(ang. European Communities)</i>
ESDI	Evropska varnostna in obrambna identiteta <i>(ang. European Security and Defence Identity)</i>
ESDP	Evropska varnostna in obrambna politika <i>(ang. European Security and Defense Policy)</i>
EU	Evropska unija <i>(ang. European Union)</i>
NATO	Organizacija severnoatlantskega sporazuma <i>(ang. North Atlantic Treaty Organization)</i>
OSCE	Organizacija za varnost in sodelovanje v Evropi <i>(ang. Organization for Security and Co-operation in Europe)</i>
OUN	Organizacija združenih narodov <i>(ang. Organization of United Nations)</i>
TEU	Pogodba o Evropski uniji <i>(ang. Treaty of European Union)</i>
PSC	Politični in varnostni odbor <i>(ang. Political and Security Committee)</i>
PfP	Partnerstvo za mir <i>(ang. Partnership for Peace)</i>
CFSP	Skupna zunanja in varnostna politika <i>(ang. Common Foreign and Security Policy)</i>
WEU	Zahodnoevropska unija <i>(ang. Western European Union)</i>

UVOD

Zamisli o preprečevanju vojn in kolektivni varnosti na evropski celini so zelo stare. Nov zagon so dobile po najbolj krvavi vojni v zgodovini človeštva, l. 1939 – 1945. Ena izmed pobud za oblikovanje evropskega varnostnega sistema po drugi svetovni vojni se je izrazila v podpisu pogodbe o vojaški zvezi med Francijo in Veliko Britanijo v Dunkerqueju, 4. marca 1947. Tej je sledil podpis t. i. Bruseljske pogodbe, pogodbe o ekonomskem, socialnem in kulturnem sodelovanju ter kolektivni samoobrambi, 17. marca 1948. Kmalu po ustanovitvi Evropske skupnosti za premog in jeklo (ECSC) je francoska vlada dala pobudo za vzpostavitev Evropske obrambne skupnosti. Vendar je ta ideja doživela poraz v francoskem parlamentu l. 1954 in je bila tedaj opuščena tudi zaradi zahtev po suverenosti. Po izoblikovanju dveh blokov na začetku hladne vojne so evropske države zagotavljale svojo nacionalno varnost bodisi z medsebojnim povezovanjem v vojaškopolična zavezištva (npr. NATO od l. 1949, organizacija Varšavskega sporazuma od l. 1955), bodisi s politiko nevtralnosti (Švica, Švedska, Avstrija, Finska) ali neuvrščenosti (SFRJ) oziroma izolacije. V tem obdobju "hladne vojne" se je oblikovala močna vez med zahodnimi evropskimi državami z Združenimi državami Amerike in sicer na pobudo zahodnoevropskih držav, ki so iskale vojaško oporo v tej najmočnejši zahodni vojaški in gospodarski sili.

Radikalne družbene spremembe v srednji in vzhodni Evropi v l. 1988-1991 so privedle do razpustitve Varšavskega sporazuma in razpada Sovjetske zveze. S tem je bilo konec obdobja "hladne vojne" in dvopolne blokovske delitve Evrope. Te spremembe v mednarodnih odnosih so vplivale tudi na spremembe načina zagotavljanja nacionalne varnosti evropskih držav. To se je izrazilo v konceptu sodobne nacionalne varnosti, ki upošteva številne vire ogrožanja, izvirajoč iz različnih dejavnikov v naravi, v družbi in v meddržavnih odnosih. S tem se je koncept nacionalne varnosti, ki je do tedaj izhajal predvsem iz vojaškega ogrožanja s strani zunanjih sovražnikov, razširil na širše družbeno življenje in večplastno mednarodno varnost.

V spremenjenih razmerah so države članice Evropskih skupnosti (EC) podpisale Maastrichtski sporazum, s katerim so ustanovile Evropsko unijo. Temeljni cilj Maastrichtskega sporazuma je bil nadgraditi enotni trg držav članic, sprva z izpopolnjeno gospodarsko in socialno ter potem še s politično unijo. Pred tem so se države članice EC

prvenstveno ukvarjale z gospodarsko-političnim sodelovanjem, s čimer so posredno krepile nevojaške razsežnosti nacionalne varnosti. Obrambno varnost večini držav članic ES pa je še vedno zagotavljala zveza NATO, ki se je po razpustitvi Varšavskega sporazuma in razpadu Sovjetske zveze morala prilagoditi novim geopolitičnim razmeram.

V prenovljenih razmerah se je v okviru delovanja EU po l. 1993 začel razvijati t. i. "drugi steber", t. j. skupna zunanja in varnostna politika (CFSP), ki naj bi pripeljala do skupne varnostne in obrambne politike (ESDP). Do l. 1998 je ESDP obstajala zgolj kot deklarirani cilj, h kateremu naj bi države članice EU težile. Razmere so se spremenile po posredovanju zveze NATO na Kosovu, saj je namreč pomanjkanje skupne evropske volje in kolektivne evropske intervencijske zmogljivosti omogočilo podaljšanje oboroženih spopadov ter etničnega čiščenja na ozemlju nekdanje SFRJ. Pri posredovanju združenih sil zveze NATO se je izkazalo, da evropske države članice zveze NATO in hkrati EU, niso sposobne samostojno posredovati v konfliktih, niti v tako omejenih, kot je bil npr. kosovski. Vzrok temu je velik tehnološki prepad med ZDA in evropskimi državami članicami zveze NATO, saj se slednje ne morejo primerjati niti s tretjerazrednimi oboroženimi silami. Pod vplivom teh spoznanj so se države članice EU odločile ustanoviti nadgraditi CFSP z razvejano strukturo ESDP in do l. 2003 vzpostaviti evropske sile za hitro posredovanje (ERRF). Z razvojem ESDP in evropskih vojaških zmogljivosti so evropske države za zagotavljanje varnosti in stabilnosti regije v zadnjih dveh letih dosegle veliko več kot pa v vseh preteklih petdesetih letih skupaj. Državam članicam EU, ki se prizadevajo za uveljavljanje in promoviranje stabilnosti, blaginje in demokratičnih vrednot v Evropi in zunaj nje, lahko poleg gospodarskega povezovanja vojaška integracija le koristi, saj bi svoji precejšnji "mehki moči" dodale še "trdo moč". Z razvito ESDP bi EU pripomogla k učinkovitejšemu vzpostavljanju stabilnosti in varnosti v Evropi ter na nemirnem Balkanu, v Severni Afriki in na Bližnjem vzhodu.

II. VSEBINSKI IN METODOLOŠKI OKVIR

2. 1 PREDMET PROUČEVANJA

Po "otoplitvi" mednarodnih odnosov so se spremenile razmere, v katerih delujejo obrambno-varnostne organizacije. Zveza NATO, ki zagotavlja kolektivno varnost svojim državam članicam, je morala upravičiti svoje delovanje in se prilagoditi novim razmeram ter drugačnim virom ogroženosti, ki so se pojavili po koncu hladne vojne. Obenem je na mednarodnem prizorišču z novimi razmerami dobila večjo vlogo tudi EU. Kljub temu, da je EU v gospodarskem razcvetu in gospodarska velesila, takoj za ZDA in Japonsko, ni mogla preprečiti oboroženih etničnih konfliktov v državah na tleh nekdanje Jugoslavije. Pri posredovanju zveze NATO na Kosovu so bile očitne tudi pomanjkljivosti v vojaških zmogljivostih evropskih držav članic zveze NATO. Prav zaradi tega se države članice EU prizadevajo uveljaviti tudi na varnostnem in obrambnem področju in aktivno prispevati k evropski stabilnosti in varnosti.

Tako bomo v tem diplomskem delu analizirali kakovostni premik v evropski varnostni arhitekturi in se osredotočili predvsem na oblikovanje CFSP in v okviru le-te skupne evropske obrambne politike (ESDP). Razvoj same ideje in nato prek CFSP tudi oblikovanje ESDP, ter odnose med zvezo NATO in EU smo spremljali do konca meseca maja 2001, saj smo bili omejeni s časovnim okvirom za zaključitev diplomskega dela. Kljub temu pa bomo sledili razvoju dogodkov in na koncu podali zaključke, s katerimi bomo skušali napovedati nadaljnjo smer razvoja in prihodnost varnostno-obrambne komponente EU.

2. 2 STRUKTURA DIPLOMSKEGA DELA

Bralcem v pomoč bomo v nadaljevanju predstavili zgradbo diplomskega dela. Delo je vsebinsko razdeljeno na sedem med seboj povezanih in prepletajočih se poglavij.

V uvodnem poglavju smo predstavili širši družbeni kontekst predmeta proučevanja diplomskega dela. Dalje smo v metodološkem delu pojasnjevali pomembnost proučevanja sprememb v evropski varnostni arhitekturi in razloge za ESDP. Poleg metodološkega dela, kjer smo podali metode proučevanja relevantnih virov za oblikovanje te študije, smo opredelili izhodiščne opredelitve, ki jih bomo skušali predstaviti.

V tretjem sklopu smo prikazali začetke in pot razvoja CFSP, katere del je ključnega pomena ESDP. S tem dokaj obsežnim poglavjem smo ustvarili zaokroženo celoto razvoja evropske obrambne in varnostne identitete od evropskega političnega sodelovanja, drugega stebra EU in zasnove oblikovanja ESDP.

V četrtem poglavju pa smo se osredotočili na samo oblikovanje ESDP, ki je svojo današnjo formo dobivala od zasedanja Evropskega sveta v Kölnu do vrhunskega srečanja v Nici. Proučili smo institucionalno ureditev ESDP in strukturo odločanja na področju varnostnih in obrambnih zadev znotraj EU. V tem delu analiziramo tudi vojaške zmogljivosti, ki so jih ponudile države članice EU za oblikovanje evropske sile za hitro posredovanje (ERRF). Z empiričnim pristopom smo predstavili obrambne proračune evropskih držav članic zveze NATO in odstotek BDP, ki ga evropske države, članice zveze NATO, in ZDA namenjajo za vojaške izdatke.

V petem sklopu predstavljamo kompleksne odnose med zvezo NATO in EU, izključno na področju skupne varnostne in obrambne politike. Predstavili in analizirali smo težave, s katerimi se spoprijema EU glede sodelovanja evropskih držav članic zveze NATO, ki pa niso članice EU, in dileme nevtralnih držav članic EU pri sodelovanju na področju varnostnih in obrambnih zadev.

V sklepu smo povzeli vsebino diplomskega dela in ugotovili, ali smo potrdili izhodiščne misli našega proučevanja ESDP. Naknadno bomo predstavili tudi naša predvidevanja o prihodnosti ESDP v okviru zagotavljanja evropske varnosti in stabilnosti.

Primarne in sekundarne pisne vire, ki smo jih uporabili in so bili podlaga za pisanje diplomskega dela, navajamo v sklopu literature. V priloge pa smo vključili tabelarične in grafične podatke za jasnejšo predstavitev tehnološkega prepada med evropskimi državami članicami zveze NATO in ZDA ter ostale relevantne podatke.

2. 3 IZHODIŠČNE OPREDELITVE

Na podlagi družbenih premikov po koncu hladne vojne bomo preučili spremembe evropske obrambno-varnostne strukture, v okviru katerih bomo prikazali vzroke za oblikovanje ESDP. Z Maastrichtskim sporazumom, ki je vgradil varnostno dimenzijo v delovanje EU, so se odprla vprašanja o odločanju med državami članicami EU ter o položaju Zahodnoevropske unije (WEU) in o razmerju med EU in zvezo NATO. Zaradi tega se bomo v delu osredotočili predvsem na temeljne razsežnosti ESDP ter na probleme, s katerimi se bo oziroma se že srečuje EU pri prevzemanju nalog na tem področju.

1. Skupna zunanja in varnostna politika je bila vgrajena v strukturo EU kot njen "drugi steber", ko je stopil v veljavo Maastrichtski sporazum iz l. 1992. Namen tvorcev tega sporazuma je bil okrepiti in prilagoditi novim družbenim razmeram usklajeno delovanje članic EU v svetovni politiki. Podlaga za to je bila podana že v enotni Evropski listini l. 1986. V spremenjenih geopolitičnih in družbenih razmerah po koncu hladne vojne bi lahko igrala EU osrednjo vlogo v novem evropskem varnostnem sistemu, saj se države članice zavedajo, da bi morala EU prevzeti večjo odgovornost za varnost in stabilnost v Evropi. Kljub temu pa je primer dogajanj v državah bivše Jugoslavije dokazal, da gospodarska in politična moč EU ne zadostujeta za odpravo kriznih razmer v posameznih delih evropske celine. Zato, da bi bila diplomacija EU učinkovita, jo je potrebno okrepiti s verodostojnimi vojaškimi sredstvi. Na podlagi tega je petnajsterica v Amsterdamu sklenila, da bo postopno oblikovala in uveljavila skupno varnostno in obrambno politiko. Po odločitvah, ki so jih sprejele države članice na srečanjih Evropskega sveta v Kölnu, Helsinkih in Saint Malou (srečanje Francije in Velike Britanije), je pričela EU normativno oblikovati ESDP.
2. EU se je vse do maja 2001 osredotočila predvsem na oblikovanje normativne in institucionalne podlage ESDP. V ta namen so ustanovili odbore in druge organe za politično in strateško usklajevanje (Politični in varnostni odbor, Vojaški odbor, Vojaški štab, Urad generalnega sekretarja oziroma Svet visokega predstavnika za zunanjo in varnostno politiko, itn.). Poleg tega je prišlo do odprave WEU kot posebne mednarodne organizacije, njene "Petersberške naloge" in njihovo izvajanje pa je v celoti prevzela EU. Te naloge narekujejo vzpostavitev vojaških zmogljivosti, s katerimi bi lahko EU posredovala na tistih evropskih kriznih žariščih, kjer zveza NATO kot celota ne bi delovala. Na vrhu v Helsinkih l. 1999 so se države članice EU dogovorile, da bodo do l. 2003 oblikovale evropske sile za hitro posredovanje, ki bodo imele do 60.000 pripadnikov. Za izpolnitev dogovora bodo morale države članice EU povečati obrambne izdatke, kar pa je težko uresničljivo z ozirom na trend krčenja nacionalnih obrambnih proračunov. Poleg tega so mehanizmi odločanja zelo zapleteni. Pri izvajanju ESDP naj bi poleg držav članic EU sodelovale še evropske članice zveze NATO, ki niso članice EU (Turčija in Norveška ter Poljska, Češka Republika in Madžarska), kakor tudi kandidatke iz centralne in vzhodne Evrope. Lahko pa se zgodi, da se bosta EU in NATO zapletli v večletna prerekanja glede pristojnosti, medtem ko se bodo morebitne krizne razmere poslabšale in razširile.

3. Dosledno izvajanje ESDP naj bi pripomoglo k krepitvi varnosti na naši celini in njeni neposredni sosesčini. Predvidevamo pa, da se bo ESDP s težavo uveljavila zaradi ozkih lastnih interesov držav članic in zapletenosti postopkov sprejemanja odločitev. Navzlic temu pa pričakujemo, da bo ESDP po nekaj letih zaživela in bo uspešno delovala pri preprečevanju oboroženih spopadov in pokonfliktnem urejanju razmer na evropski celini. Za učinkovito opravljanje teh nalog bo potrebno zastaviti strukture odločanja in urediti sodelovanje z zvezo NATO.

2. 4 METODE PROUČEVANJA

Spremembe, ki so po koncu hladne vojne vplivale na preoblikovanje evropske varnostne arhitekture, so večdimenzionalne in jih bomo obravnavali interdisciplinarno, kar pomeni, da bomo uporabili znanje iz vsebin obramboslovja, politologije, mednarodnih odnosov, varnostnih študij, zgodovine in drugih družboslovnih ved.

Še enkrat moramo poudariti, da je predmet proučevanja še razvijajoči se koncept in zaradi tega smo razvoj ESDP opisali in analizirali samo do konca meseca maja 2001. Tako bomo proučili določeno obdobje razvoja tega relevantnega koncepta, navzlic temu pa bomo zaključke podali za prihodnost in predvidevali kakšen učinek bo ESDP imela na evropsko varnost. Glede na to, da smo dosledno in kronološko spremljali oblikovanje ESDP in dinamiko odnosov med EU in zvezo NATO, smo se opirali tudi na dnevna poročanja uglednih novinarjev in dnevnikov (npr. International Herald Tribune, Financial Times, Washington Post, Sobotna priloga itn.) ter na najnovejše kompetentne pisne vire. Za tako rekoč "vsakodnevno" spremljanje dogodkov smo se posluževali medmrežja, kjer smo izbirali predvsem verodostojne internetne strani različnih mednarodnih institucij, strokovnih periodičnih revij in zbornikov, članke strokovnjakov s področja predmeta tega proučevanja (npr. Chailot Papers, NATO Review, RAND, NUPI, idr.).

Temeljni pristop, ki smo ga uporabili pri izdelavi diplomskega dela, je bila metoda analize, temelječa na podatkih iz primarnih in sekundarnih pisnih virov. Pri posredovanju izhodiščnih misli, podanih v prejšnjem podpoglavju, smo uporabili metode sinteze za analizo relevantnih podatkov iz primarnih in sekundarnih pisnih virov. Predmet proučevanja v diplomskem delu zahteva tudi uporabo kronološkega pristopa, ki smo ga upoštevali predvsem v tretjem in četrtem poglavju, kjer bomo predstavili spremembe in

določila na področju ESDP na srečanjih Sveta EU. Z metodo kompilacije¹ bomo dokazovali trditve in podkrepili lastna stališča. Naknadno bomo uporabili tudi primerjalno metodo, kjer bomo primerjali empirične podatke o obrambnih proračunih, ki jih namenjajo države članice EU in zveze NATO, ter koliko odstotkov BDP evropske države članice zveze NATO namenjajo za vojaške izdatke.

2. 5 OPREDELITEV TEMELJNIH POJMOV

Nacionalna varnost je varnost državnega naroda. *"Njena vsebina zajema: ohranitev nacionalnega ozemlja (vključno zračni prostor in ozemeljske vode), zaščito življenja ljudi in njihove lastnine, utrditev mednarodnega statusa države ter ohranitev nacionalne suverenosti"* (Grizold 1998: 3). Nacionalna varnost se zagotavlja vsem članom družbe pred notranjimi viri ogrožanja (gospodarskimi, socialnimi, kulturnimi, političnimi, ekološkimi, vojaško-obrambnimi idr.) in zunanjimi viri ogrožanja (napadi, okupacija, blokada, idr.). Anton Grizold (1999: 3) ugotavlja, da je sodobna nacionalna varnost vpletena tudi v širše mednarodno okolje, kjer odgovornost za zagotavljanje varnosti ni zgolj domena držav in njihovih zvez, ampak vse bolj tudi področje globalnega mednarodnega sistema. Tako mednarodna varnost ni samo seštevek posameznih nacionalnih varnosti, ampak je celota ukrepov, norm, vrednot, ki se uresničujejo skozi skupno sprejete mednarodne mehanizme in instrumente, ki zagotavljajo obstoj in razvoj vseh držav na ravni mednarodnega sistema.

Zunanja politika je del državne politike, ki določa odnose z drugimi državami in z mednarodno skupnostjo. Koncept skupne zunanje in varnostne politike obsega diplomacijo, zavezništva, trgovanje itn. Širše pa zunanja politika zajema kompleksno naravo politike in povezave med njenimi posameznimi področji. Deutch (v Eliassen 1998: 2) opredeljuje zunanjo politiko kot prizadevanje vsake države za ohranitev lastne neodvisnosti in varnosti, naknadno pa vključuje še zaščito ekonomskih interesov. **Varnostna politika** pokriva še širše področje družbenega življenja kot zunanja politika. Tradicionalistična opredelitev varnostne politike se nanaša predvsem na preprečevanje zunanjih vojaških ogrožanj, vendar pa se je zaradi sprememb v družbenem in

¹ Z metodo kompilacije bomo povzemali stališča kompetentnih strokovnjakov z obravnavanega področja. Poleg tega bomo z metodo, na podlagi različnih stališč in mnenj, formirali nova spoznanja ter podkrepili lastna stališča in mnenja za katere se zavzemamo v tem delu.

mednarodnem okolju vsebina varnostne politike razširila tudi na sodobne vire ogrožanja nacionalne varnosti (glej pojem nacionalna varnost).

Skupna zunanja in varnostna politika (CFSP) EU deluje, po vstopu v veljavo Maastrichtskega sporazuma, kot drugi steber EU, ki zagotavlja institucionalni okvir za posvetovanje, oblikovanje skupnih stališč in skupnih akcij držav članic EU. Drugi steber je meddržavni in tako izključno v domeni držav članic EU in ne ustanov Skupnosti. Kljub temu je predvideno, da države članice EU pri vzpostavljanju politične unije lahko na določeni točki prenesejo pristojnosti in politiko iz drugega in tretjega stebra na ustanove unije (Ješovnik 2000: 31). Tako so v Pogodbi o EU (TEU) in v Amsterdamski pogodbi države članice EU opredelile temeljne cilje skupne vrednote, temeljne interese, neodvisnost in integriteto EU v skladu z načeli Ustanovne listine Združenih narodov:

- vseh pogledih varovati in krepiti varnost EU,
- ohraniti mir in krepiti mednarodno varnost v skladu z načeli Ustanovne listine Združenih narodov,
- spodbujati mednarodno sodelovanje,
- razvijati in utrjevati demokracijo, pravno državo ter spoštovati človekove pravice in temeljne svoboščine (Nugent 1999: 450).

V členu 12 TEU so se države članice sporazumele, da bodo našteje cilje dosegle z naslednjimi ukrepi:

- z jasnim definiranjem načel in glavnih smernic CFSP,
- z odločanjem o skupnih strategijah in s prevzemanjem skupnih ukrepov,
- s prevzemanjem skupnih stališč,
- s krepitvijo sistematičnega sodelovanja med državami članicami v vodenju CFSP (Nugent 1999: 450).

Pogodba o EU je v okviru CFSP predvidela tudi morebitno oblikovanje skupne obrambne politike, ki bi v prihodnosti lahko prerasla v skupno obrambo.

Evropska varnostna in obrambna identiteta (ESDI) je koncept okrepitve evropskega stebra znotraj zveze NATO in čezatlantske povezave. Na njeni podlagi se bodo ustanovile povezane in učinkovite sile za izvajanje vojaških operacij, ki jih bo vodila EU (SIPRI 2000, xxviii).

Evropska varnostna in obrambna politika (ESDP) je bila kot koncept sprejeta na srečanju Sveta EU junija 1. 1999 v Kölnu in dobila zagon decembra i. l. na vrhu v Helsinkih. V začetku meseca marca naslednjega leta so bili oblikovani tudi organi ESDP, med drugim tudi Politični in varnostni odbor EU. Poleg novih organov so je v okviru ESDP predvideno tudi oblikovanje evropskih sil za hitro posredovanje (ERRF) do l. 2003, ki naj bi štejele do 60.000 pripadnikov in naj bi bile za posredovanje pripravljene v 60-ih dneh delovale najmanj eno leto (SIPRI 2000, xxviii).

"Petersberške naloge" so l. 1992 sprejeli na srečanju Sveta WEU v Nemčiji. Na srečanju so se države članice WEU odločile za tvorno sodelovanje v humanitarnih, reševalnih, mirovniških operacijah in kriznem managementu z OSCE in OUN. Z Amsterdamsko pogodbo l. 1997 si je EU zagotovila dostop do zmogljivosti in sredstev za izvajanje "Petersberških nalog". Leta 1999 so na vrhu Evropskega sveta države članice EU v Kölnu sprejele odločitev, da se izvajanje "Peterberških nalog" prenese iz WEU na EU (SIPRI 2000, xxviii).

Skupne združene namenske sile (CJTF) so bile ustanovljene l. 1996 kot večnacionalne sile za podporo morebitnih vojaških operacij zveze NATO. Koncept o skupnih združenih namenskih silah je bil oblikovan zaradi prilagajanja strukture zavezništva novim evropskim varnostnim razmeram. CJTF zagotavljajo večjo fleksibilnost pri novih varnostnih izzivih, med katerimi je tudi izvajanje operacij, pri katerih bodo sodelovale države, ki niso članice zavezništva. Glavni cilj vzpostavitve takšnih sil je izboljšati zmogljivosti zveze NATO za hitro pripravo primernih večnacionalnih in večnamenskih vojaških sil za vsako vojaško operacijo posebej (NATO Handbook 1999: 70). CJTF so normativno oblikovane tako, da so "ločljive, ampak ne ločene" od ostalih sil in jih bo lahko v vojaških operacijah, v katerih ne bi sodelovala zveza NATO kot celota, vodila EU (NATO Handbook 1999: 76). Dejansko to pomeni, da bo EU morala v primeru krize, v kateri bi želela posredovati (zveza NATO pa ne), za izvajanje vojaške operacije (pod svojim nadzorom in strateško usmeritvijo) zaprositi zvezo NATO za uporabo njenih zmogljivosti. Za transfer sil in o pogojih njihove uporabe zveza NATO in EU podpišeta sporazum. Med samo operacijo se vzpostavi običajna politična povezava med obema organizacijama, obenem pa ima zveza NATO pravico do nadzora sredstev v uporabi EU. Pri pripravi na operacijo in tudi med samim potekom operacije se obe organizaciji skrbno posvetujeta (NATO Handbook 1999: 78).

"Evropa bi morala biti sposobna vzpostaviti svojo politično avtoriteto na mednarodnem prizorišču tako, da oblikuje resnično evropsko obrambo".

Jacques Chirac, 12. november 1998

III. ZAČETKI EVROPSKE VARNOSTNE IN OBRAMBNE IDENTITETE

Proces institucionalnega zagotavljanja mednarodne varnosti in s tem evropske varnosti ima globoke korenine². Razvoj njenih prvin lahko zasledimo po vestfalskem mirovnem kongresu l. 1648 in utrechtsem mirovnem kongresu. V tako oblikovanem vsestranskem evropskem sistemu so vodilne države uresničevale svoje interese v okviru ravnotežja moči. Sistem ravnotežja moči je doživel svoj dokončni polom v izbruhu prve svetovne vojne (Benko V Grizold 1999: 13). Po zmagi zaveznikov je v mednarodnih odnosih prišlo do novega vala sprememb. Najvidnejši izraz sprememb je bilo Društvo narodov – mednarodna organizacija, katere temeljni namen je bil ohranjati svetovni mir. Zaradi pomanjkanja politične volje glavnih akterjev v mednarodnih odnosih Društvo narodov tega plemenitega cilja ni izpolnilo, kar je botrovalo izbruhu resnih kriz in druge svetovne vojne.

Z zmago zaveznikov nad silami osi v drugi svetovni vojni so se močno spremenile razmere v mednarodnih odnosih in hkrati tudi geopolitična podoba Evrope. Neučinkovitost predvojnega sistema kolektivne varnosti je spodbudila nastanek novih mednarodnih organizacij v okviru sistema kolektivne obrambe (vojaško-političnih in obrambnih zvez). Nacionalna varnostna politika je v tem obdobju temeljila na nacionalni varnostni dilemi³,

² Že v srednjem veku so se porajale ideje o združenji Evropi, katere naloga bi bila tudi reševanje konfliktov. V knjigi Evropska unija avtor (Ješovnik 2000: 10-11) omenja vizionarski načrt grofa de Sullya (1559-1641). Sully je takratno Evropo razdelil na petnajst vodilnih držav, in sicer šest dednih monarhij (Francijo, Španijo, Anglijo, Dansko, Švedsko in Lombardijo), izvoljene monarhe (Poljska, Madžarska, Češka, Papeška država in nemško Sveto rimsko cesarstvo) ter republike (npr. Zveza italijanskih mest, Benetke, Švica in Belgija). Te države naj bi po Sullyevem mnenju morale voditi najvišje telo, imenovano Evropski svet, v katerem bi imele velike države članice po štiri, majhne pa po dva predstavnika. Na ta način je Sully postavil temelj sistemu ponderiranih glasov, ki še danes veljajo v Svetu EU. Članice Evropskega sveta bi imele po Sullyevem načrtu tri letni mandat in bi bil zadolžen tudi za reševanje konfliktov, vodil bi skupno politiko, verske in civilne zadeve ter usklajeval različne interese.

³ Koncept varnostne dileme je v 50-ih letih razvil John Hertz, ki je izhajal iz predpostavke, da je varnost dobrina, za katero države tekmujejo in jo dosegajo druga na račun druge. Tekmovanje za varnost med državami vodi do stanja, ko prizadevanja ene države za doseg njene absolutne varnosti sprožijo pri drugih državah občutek absolutne ogroženosti (Hertz v Grizold 1998: 5).

ki so jo države reševale z vojaškimi zavezništvi, z nevtralnostjo ali z neuvrščenostjo (Grizold 1998: 11).

V teh razmerah so dokaj veliko vlogo igrale evropske države, saj so poskušale oblikovati in vzpostaviti svojo lastno varnostno in obrambno komponento. Od l. 1948 – 1985 so evropske države predstavile različne iniciative za izgradnjo varnostne in obrambne dimenzije Evrope, ki pa jih niso uspešno realizirale. V tem procesu je bil 17. marca 1948 podpisan prvi pomembni dokument na področju varnosti in obrambe t. i. Bruseljska pogodba. Tako so države podpisnice (Belgija, Francija, Velika Britanija, Luksemburg in Nizozemska) Bruseljske pogodbe sklenile ustanoviti obrambno zavezništvo in Evropi dodati varnostno dimenzijo. Naknadno so podpisnice želele pridobiti k zavezništvu tudi ZDA, kar se je uresničilo s podpisom Severnoatlantskega sporazuma 4. aprila 1949, s katerim je bila ustanovljena zveza NATO, ki je zasenčila evropsko obrambno zavezništvo (Cahen 2001: 58).

3. 1 EVROPSKO POLITIČNO SODELOVANJE

Ideja o politični in gospodarski združitvi Evrope je bila prisotna skozi mnoga stoletja, vendar je svojo prvo priložnost za realizacijo dobila šele po drugi svetovni vojni. Zaradi potencialne grožnje Sovjetske zveze, še posebej po komunističnem prevzemu oblasti v Češkoslovaški, se je porodila ideja o evropskem obrambnem sodelovanju zahodnoevropskih držav. V tem obdobju sta Monnet in Schuman, očeta evropske ideje, zagovarjala idejo o združenih Evropi, ki bi zahtevala dejansko solidarnost med evropskimi narodi. Zavedala sta se, da je Evropo mogoče zgraditi samo po funkcionalni metodi in ne z ustavno metodo, ki bi evropskim državam zapovedala skupno ustavno federacijo. Funkcionalna metoda pri izgrajevanju združene Evrope od držav članic ni zahtevala, da se odpovejo svoji suverenosti v korist skupne evropske države, ampak da v prvi vrsti opustijo dogmo o nedeljivosti suverenosti in tako pristanejo na skupno upravljanje določenih področij s ciljem skupnega dobrega (Ješovnik 2000: 17). Prav zaradi tega razloga so se potem rodile skupne politike evropskih skupnosti.

Začetek evropskih integracijskih procesov nedvomno označuje ustanovitev Evropske skupnosti za premog in jeklo (ECSC) l. 1951 (podpisnice pogodbe so bile Belgija, Francija, Italija, Luksemburg, Nizozemska in Zahodna Nemčija). Ustanovitev ECSC je potrdila, da je politično enotnost v Evropi najlažje doseči s pomočjo uspešnega

gospodarskega zблиževanja. Monnet je menil, da morajo zahodnoevropske države gospodarsko sodelovanje nadgraditi še z vojaškim sodelovanjem. Zato je l. 1952 šest držav članic ECSC na predlog francoskega obrambnega ministra Reneja Plevena podpisalo pogodbo o Evropski obrambni skupnosti. Zaradi sodelovanja evropskih držav na obrambnem področju se je posledično pričelo tudi medsebojno politično sodelovanje. Italija je bila pobudnica za institucionalno sodelovanje držav članic Evropske obrambne skupnosti, rezultat tega je bila ustanovitev Evropskega političnega sodelovanja (EPC) l. 1953, ki naj bi temeljila na pogodbi o ECSC (Eliassen 1998:3). Vendar pa institucionalna integracija Evropske obrambne skupnosti ni uspela, ker je francoska skupščina l. 1954 zavrnila⁴ ratifikacijo pogodbe o ECSC. To je odprlo pot gospodarski integraciji zahodnoevropskih držav in je politično integracijo za nekaj časa postavilo na stranski tir. Ker projekt Evropske obrambne skupnosti, ki naj bi med drugim zagotovil tudi povezavo zahodnonemške vojske (Bundeswehr) z zvezo NATO, ni uspel so ta cilj skušali doseči s preoblikovanjem Bruseljske pogodbe v septembru 1954. Tako je Zahodna Nemčija postala članica Zahodnoevropske unije (WEU). Ustanovitelji so želeli z WEU postaviti temelje za razvoj evropske obrambne dimenzije, ki pa bi bila bolj skromna kot Evropska obrambna skupnost (Cahen 2001: 59). Neglede na prvotni zagon je zveza NATO zasenčila ta prizadevanja tako, da so WEU prepustili le nepomembne in rutinske naloge.

Čeprav je Francija prvotno nasprotovala oblikovanju Evropske obrambne skupnosti na nadnacionalni ravni, je pristala na politično sodelovanje med evropskimi državami, vendar na medvladni ravni in to na področju zunanje in varnostne politike. Vendar je z ustanovitvijo Evropskih skupnosti (EC) sodelovanje evropskih držav na področju zunanje in varnostne politike bilo še vedno prepuščeno posameznim državam in EC ni imela nobenih pristojnosti na tem področju. Države članice so ji prepustile funkcijo izvajanja zunanjih odnosov na področju gospodarstva s tretjimi državami. Kljub temu, da obstaja relevantna povezava med gospodarstvom in zunanjo politiko, EC ni predvidela institucionalnega okvirja v katerem bi analizirali te odnose do tretjih držav. Ravno tako v EC ni bilo ustanovljenega nobenega glavnega organa, ki bi preverjal ali so sporazumi držav članic EC s tretjimi državami konsistentni ali vsaj v soglasju s skupnimi odločitvami EC. Posledica neinstitucionalnosti in nadzora je bilo spodkopavanje verodostojnosti in

⁴ Francoska skupščina ni sprejela pogodbe o ECSC in posledično ni soglašala z ustanovitvijo Evropske obrambne skupnosti zaradi zgodovinskega ozadja, saj ni želela podrediti francoskih oboroženih sil tujemu poveljstvu. Francoska skupščina ni potrdila pogodbe tudi zaradi nasprotovanja ponovnem oboroževanju Zahodne Nemčije.

povezanosti EC, ker so države članice sklepale bilateralne sporazume s tretjimi državami (Regelsberger v Eliassen 1998: 3).

Na podlagi negativnih izkušenj so države članice EC l. 1970 začrtale osnovne smernice za Evropsko politično sodelovanje (EPC). EPC je bilo v okviru EC institucionalizirano l. 1970 s t. i. Davignonovim sporazumom, ki je predvideval polletna srečanja zunanjih ministrov z namenom usklajevanja zunanje politike držav članic EPC (Ješovnik 200: 28). Politično sodelovanje se je nanašalo na večje skupno razumevanje mednarodnih odnosov s pomočjo izmenjave informacij in rednih posvetovanj med državami članicami, na večjo solidarnost prek harmonizacije različnih stališč in pogledov ter na skupno delovanje (Vanhoonacker 1992: 28). Neglede na številne sprejete deklaracije in odločitve, ki naj bi nakazovale večjo politično enotnost, države članice EC v sedemdesetih letih niso uspele v celoti integrirati EPC v EC. Naftna kriza l. 1973 je odločilno vplivala na razvoj EPC, saj je EC sodelovala v političnem dialogu za razrešitev gospodarske krize, v katerem ni bilo ločevanja med političnimi in gospodarskimi interesi. Zunanji ministri (Belgije, Danske, Francije, Nemčije, Irske, Italije, Luksemburga, Nizozemske in Velike Britanije) so v dokument o evropski identiteti istega leta vključili tudi spoznanje, da so zunanji in varnostni vidiki pomembni za ustanovitev Združene Evrope. Z l. 1974 je bila vloga političnega usklajevanja prenesena na Evropski svet, ki je bil ustanovljen l. 1973. Naknadno je Leo Tindemans v poročilu l. 1975 zaključil, da Združena Evropa ne bo popolna, dokler ne bo v okviru skupne zunanje in varnostne politike vsebovala tudi skupno obrambno politiko (Cahen 2001: 59). Ideje o vzpostavitvi evropskega stebra z varnostno in obrambno politiko je zagovarjal tudi ameriški predsednik Kennedy, te ideje so prodrle tudi v zvezo NATO, ki pa ponovno niso bile uresničene. Evropsko politično sodelovanje se je tako postopno okrepilo in že l. 1980 je bilo mogoče sprejeti politične odločitve, kot npr. Beneško deklaracijo, s katero so države članice priznale pravico do ustanovitve Palestinske domovine. S podpisom enotne Evropske listine l. 1986 so države članice Evropski parlament povezale z EPC in predlagale izboljšanje institucionalnega in političnega sodelovanja z umestitvijo varnostne in zunanje politike v institucionalno strukturo EC (Eliassen 1998: 4). Po podpisu Enotne evropske listine so se države članice EC obvezale, da se bodo medsebojno obveščale in sodelovale pri vseh zunanjepolitičnih vprašanjih. Odločanje v okviru EPC je potekalo na medvladni ravni z večinskim odločanjem o nekaterih področjih, najvišjo pristojnost pa je imel Evropski svet in Svet zunanjih ministrov. Prvič so države članice EC ustanovile tudi Stalni sekretariat političnega sodelovanja s sedežem v Bruslju, na katerem so predstavniki držav razpravljali

o varnostni politiki ter o gospodarskem in tehnološkem vidiku obrambe. Odprta in odkrita razpravljanja o varnostnih in obrambnih zadevah so vključevala tako gospodarske kot politične vidike delovanj držav članic. Z razširitvijo članstva EPC iz šestih držav članic na dvanajst, se je obseg varnostnih vprašanj in vsebin razširil (Sjøvaag 1998: 23). Cilj EPC je bilo sodelovanje in povezanost na gospodarskem področju, ki naj bi postopoma privedlo do povezovanja in integracije držav članic na političnem področju. Vendar za politično sodelovanje in implementacijo skupne varnostne politike ni bilo razvitih primernih instrumentov in EPC je tako ostal sistem za medvladno soglasno odločanje o zunanjih in varnostnih zadevah.

S padcem Berlinskega zidu, s končanjem hladne vojne (propad komunističnih režimov v srednji in vzhodni Evropi; razpad Sovjetske zveze, Češkoslovaške in SFRJ; nastanek novih neodvisnih držav; združitev Nemčije itn.) ter geopolitične in korenite družbene spremembe so vplivali na razvoj skupne politike na področju zunanjih odnosov in varnosti, saj je bila nujna za institucionalno stabilnost in aktivno sodelovanje držav članic EC. Tako so na podlagi nemško-francoske pobude l. 1990 poslali predsedstvu EU pobudo za vzpostavitev skupne zunanje in varnostne politike v okviru združene Evrope.

Vprašanje skupne zunanje in varnostne politike so države članice obravnavale na zasedanju EPC v Rimu decembra 1990 in na medvladni konferenci o denarni uniji in na konferenci o politični uniji l. 1991. Tokrat je Svet ministrov oziroma Svet EU predlagal, da se institucionalizira EPC in se vključi v strukturo EC. Na tej konferenci so države prvič razpravljale o tripartitni institucionalni ureditvi s tremi različnimi stebri in z različnimi načini odločanja v okviru posameznih stebrov (Eliassen 1998: 4). Leta 1992 so države članice podpisale Maastrichtski sporazum, t. i. Pogodbo o Evropski uniji. V Maastrichtski sporazum so vključili tudi določila o skupni zunanji in varnostni politiki EU, ki so temelj in podlaga za oblikovanje tudi skupne varnostne in obrambne politike EU.

3. 1 POGODBA O EVROPSKI UNIJI

Pogodba o Evropski uniji (TEU), ki so jo podpisale države članice EC v Maastrichtu, je stopila v veljavo l. 1993. Države članice EC so jo sklenile v obdobju korenitega spreminjanja Evrope: železna zavesa med Zahodno in Vzhodno Evropo je izginila, Nemčija se je ponovno združila, v SFRJ se je pričel proces razpada in kot posledica oboroženi spopadi in v mednarodnem okolju se je pričela Zalivska vojna. Tako TEU poleg tega, da nadaljuje pot, ki jo je že začrtala Enotna evropska listina, prvič preseže

gospodarski značaj integracije, saj so se države članice EC odločile, da bodo pripravile izhodišča za enotni evropski nastop v svetovni politiki. Temeljni cilj TEU je bil nadgraditi enotni evropski trg sprva s popolno gospodarsko in potem še s politično unijo, ki bi zajemala tudi varnostno in obrambno razsežnost, prek katere bi EU lažje prispevala k stabilnosti v Evropi.

Zato poleg sprememb in dopolnitev na področju ekonomske in monetarne unije Maastrichtski sporazum oziroma t. i. Pogodba o Evropski uniji (TEU) v členu 12 V. poglavja vsebuje tudi določila o skupni zunanji in varnostni politiki. S tem sporazumom se je normativno oblikovala današnja struktura EU, ki jo tako družno tvorijo trije glavni stebri: 1) evropska skupnost; 2) skupna zunanja in varnostna politika in 3) sodstvo in notranje zadeve. Med temi se bomo osredotočili na drugi steber normativne strukture EU, katere cilje opredeljuje TEU v 2. odstavku člena J. 1:

- varovanje skupnih vrednot, temeljnih interesov, neodvisnosti in integritete EU v skladu z načeli Ustanovne listine Združenih narodov,
- krepitev varnosti EU in njenih držav članic,
- ohranitev miru in krepitev mednarodne varnosti v skladu z načeli Ustanovne listine Združenih narodov ter načeli Helsinškega zaključnega akta ter v skladu s Pariško listino,
- pospeševanje mednarodnega sodelovanja ter
- razvijanje in utrjevanje demokracije ter krepitev pravne države ob spoštovanju človekovih pravic in temeljnih svoboščin (Hochleitner 2000: 4).

Deklarirane cilje naj bi v okviru skupne zunanje in varnostne politike EU dosegla:

- z jasnim definiranjem načel in glavnih smernic skupne zunanje in varnostne politike,
- z odločanjem o skupnih strategijah in s prevzemanjem skupnih ukrepov,
- s prevzemanjem skupnih stališč,
- s krepitvijo sistematičnega sodelovanja med državami članicami v vodenju CFSP (Nugent 1999: 450).

3. 1. 1 Mehanizmi varnostnopolitičnega sodelovanja in instrumenti CFSP

TEU med obveznostmi splošne narave navaja tudi dogovor, da bodo države članice skupnosti v lojalnem duhu in medsebojni solidarnosti dejavno in brez pridržkov podprle CFSP. Njihova podpora naj bi se odražala v odrekanju vsakršnim dejanjem, ki bi

nasprotovala interesom Unije, oziroma ogrožala njeno kohezivno moč v mednarodni skupnosti⁵. Članice EU so s sprejemom TEU prevzele tudi koordinacijo svojega delovanja v mednarodnih organizacijah in na mednarodnih konferencah, kjer morajo podpirati skupna stališča na področju CFSP. Podpora stališč, ki jih na področju CFSP oblikuje Svet EU⁶, sodi med obveznosti posameznih držav članic EU tudi v primerih, ko na mednarodnih konferencah niso zastopane vse države članice EU (Arah 1995: 343-344).

Pomembno novost v stopnji zavezanosti, ki so jo na področju CFSP sprejele podpisnice TEU, predstavljajo akti skupnih akcij, ki obvezujejo države članice tako glede sprejemanja stališč kot glede vodenja njihove nacionalne politike. Na podlagi tega TEU predvideva dolžnost obveščanja o sprejemanju nacionalnih stališč, ki posegajo v sprejete akte o skupnem delovanju, in to v roku, ki po potrebi omogoča posvetovanje v okviru Sveta EU.

Izvajanje CFSP poteka na enak način kot vse ostale politike EU, vendar s spremenjenimi razmerji moči med Svetom EU, Komisijo in Evropskim parlamentom. Tako kot na ostalih ključnih področjih delovanja EU Komisija EU sodeluje kot strokovni organ pri normativnem oblikovanju in izvajanju CFSP, vendar nima izključne pravice predložiti

⁵ Spoštovanje tega načela naj bi po določilih TEU zagotavljal Svet EU. Poleg tega ima na področju CFSP Svet EU dolžnost definirati skupna stališča, države članice EU pa morajo zagotoviti skladnost svojih nacionalnih politik s skupnimi stališči EU.

⁶ Po Hochleitnerju (2000: 6-7) pri oblikovanju skupne zunanje in varnostne politike sodelujejo naslednje organe EU: Svet EU, ki v okviru CFSP poseduje najvišjo pristojnost, saj določa načela, smernice, odloča o skupnih akcijah in sprejema vse glavne odločitve; Svet za splošne zadeve (katerega zastopajo zunanji ministri) izraža in izvršuje CFSP na podlagi splošnih smernic Sveta EU; COREPER ali Odbor stalnih predstavnikov pripravlja postopke s področja CFSP za Svet za splošne zadeve; Politični odbor nadzoruje mednarodne razmere in sooblikuje CFSP s posredovanjem mnenj in pobud Svetu EU; Delovne skupine (30) se ukvarjajo s posameznimi področji zunanje politike kot so: načrtovanje, varnost, ipd. ali pa pokrivajo določeno geografsko področje kot npr. Centralna Evropa, Ruska Federacija, Latinska Amerika, Bližnji vzhod, Severna Afrika, itn.; Predsedstvo EU je odgovorno za izvajanje odločitev na področju CFSP in predstavlja stališča EU v zadevah CFSP v mednarodnih organizacijah in na mednarodnih konferencah, njegova naloga je tudi obveščanje Evropskega parlamenta; Komisija mora biti v skladu s TEU seznanjena z delovanjem na področju CFSP, zaradi zagotavljanja doslednosti CFSP z zunanjimi ekonomskimi odnosi, poleg tega o CFSP obvešča Evropski parlament; Predsednik komisije se pridruži predstavnikom držav članic v Svetu EU, kjer tako kot države članice predstavi vsakršno zunanjo in varnostno problematiko in predlaga možne rešitve; Države članice EU so se obvezale, da bodo aktivno in brezpogojno podpirale izvajanje CFSP v duhu lojalnosti in solidarnosti. Vsaka država članica lahko Komisiji EU predstavi in predloži predloge o CFSP. Države članice zagotavljajo, da bodo njihove nacionalne politike usklajene s skupnimi stališči; Evropsko korenspondenčno omrežje povezuje, zgoraj našete organi, ki delujejo na področju CFSP v varovani sistem, ki omogoča izmenjavo sporočil in posvetovanje med posameznimi organi; Veleposlaništva držav članic EU so vsakodnevno obveščena o zadevah CFSP. Veleposlaniki držav članic se redno srečujejo in o pomembnih vsebinah oblikujejo skupno poročilo.

pobude na področju te politike. Pravico predlaganja pobud ima poleg Komisije EU tudi Predsedstvo EU, država članica EU in visoki predstavnik za CFSP. Naknadno komisija EU pomaga Predsedstvu EU pri predstavljanju in zastopanju EU pred mednarodnimi organizacijami ter na mednarodnih konferencah v vseh zadevah, ki sodijo v domeno CFSP. Predsedstvo EU je odgovorno za izvrševanje skupnih akcij in je v okviru svojih pristojnosti dolžno izražati stališče EU tako pred mednarodnimi organizacijami kot na mednarodnih konferencah (Hochleitner 2000: 5). Kadar se teh oblik mednarodnega sodelovanja ne udeležijo vse države članice EU, so udeleženske mednarodnih srečanj o zadevah skupnega pomena dolžne informirati ostale članice EU. Drugi odstavek 4. točke člena 1.5 TEU določa, da se države članice EU, ki so obenem tudi članice Varnostnega sveta UN zavežejo, da v tej mednarodni organizaciji usklajeno delujejo in o svojem delovanju v celoti obveščajo ostale države članice EU. Državi članici EU, ki sta hkrati stalni članici Varnostnega sveta OUN (Velika Britanija in Francija), pa sta z omenjenim določilom sprejeli tudi obveznost, da bosta pri izvrševanju svoje funkcije v Varnostnem svetu OUN uveljavljali stališča in interese EU tako, da to ne bo nasprotovalo njunim obveznostim po določenih Ustanovne listine OUN.

Evropski svet v skladu s TEU določa načela in temeljne smernice CFSP, na njihovi podlagi pa naj bi konkretne odločitve v zvezi z definiranjem in izvrševanjem politike CFSP sprejemal Svet EU, katerega delovanje naj bi zagotavljalo enotnost, konsistentnost in učinkovitost delovanja EU. Za sprejem odločitev v Svetu EU je načelno potrebno soglasje, izjema so proceduralna vprašanja, ter vprašanja, ki sodijo med zadeve, o katerih je mogoče odločiti s kvalificirano večino (2. točka člena J. 3 TEU). Načelo soglasnega načina sprejemanja odločitev je omiljeno s posebno deklaracijo o načinu glasovanja, ki govori o tem, da naj države članice pri sprejemanju tistih odločitev, za katere je potrebno soglasje, ne ovirajo njihovega sprejetja z odrekanjem svojega soglasja, če se zanj odloči kvalificirana večina držav članic. Države članice EU lahko potemtakem pravnoformalno sicer zavrnejo sprejem odločitve, za katero glasuje kvalificirana večina članic, vendar bi takšno njihovo ravnanje negativno politično odmevalo z vidika konsenza, izraženega z omenjeno deklaracijo. Način glasovanja pri sprejemanju odločitev s področja CFSP si je mogoče razlagati kot kompromisno rešitev med načelom kvalificirane večine – kot simbola nadvladnega - in soglasnim načinom odločanja – kot simbola medvladnega odločanja (Arah 1995: 348). Takšna rešitev z vidika bojzani pred pretiranimi posegi v suverenost posameznih držav članic ni presenetljiva, saj izkušnje iz razvoja skupnosti namreč potrjujejo sklepanje, da se vsaka rešitev, ki ne temelji na zaupanju protagonistk v doseženo

stopnjo integracijskega procesa, dokončno sprevrže v lastno nasprotje.

V postopek oblikovanja CFSP se vključuje tudi Evropski parlament, čeprav s pooblastili, ki njegovo vlogo omejujejo na raven posvetovalnega organa EU. Čeprav naj bi predsedstvo in komisija o dosežkih na področju CFSP Evropski parlament redno informirala, ta predstavnikiški organ lahko (tako kot komisija ali katerakoli država članica) kadarkoli naslovi na Svet EU vprašanja s področja CFSP, oziroma mu posreduje ustrezna priporočila. Na tej podlagi 1. točka člena J. 7 TEU zagotavlja, da se predsedstvo posvetuje z Evropskim parlamentom o glavnih vidikih in temeljnih smernic CFSP in zagotavlja pravočasno upoštevanje njegovih stališč in predlogov (Arah 1995: 349).

3. 1. 2 Varnostna in obrambna dimenzija

TEU predvideva nadgradnjo CFSP, v katero bi postopno vključili vsa vprašanja o varnostni problematiki, vključno z možnostjo oblikovanja skupne obrambe. V tem smislu 2. točka člena J. 4 TEU opredeljuje WEU⁷ kot integralni del EU, ki kot operativno telo pripravlja odločitve in izvaja akcije, ki se nanašajo na obrambo Skupnosti. Odločitve o izvedbenih ukrepih za uresničevanje teh nalog naj bi v sporazumu z organi WEU sprejemal Svet EU. Vprašanja obrambne narave je mogoče obravnavati le po metodi sistematičnega sodelovanja držav članic EU in z usklajevanjem nacionalnih akcij s sprejetimi skupnimi stališči (Hochleitner 2000: 5). Takšna rešitev odraža raznolikost organiziranosti in vključenosti posameznih držav članic EU v varnostne in obrambne organizacije. Tako izhaja iz 4. točke člena J. 4 TEU jamstvo, da varnostna politika EU ne prejudicira posebne narave obrambnih politik posameznih držav članic EU, niti njihovih obveznosti, sprejetih v okviru Severnoatlantskega sporazuma. S takšnimi omejitvenimi določili je zagotovljena kompatibilnost CFSP s politiko zveze NATO. V skladu z določili oblikovana obrambna politika, bodisi WEU bodisi zveze NATO, naj ne bi ovirala tesnejšega sodelovanja držav na bilateralni ravni.

TEU je WEU deklarirala kot integralni del EU za izvrševanje CFSP, vendar pa je WEU tako pravno kot po pristojnostih, organiziranosti in glede članstva, mednarodna organizacija, ki deluje neodvisno od EU. Zato so PEU priložili tudi deklaracijo o vlogi WEU in njenih odnosih z EU in zvezo NATO. V deklaraciji so države članice WEU (vse

⁷ V diplomskem delu se ne bomo podali zgodovinskega pregleda ustanovitve Zahodnoevropske unije (WEU) l. 1948, temveč na njeno evolucijo po sprejemu TEU l. 1991 in v okviru CFSP EU do meseca maja l. 2001.

države članice EU, razen Danske, Grčije in Irske) izjavile, da se zavedajo potrebe po oblikovanju evropske varnostne in obrambne identitete ter hkrati večje odgovornosti na obrambnem področju (Van Eekelen 1998: 345). Proces graditve obrambne in varnostne identitete naj bi potekal postopoma, tako kot integracija WEU v EU, ter z večjo solidarnostjo v okviru zveze NATO. Za doseg postavljenih ciljev je EU oblikovala ESDP in začela izvajati konkretne naloge za razvoj nove vloge. Na zahtevo EU je v ta namen WEU pripravila odločitve in izpeljala akcije na področju obrambe, še prej pa vzpostavila tesne delovne stike z organi EU, ki naj bi rabili za:

- usklajevanje srečanj v okviru EU,
- vzpostavljanje tesnega sodelovanja med Svetom EU in generalnim sekretarjem WEU na eni strani, ter Svetom EU in generalnim sekretariatom WEU na drugi strani,
- usklajevanje in določanje sosledja in trajanja obdobja predsedovanja v obeh organizacijah,
- pripravo ustreznih metod za zagotavljanje rednega obveščanja Komisije EU, ki ima posvetovalno vlogo, o dejavnostih WEU,
- krepitev tesnejšega sodelovanja med skupščino WEU in Evropskim parlamentom (Arah 1995: 346).

Zamisel o WEU kot o evropskem stebru Atlantske zveze temelji na pripravljenosti WEU za nadaljnje razvijanje tesnih povezav s to organizacijo, zlasti v dogledu krepitev njene lastne vloge in odgovornosti, ter glede prispevka držav članic WEU k uresničevanju ciljev v okviru zveze. Vlogo WEU je mogoče realizirati samo na podlagi transparentnosti in usklajenosti delovanja obeh organizacij v procesu evropske varnostne in obrambne identitete, zato se je WEU z deklaracijo o odnosih med EU in zvezo NATO med drugim zavezala delovati v skladu s stališči, sprejetimi v Atlantski zvezi (Arah 1995: 346). Večjo skladnost stališč med obema organizacijama zagotavlja usklajevanje datumov in delovnih metod skupnih srečanj, poleg tega deklaracija v procesu odločanja namenja velik pomen posebnemu posvetovalnemu forumu s predstavitvijo, dalje soočanju in sporazumevanju o politiki varnosti in obrambe. Sicer pa naj bi tesni delovni stiki povezovali tudi delovanje generalnih sekretariatov obeh organizacij.

Za izvrševanje operativnih nalog deklaracija predvideva okrepitev WEU, med drugim na področju usklajenega vojaškega sodelovanja z zvezo NATO na področju logistike, transporta, usposabljanja in strateškega nadzorovanja, poleg formiranja vojaških enot, odgovornih WEU. Ob predlogih za izboljšanje omenjenih področij delovanja WEU

oziroma njegovega sodelovanja z zvezo NATO, so deležni posebnega preučevanja tudi predlogi s področja oboroževanja (vključno z ustanovitvijo Evropske oboroževalne agencije) ter transformacije Inštituta WEU v Akademijo za evropsko varnost in obrambo. Deklaracija o odnosih z EU in zvezo NATO ne izraža pogledov in stališč vseh držav članic EU na razvoj sodelovanja med WEU in EU, ki niso obenem njene članice. Zaradi tega so države članice WEU na države članice EU naslovile priporočilo za oblikovanje medsebojnega sodelovanja bodisi v obliki statusa opazovalk bodisi s pridobitvijo statusa polnopravnih članic v WEU. Spoznanje, da bo WEU morala v prihodnosti sprejeti znatno večje breme odgovornosti za evropsko varnost in obrambo, je botrovalo pozivu, da naj države članice EU v prvi vrsti vstopijo v članstvo WEU v skladu s členom XI Bruseljske pogodbe, podrejeno pa naj se odločijo za pridobitev statusa opazovalk. V luči koncepta evropske varnosti in obrambe pa vabi k sodelovanju tudi evropske članice zveze, ki niso obenem članice EU, a naj bi jim status pridruženih članic omogočal popolno vključitev v dejavnosti WEU (Arah 1995: 347).

3. 1. 3 Revizija skupne in zunanje varnostne politike l. 1996/97

Države članice EU so na vrhunskem srečanju l. 1996/97 opravile revizijo CFSP, prek katere so odkrile številne pomanjkljivosti in ena izmed njih je bilo deklarativno delovanje CFSP in značilnosti njenega evropskega političnega sodelovanja. Dalje, CFSP ni imela predvidenega neodvisnega načrtovanja, ocen zmogljivosti in je bilo njeno delovanje velikokrat pretrgano in neredno. Konflikti v nekdanji Jugoslaviji so dokazali, da je za učinkovito diplomacijo EU potrebno oblikovati vojaška sredstva, ki pa naj ne bi izhajala samo iz WEU. Razmere v bivši Jugoslaviji so ponazorile, da v primeru, ko ena stran uporablja silo, sama finančna stimulacija druge strani, ni učinkovita in neuspešna za končanje konfliktov. Iz tega so države članice EU spoznale, da mora EU CFSP dosledno izvajati in kvalitativno nadgraditi z vojaškimi zmogljivostmi. V mednarodnih odnosih mora EU uporabljati svoje instrumente CFSP bolj učinkovito in kohezivno ter izkazovati močno politično voljo in vodenje.

Hochleitner (2000: 9) trdi, da EU v mednarodnih odnosih ne igra sorazmerne politične vloge, kot jo ima na gospodarskem. Kljub temu, države članice EU namenjajo več kot polovico vseh svetovnih denarnih sredstev za mednarodno razvojno humanitarno pomoč. Eno tretjino svetovne denarne pomoči namenja EU Bližnjemu vzhodu, polovico od tega za palestinski teritorij, skoraj 60 odstotkov pomoči gre Rusiji in nekdanjim

republikam Sovjetske zveze, 40 odstotkov pa obnovi Bosne in Hercegovine. K temu je potrebno dodati še sodelovanje držav članic EU v mednarodnih mirovnih silah ter v promoviranju sodelovanja, demokracije in človekovih pravic v mednarodni skupnosti.

3. 2 AMSTERDAMSKA POGODBA

Na mednarodni konferenci v Amsterdamu meseca oktobra l. 1997 so države članice EU sprejele novo pogodbo o EU. Poglavje, ki v prenovljeni pogodbi obravnava CFSP skupnosti, so države članice EU na podlagi revizije iz l. 1996/97 kakovostno preoblikovale nekatera področja.

Skladnost delovanja EU je po določitih Amsterdamske pogodbe zagotovljena z razširjenim sodelovanjem institucij in organov EU, poleg tega ima Svet EU nalogo zagotavljati enotnost in doslednost delovanja EU. Člen o solidarnosti držav članic EU je v pogodbi podkrepjena z naslednjim besedilom:

"The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations" (Consolidated Version of the Treaty on EU 1997: 15).

Evropski svet po Maastrichtskih določitih določa osnovne smernice CFSP, vključno na vojaškem področju. V Amsterdamski pogodbi pa so predvideli, da Svet EU na podlagi skupnih interesnih področij držav članic odloča o skupni strategiji EU. V okviru skupne strategije lahko Svet EU sprejema tudi odločitve in skupna stališča ter deluje na podlagi kvalificirane večine. V primeru, da kaka članica Sveta EU zaradi nacionalne politike nasprotuje eni od teh odločitev, se lahko pritoži Svetu EU, ki v tem primeru prevzame obliko prizivnega sodišča, in odločitev sprejme soglasno. Dalje ima Evropski svet pravico odločati o dveh glavnih vprašanjih: o pravici do odločanja o skupni obrambi EU in o pravici odločanja o integraciji WEU v EU. Sprejeto odločitev o zgornjih vprašanjih morajo nato ratificirati še posamezne države članice EU. Amsterdamska pogodba predvideva tudi nova instrumentalna orodja, prek katerih se izraža CFSP. Med

najpomembnejšimi orodji so skupne strategije⁸, skupne akcije⁹, sklenitev mednarodnih pogodb, deklaracije¹⁰, politični dialogi¹¹ in skupna stališča¹².

Ena izmed glavnih prednosti, ki jih je uvedla Amsterdamska pogodba na področju CFSP, je bilo sprejetje odločitve, da postane izvršni sekretar Sveta EU tudi visoki predstavnik za CFSP. Visoki predstavnik za CFSP pomaga Svetu EU pri oblikovanju in implementaciji političnih odločitev, kadar pa je potrebno, lahko deluje tudi v imenu Sveta EU in vodi politični dialog. Predsedstvo, visoki predstavnik za CFSP in član komisije za zunanjo politiko tvorijo t. i. "novo trojko". Poleg tega lahko država članica EU, ki bo prevzela predsedstvo, pomaga predsedstvu pri oblikovanju odločitev. Na srečanju na Dunaju l. 1998 so se države članice EU sporazumele, da mora biti visoki predstavnik CFSP "osebnost z močnim političnim ozadjem", kar so potrdili čez šest mesecev na vrhunskem zasedanju v Kölnu, ko so za visokega predstavnika za CFSP¹³ imenovali Javierja Solano Madariaga (Hochleitner 2000: 11).

Države članice EU so se v Amsterdamski pogodbi dotaknile tudi vprašanja, kako izboljšati postopke sprejemanja odločitev, saj je soglasno sprejemanje odločitev o skupnih odločitvah in skupnih akcijah na področju CFSP velika ovira, ker lahko ena država članica EU blokira sprejem odločitve. Tako so se države članice EU dogovorile, da bodo še vedno

⁸ Svet EU odloča o skupnih strategijah na posebnem interesnem področju na podlagi priporočila države članice. Vsaka sprejeta strategija ima definirane cilje, čas trajanja in sredstva, ki jih namenja Unija in države članice. Prvo skupno strategijo je svet sprejel v mesecu juniju l. 1999 v Kölnu in se je nanašala na Rusijo, v mesecu decembru t. l. o Ukrajini in v mesecu juniju l. 2000 o Mediteranski regiji (Common Strategies of the European Union: <http://ue.eu.int/pesc/default.asp?lang=en> 30.5.2001).

⁹ Svet EU v razmerah, ki zahtevajo operativno dejanje EU, sprejema skupne akcije. Vsaka skupna akcija ima opredeljene cilje, sredstva, pogoje izvajanja in obseg. V l. 1998 se je več kot polovica skupnih akcij nanašala na bivšo Jugoslavijo in Albanijo (Hochleitner 2000: 11).

¹⁰ Deklaracije javno izražajo stališča, prošnje ali pričakovanja EU do tretjih držav ali mednarodne teme. Z deklaracijami lahko EU zelo hitro odgovori na nenadne svetovne dogodke in izrazi mnenje EU (Hochleitner 2000: 11).

¹¹ EU vzdržuje stike z velikim številom tretjih držav ali skupin držav na podlagi političnega dialoga o mednarodni politiki. Politični dialog se odvija na ravni predsednikov, ministrov, politikov, uradnikov in strokovnjakov predvsem na področju človekovih pravic, demokracije ali humanitarnih operacij (Hochleitner 2000: 11).

¹² Svet EU lahko sprejme skupna stališča EU o določeni geografski ali tematski vsebini, o tretji državi ali mednarodni konferenci. Države članice EU zagotavljajo, da so njihove nacionalne politike usklajene s skupnimi stališči EU. Tako so 25. maja 1998 sprejeli Skupno stališče o človekovih pravicah, demokratičnih načelih, vladavino in vladavini prava v Afriki (Hochleitner 2000: 11).

¹³ Poleg visokega predstavnika za CFSP so imenovali tudi posebnega odposlanca za Bližnje Vzhodne mirovni sporazum (Miguel Ángel Moratinos), posebnega odposlanca za območje Afriških Velikih jezer (Aldo Ajello) in visokega predstavnika za Pakt stabilnosti za Jugovzhodno Evropo (Bodo Hombach) (Special Representatives: <http://ue.eu.int/pesc/default.asp?lang=en> 30.5.2001).

soglasno sprejemale odločitve na vojaškem in obrambnem področju, za vsa druga področja odločanja pa so predvidele dve spremembi, ki bi postopek poenostavile:

- Konstruktivno vzdržanje: ko se sprejeme odločitev, ima država članica EU pravico do vzdržanja, kar izrazi s formalno deklaracijo o vzdržanju. V tem primeru tej državi članici ni potrebno sprejeti odločitve, kljub temu, da je za EU obvezujoča.
- Kvalificirana večina: ta način sprejemanja odločitev so v Amsterdamski pogodbi razširili še na področje sprejemanja skupnih strategij, skupnih akcij in skupnih stališč EU. Odločitev, sprejeto s kvalificirano večino, lahko država članica zaradi nacionalnega interesa in nacionalne politike spodbija. S kvalificirano večino se lahko odločitev prenese na Svet EU, kjer jo le-ta sprejme soglasno, t. j. glasovanje s t. i. "podkrepljeno kvalificirano večino" (Hochleitner 2000: 12 - 13).

3. 2. 1 Določbe o skupni zunanji in varnostni politiki

Že na medvladni konferenci 1. 1996/97 so države članice EU obravnavale spremembe člena J. 4 TEU o CFSP in sicer: o oblikovanju ESDP brez ogrožanja zveze NATO; o prihodnosti WEU in njeno integracijo v EU; o polnem sodelovanju nečlanic EU pri CFSP; o delovanju EU v kriznih razmerah tudi z vojaškimi sredstvi... Povod za spremembe člena so bili oboroženi konflikti na področju nekdanje Jugoslavije, ki so destabilizirali sosednje države in vplivali na varnostne razmere in stabilnost EU. Države članice EU so ugotovile, da mora biti EU sposobna s svojimi lastnimi vojaškimi zmogljivostmi braniti skupne vrednote, temeljne interese, samostojnost in varnost. Poleg tega mora biti sposobna odgovoriti na večplastne grožnje, kot so npr. širjenje orožja za množično uničenje, nezakonita prodaja orožja, tihotapljenje radioaktivnega materiala, fundametalizem, ekstremizem, terorizem ...

Na tej podlagi je devet držav članic EU predlagalo načrt progresivne integracije WEU v EU, vključno s prenosom člena V¹⁴ Bruseljske pogodbe v novo pogodbo o EU, v obliki odprtega protokola za vse države članice, ki izpolnjujejo določene pogoje (npr. članstvo v zvezi NATO). Velika Britanija, Danska in štiri nevtralne države članice EU so temu načrtu na začetku nasprotovale. Navsezadnje so se države članice EU sporazumele,

¹⁴ Člen V Bruseljske pogodbe se v originalnem besedilu glasil: "*If any or the High Contracting Parties should be the object of an armed attack in Europe, the other High Contracting Parties will the provisions of Article 51 of the Charter of the United Nations, afford the Party so attacked all the military and other aid and assistance in their power*" (van Eekelen 1998: 336).

da WEU ob ohranitvi formalne samostojnosti dejansko postane podrejeni organ EU. Evropskemu svetu so podelile pravico do odločanja o smernicah WEU, nakar bo WEU izvajala operacije na podlagi mandata EU. Članice so soglasno sprejele odločitev, da politika EU ne bo v nasprotju s specifičnimi značilnostmi varnostne politike posameznih držav članic EU, da bo hkrati spoštovala obveznosti držav članic EU do zveze NATO in bo združljiva z ESDP. Petnajsterica se je dogovorila, da se Petersberške naloge WEU prenesejo v novo pogodbo o EU in s tem normativno postanejo tudi naloge EU (Hochleitner 2000: 13).

Rezultat pogajanj na področju ESDP se odraža tudi v novem členu 17 Amsterdamske pogodbe, ki so ga 22. julija 1998 z Bruseljsko deklaracijo formalno sprejele države članice WEU. Organi WEU so postali notranji organi EU, tako je Skupščina WEU postala notranji organ EU, in se preimenovala v Varnostno in obrambno skupščino EU, ki nadzoruje delovanje novih varnostnih in obrambnih organov EU na podlagi nacionalnih parlamentarnih stališč v okviru zasedanj 15 držav članic EU in 15 članic zveze NATO, ki niso članice EU, in držav kandidatk za vstop v EU (Behrendt 2001: 26). WEU tako ni sprejela samo političnega vodenja EU, temveč mora spoštovati tudi načela Amsterdamske pogodbe. Kljub temu, da nova TEU ni rešila vseh vprašanj, je postavila temelje za razvoj pristne ESDP (Consolidated Version of the Treaty on EU 1997: 17-18).

3. 2. 2 Normativni okvir varnostne in obrambne politike

Progresivno oblikovanje ESDP, v okviru CFSP je bila ena izmed najpomembnejših odločitev, ki so jih na vrhu v Amsterdamu sprejele države članice EU. V ESDP so prenesle tudi Petersberške naloge in neposredno vključile tudi druge funkcije obrambne politike. Na podlagi odločitve Evropskega sveta se lahko ESDP razvije tudi v skupno obrambo. Ravno tako je Evropski parlament vztrajal, da se teritorialna obramba neposredno vključi v besedilo pogodbe o EU, ker člen 11 opredeljuje varovanje "... samostojnosti in integriteto Unije" in tudi ohranitev "... zunanjih meja" (Tindermans Report... 1998: 16-18). Kljub temu pa TEU ne vključuje vzajemne obrambne garancije. Vendar se bo EU v tem procesu postopnega izgrajevanja ESDP soočila z občutljivostjo vsebine o vzajemni obrambni garanciji. Unija, ki zagovarja mir in solidarnost, ne sme izključiti solidarnosti v primeru ogrožanja ene izmed članic, saj je varnost nedeljiva dobrina in bo politična Unija brez skupne obrambe nepopolna.

Naknadno so v členu 17.2¹⁵ države članice EU v okviru o ESDP predvidele delovanje EU na področju kriznega managementa. Krizni management EU vsebuje humanitarne in reševalne naloge, mirovne operacije, naloge vojaških enot v mirovnih operacijah... S tem so se "Petersberške naloge" tudi dejansko prenesle na EU.

Države članice so se dogovorile, da mora WEU, kot integralni del EU, dovoliti EU dostop do operacijskih zmogljivosti za uspešno opravljanje Petersberških nalog. Evropski svet ima dolžnost določati tudi glavne smernice in naloge WEU. Vse države članice EU, tudi nečlanice WEU, imajo pravico do polnega in enakovrednega sodelovanja pri načrtovanju in izvajanju "Petersberških nalog" v okviru EU. Predpise so države članice WEU sprejele 22. julija 1989 s podpisom Bruseljske deklaracije, s katerim je WEU postala podrejen organ EU in mandat nad nalogami in operacijami je prevzela EU (Hochleitner 2000: 14).

Navsezadnje pa se vendar eno izmed najpomembnejših določil nanaša na dogovor držav članic EU, da mora ESDP temeljiti tudi na sodelovanju pri oboroževanju.

¹⁵ Člen 17.2 v Amsterdamski pogodbi opredeljuje krizni management EU kot: "*Questions referred to in this Article shall include humanitarian and rescue tasks, peace-keeping tasks and tasks of combat forces in crisis management, including peacemaking*" (Consolidated Version of the Treaty on EU 1997: 18).

Preobrazba EU v enotno državo z eno vojsko, eno ustavo in eno zunanjo politiko je največji izziv današnjega časa je izjavil nemški zunanji minister Joschka Fischer.

The Guardian, 26.11.1998

IV. SKUPNA EVROPSKA VARNOSTNA IN OBRAMBNA POLITIKA

Za učinkovito delovanje CFSP bodo morale države članice EU dosledno opredeliti skupne interese, saj je za učinkovito delovanje CFSP v mednarodnih odnosih odločilno skupno zaznavanje zunanjih in varnostnih interesov in mora politična odločitev slediti letem. Hkrati pa so skupni interesi držav članic EU pripomogli k oblikovanju ESDP, kot npr.: a) ohranjanje in spodbujanje mednarodnega miru v okviru Ustanovne listine OUN, kar je tudi vitalni interes EU; b) potreba po ustreznih predpisih, tudi vojaških, za varnost EU in njenih članic; c) preventivna dejanja, potrebna za preprečevanje nevarnosti in groženj; d) potreba EU po zavarovanju svetovnega gospodarskega interesa; e) zagotoviti varnost evropskih državljanov v svetu... (Hochleitner 2000: 15).

Ob formiranju skupnih interesov držav članic EU in podpisom Amsterdamske pogodbe, po mnenju Hochleitnerja (2000: 15), mnogo ljudi ni verjelo v hitro oblikovanje ESDP. Vendar pa sta dva pomembna dogodka pospešila normativno izgradnjo ESDP in njeno uresničitev. V Veliki Britaniji¹⁶ je zamenjava konservativne vlade vplivala na pomembne spremembe v britanski politiki o odnosu do Evrope in evropske obrambne politike. Vlada premiera Tonya Blaira (laburist) ni samo opustila dolgotrajne zadržke o oblikovanju ESDP, ampak se je odločila za vodenje procesa oblikovanja nove politike EU. Dogodki v Bosni in Hercegovini ter na Kosovu so nazorno prikazali, da EU nujno potrebuje verodostojne vojaške zmogljivosti in novo strukturo za učinkovito uresničevanju odločitev na področju varnosti in obrambe EU. Države članice EU so se na podlagi večvrstnih srečanj¹⁷ soglasno dogovorile, da mora institucionalna gradnja ESDP potekati znotraj EU,

¹⁶ François Heisborg, direktor Centra za varnostne študije v Ženevi, (2000b: 2) navaja, da oblikovanje ESDP ne bi potekalo tako hitro, če k temu projektu ne bi pristopila Velika Britanija. Ta proces bi lahko vodile skupine držav, kot npr. tradicionalni par Francija – Nemčija, hipotetičen trikotnik Francija – Nemčija – Italija ali drugačne kombinacije držav. Vendar zaenkrat takšnega preobrata ni mogoče realno pričakovati, saj je Nemčija šele v l. 2000 začela preoblikovati oborožene sile. Britanska iniciativa za vodenje procesa ESDP je tako odločilna za njeno učinkovito udeleženo, saj bi drugače proces najverjetneje zamrl.

¹⁷ 23. - 24. oktober 1998: na vrhu EU v Pöschachu je britanski premier Tony Blair uradno napovedal sodelovanje Velike Britanije v okviru nove obrambne politike EU. 3. - 4. november 1998: prvo neformalno srečanje obrambnih

saj je le-ta v Evropi center politične moči.

4. 1 ZASEDANJE EVROPSKEGA SVETA V KÖLNU

Evropski svet se je v Kölnu (3. - 4. junija 1999), na podlagi poročila predsednika o nadaljnjem razvoju ESDP, odločil za izvedbo nove faze v institucionalizaciji ESDP. Na vrhu so potrdili francoska in angleška stališča izražena v St. Malou, da mora EU oblikovati organe in način odločanja za uporabo vojaških zmogljivosti EU za samostojno delovanje na mednarodnih kriznih območjih (Howorth 2000: 31).

Na vrhu so predsednikovo poročilo z glavnimi načeli ESDP države članice EU tudi sprejele. Eno izmed glavnih načel poročila je okrepitev CFSP z razvojem ESDP, kar zahteva samostojnost delovanja EU na področju varnosti in obrambe, ki mora imeti zanesljive vojaške zmogljivosti in primerne organe za sprejemanje odločitev. Vse odločitve v zvezi z delovanjem ESDP bodo še vedno sprejemale države članice EU znotraj institucionalne ureditve CFSP. Tako bo Svet EU ob kriznih razmerah sprejemal odločitve o političnih, gospodarskih in vojaških vprašanjih (Hochleitner 2000: 16).

Iz tega izhaja, da si EU želi zagotoviti razpolaganje s potrebnimi zmogljivostmi (vključno vojaškimi) in s primerno strukturo za učinkovito sprejemanje odločitev v kriznem managementu za izpolnjevanje Petersberških nalog. Vojaške zmogljivosti EU na področju kriznega managementa so pod okriljem strukture CFSP (V poglavje TEU) in del progresivnega oblikovanja ESDP v skladu s členom 17 TEU. Države članice EU so striktno poudarile, da Atlantsko zavezništvo ostaja temelj kolektivne obrambe držav članic. Obveznosti, ki izhajajo iz člena¹⁸ 5 Severnoatlantskega sporazuma in člena V Bruseljske pogodbe¹⁹, ostanejo nespremenjene za podpisnice teh sporazumov.

ministrov EU na Dunaju. 4. december 1998: Francosko-britanski vrh, na katerem so sprejeli skupno deklaracijo o evropski obrambi.

11. - 12. december 1998: zasedanje Evropskega sveta na Dunaju. 23. - 24. april 1999: na vrhunskem zasedanju zveze NATO v Washingtonu so sprejeli novi strateški koncept zveze NATO in odobrili oblikovanje ESDP. 3. - 4. junij 1999: je Evropski svet v Kölnu sprejel deklaracijo in poročilo predsedstva EU o spodbujanju ESDP (Heisbourg et al 2000a: 5-6).

¹⁸ 5 člen. Severnoatlantskega sporazuma obvezuje države članice z naslednjim besedilom: *"The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area "* (Grizold 1999:178).

¹⁹ Glej opombo št. 15 na strani 29.

4. 1. 1 Sprejemanje odločitev na področju skupne zunanje in varnostne politike

Glede sprejemanja odločitev v okviru CFSP so države članice EU na vrhu sprejele potrebne spremembe za zagotovitev političnega nadzora in strateške usmeritve za učinkovito izvajanje Petersberških nalog. Sporazumele so se, da EU potrebuje zmogljivosti za analiziranje razmer, vire obveščevalnih podatkov in sredstva za strateško načrtovanje. Za doseganje navedenih ciljev so države članice vzpostavile:

- redne ali ad hoc sestanke Sveta za splošne zadeve, ki vključuje tudi obrambne ministre,
- stalni organ v Bruslju (politični in varnostni odbor), v katerem sodelujejo predstavniki s političnimi in vojaškimi izkušnjami,
- vojaški odbor EU, v katerem sodelujejo vojaški predstavniki oblikujejo predloge za politični in varnostni odbor,
- vojaški štab EU,
- druge vire, kot sta Satelitski center, Institut za strateške študije (Rutten 2001: 44).

Odločitve o nalogah civilnega managementa, ki imajo vojaški ali obrambni značaj, se bodo sprejemale v skladu s členom 23 TEU. V vseh situacijah ima država članica EU pravico odločiti se, ali bodo njene nacionalne sile sodelovale v Petersberških nalogah pod okriljem EU.

4. 1. 2 Izvajanje skupne varnostne in obrambne politike

Države članice EU so v Kölnu deklarirale in javno priznale, da se mora EU osredotočiti na razvoj vojaških zmogljivosti, vključno z vrhovnimi poveljstvi, da ne pride do brez nepotrebnega podvajanja in bodo primerni za izvajanje nalog kriznega managementa. Vojaške zmogljivosti EU pa morajo biti uporabne, interoperabilne, fleksibilne in mobilne. Za uspešno izvajanje operacij pod vodstvom EU, se morajo države članice EU pri vsakem primeru izvajanja Petersberških nalog odločiti, ali bodo izvajale:

- operacije pod vodstvom EU, pri katerih bodo uporabljale vojaške in finančne zmogljivosti zveze NATO ali
- operacije pod vodstvom EU, pri katerih se ne bodo opirale na vojaške in finančne zmogljivosti zveze NATO (Rutten 2001: 44).

Za operacije, ki jih bo izvajala EU brez uporabe zmogljivosti zveze NATO, bo EU lahko uporabila nacionalna ali večnacionalna evropska sredstva, ki jih bodo vnaprej določile in

ponudile države članice EU. Razvoj lastnih vojaških zmogljivosti EU zahteva uporabo generalštabov nacionalnih struktur poveljevanja z večnacionalno sestavo ali oblikovanje večnacionalnih sil znotraj obstoječih struktur poveljevanja. Države članice EU tudi nameravajo povečati zmogljivosti nacionalnih in večnacionalnih sil za delovanje v kriznih razmerah (Hochleitner 2000: 18).

EU bo v operacijah lahko uporabljala vojaška in finančna sredstva zveze NATO, vključno z evropsko poveljniško strukturo, na podlagi:

- dogovorov, ki so bili doseženi v Berlinu 1. 1996 in na vrhu zveze NATO v Washingtonu aprila 1. 1999;
- dogovora, doseženega na zasedanju Severnoatlantskega sveta v Washingtonu 29. aprila 1999 o: a) zagotovljenem dostopu EU do načrtovanih zmogljivosti zveze NATO za vojaško načrtovanje operacij pod vodstvom EU, b) zagotovitvi vnaprej določenih zmogljivosti in sredstev zveze NATO, katere bi EU uporabila pri izvajanju operacij kriznega managementa (Rutten 2001: 23).

4. 1. 3 Načini sodelovanja

V Kölnu 3. - 4. junija 1999 so države članice EU ugotovile, da bo EU za uspešno oblikovanje ESDP potrebovala:

- možnost polnega in enakovrednega sodelovanja držav članic EU, vključno z nevtralnimi članicami EU pri izvajanju Petersberških nalog,
- zadovoljivo ureditev za popolnejše sodelovanje evropskih članic zveze NATO, ki niso članice EU pri izvajanju Petersberških nalog pod vodstvom EU,
- zagotovitev enakih pravic vseh sodelujočih strani v operacijah EU, ne glede na avtonomijo sprejemanja odločitev v EU (pravica Sveta EU do razpravljanja in odločanja o načelih ESDP),
- učinkovito skupno posvetovanje, sodelovanje in transparentnost med zvezo NATO in EU,
- možnost sodelovanja pridruženih partneric WEU pri izvajanju Petersberških nalog pod okriljem EU (Hochleitner 2000: 18).

Evropski svet je na tem vrhu zadolžil Svet za splošne zadeve, da pripravi osnutek potrebnih pogojev za izpolnitev zgoraj naštetih nalog za uspešno vzpostavitev ESDP. K temu pa so dodali tudi vse pogoje, ki jih mora WEU izpolniti za izvajanje Petersberških nalog.

4.2 ZASEDANJE EVROPSKEGA SVETA V HELSINKIH – KORAK NAPREJ

Na podlagi glavnih načel, ki so jih države članice EU sprejele na zasedanju v Kölnu, se je finsko predsedništvo osredotočilo na razvoj vojaškega in nevojaškega kriznega managementa EU. Na zasedanju Evropskega sveta 10. – 11. decembra 1999 v Helsinkih so sprejeli dve poročili o institucionalnem napredku ESDP, ki poudarjata, da je za dosego v Kölnu sprejetih ciljev potrebno formirati koncentrirane ukrepe in pomoč pri sprejemanju.

Na zasedanju so se države članice EU izrekle, da mora biti EU sposobna samostojno sprejemati odločitve in odgovoriti na mednarodne krizne razmere, pričeti ter izvajati vojaške operacije v skladu ESDP, kjer zveza NATO ne bo delovala kot celota. Še enkrat so poudarili, da bo EU spoštovala načela Ustanovne listine OUN in načela Ustanovne listine OSCE o evropski varnosti. Še več, države članice EU Varnostnemu svetu OUN priznavajo primarno obveznost za vzdrževanje mednarodnega miru in varnosti. Države članice EU so se na zasedanju dogovorile tudi o:

- hitrem oblikovanju in uporabi vojaških zmogljivosti EU,
- oblikovanju skupnih zmogljivosti na področju poveljevanja, obveščevalne dejavnosti in o strateškem transportu,
- oblikovanju novih političnih in vojaških organov znotraj Sveta EU, kar bo EU omogočilo sprejemanje odločitev na področju Petersberških nalog in zagotoviti politični nadzor in strateško usmeritev takšnih operacij,
- oblikovanju načel za sodelovanje z evropskimi članicami zveze NATO, ki niso članice EU, in drugimi evropskimi partnerji v okviru vojaškega kriznega managementa na podlagi avtonomnega odločanja EU (Rutten 2001: 82).

Naknadno so se države članice EU v skladu s členom 23 TEU dogovorile, da bo Svet EU odločal o delovanju EU v vseh fazah in v vseh pogledih kriznega managementa, vključno z odločitvami o izvajanju Petersberških nalog. Hkrati pa morajo sprejete odločitve v enotni institucionalni strukturi spoštovati kompetentnost in zagotoviti skladnost s členom 3 TEU.

Vse države članice EU imajo pravico do polnega in enakovrednega sodelovanja pri vseh odločitvah in pri posvetovanjih Sveta EU in njegovih organov ter v operacijah kriznega managementa EU. Države članice EU bodo same, izhajajoč iz nacionalne suverenosti, odločile, kakšna sredstva bodo prispevala k operacijam kriznega managementa EU. Prisostvovala bodo tudi v namenskih organih, ki jih bo EU ustanovila za izvajanje operacij tovrstnih nalog. Poleg tega bodo obrambni ministri držav članic EU

sodelovali na zasedanjih Sveta za splošne zadeve, kjer bodo pripravljali smernice na področju obrambnih zadev (Rutten 2001: 82). Na srečanju v Helsinkih so države članice EU dokončno normativno začrtale osnovne organe za izvršitev Petersberških nalog (politični in varnostni odbor, vojaški odbor, vojaški štab in generalni sekretar/visoki predstavnik za CFSP)²⁰.

4.3 CIVILNI KRIZNI MANAGEMENT EU

Države članice EU so si bile v Kölnu enotne, da morajo preučiti vse vidike varnosti, med katere se uvršča tudi nevojaški krizni management oziroma civilni krizni management. Ugotovile so, da imajo države članice EU precejšnje izkušnje na področju: humanitarne pomoči, administrativne in pravne rehabilitacije kriznega območja, zaščite in reševanja, nadzorovanja volitev in nadzorovanja človekovih pravic itn. Za bolj učinkovit in hitrejši odgovor na potencialna krizna žarišča so države članice EU oblikovale akcijski načrt, s katerim bodo:

- izboljšale delovne učinke in preprečile podvajanje z okrepitevijo sodelovanja in dostopnosti do nacionalnih, skupnih in nevladnih virov,
- povečale prispevek EU k dejavnostim drugih organizacij, kot so OUN in OSCE, ki se ukvarjajo z določenimi kriznimi razmerami, kot tudi v samostojnih akcijah EU,
- zagotovile povezavo znotraj "treh stebrov" EU (Hochleitner 2000: 23).

V okviru načrta bodo države članice EU oblikovale inventarje nacionalnih in skupnih sredstev za opravljanje nalog civilnega managementa. Države članice EU bodo vzpostavile tudi skupno, dostopno informacijsko bazo o sredstvih, zmogljivostih in znanju iz vseh relevantnih področij civilnega managementa. Za izvajanje civilnopolitičnih nalog iz sklopa civilnega managementa so se odločile, da morajo zagotoviti razporeditev določenega števila policistov v zelo kratkem času (v roku 30-ih dni), ki se morajo vzdrževati na območju določeno obdobje, ter poleg policistov razporediti v 24 urah tudi najmanj 200 pripadnikov civilne zaščite z zmogljivostmi za zaščito in reševanje.

Države članice EU so na vrhu v Santa Maria de Fera (19.-20. junij 2000) poudarile, da mora EU razviti civilne vidike kriznega managementa na vseh relevantnih področjih, na katerih imajo članice že veliko izkušenj, kot npr. potencialno reševanje

²⁰ Naloge in funkcije ustanovljenih odborov bomo podrobno definirali v prihodnjem poglavju, ker se bomo osredotočili predvsem institucionalno ureditev ESDP.

življenj v kriznih razmerah, vzdrževanje javnega reda in miru, preprečevanje eskalacije kriznih razmer, vzdrževanje mirnih razmer... Članice so se dogovorile, da bodo sprejemale odločitve o posredovanju od spodaj navzgor, najprej bodo analizirale operacijske možnosti, s katerimi razpolagajo države članice EU in upoštevale politične smernice Evropskega sveta (Rutten 2001: 133). V okviru civilnega kriznega managementa so države članice EU predstavile prioritete, katerim bodo namenile pozornost: policija, vladavina zakona in civilna administracija.

4. 3. 1 Policijske sile za hitro posredovanje

Države članice EU bodo, na podlagi člena 12 TEU, prostovoljno sodelovale pri razvoju policijskih zmogljivosti, pri oblikovanju zmogljivosti za hitro posredovanje in za oblikovanje zmogljivosti EU do 1. 2003. Zaradi vse večje vloge policijskih sil v mednarodnih operacijah kriznega managementa so se države članice EU odločile za prostovoljno prispevanje policistov za njegovo uresničevanje. Države članice EU bi morale do konca 1. 2003 prispevati do 5.000 policistov za mednarodne operacije na področju preprečevanja kriznih razmer in civilnega kriznega managementa. Do sredine 1. 2001 so prostovoljno prispevale že kakih 3.300 policistov. Poleg zbiranja policistov in oblikovanja baz, iz katerih bo EU opravljala naloge civilnega kriznega managementa, bodo morali policisti opraviti urjenje za izvajanje različnih nalog mednarodnega civilnega kriznega managementa (Rutten 2001: 136).

Policijske sile za hitro posredovanje bo EU aktivirala na prošnjo mednarodne organizacije, ki vodi operacijo (OUN, OSCE), ali pa jih bo uporabila v avtonomnih policijskih operacijah, lahko tudi kot del večje operacije kriznega managementa pod vodstvom EU. Države članice EU so se dogovorile, da bodo razporedile policijske sile v 30 dneh in bodo lahko imele mandat za opravljanje policijskega svetovanja, urjenja, opazovanja, kot tudi represivne naloge, kot so:

- preprečevanje ali ublažitev notranjih kriz in konfliktov (kot npr. MINUGUA v Gvatemali),
- v nestabilnih razmerah (razmere takoj po konfliktu) uveljaviti red in mir (kot npr. UNMIK/KFOR na Kosovu ali UNTAET v Vzhodnem Timorju),
- podpora lokalnim policijskim silam za zagotovitev spoštovanja osnovnih človekovih pravic (kot npr. WEU/MAPE v Albaniji, WEUPOL v Mostarju) (Rutten 2001: 137).

4. 3. 2 Pravosodni organi

Z uveljavitvijo policijskih sil v civilnem kriznem managementu se zagotavlja tudi vladavina zakona, saj naj bi bila končen rezultat operacij civilnega kriznega managementa. Posebno pozornost namenjajo države članice EU področju pomoči pri ponovni vzpostavitvi sodnega in kazenskega sistema. Pri tem (Rutten 2001: 137):

- bodo države članice EU ustanovile nacionalne zmogljivosti za selekcijo sodnikov, tožilcev, kazenskih strokovnjakov in drugih oseb znotraj sodnega in kazenskega sistema, ki jih bodo hitro premestili v operacije za podporo miru, da bodo pomagali vzpostaviti pravosodne organe in vladavino zakona,
- bo EU v povezavi z OUN in regionalnimi organizacijami (Svet Evrope in OSCE) oblikovala smernice za izbor in izobraževanje mednarodnih sodnikov in kazenskih strokovnjakov,
- bo EU znotraj civilnega kriznega managementa oblikovala načine za podporo ali ponovne vzpostavitve infrastrukture lokalnih sodišč in zaporov, kot tudi pridobitev lokalnih sodnih uslužbencev in uslužbencev kazenskega sistema.

4. 3. 3 Upravni organi

Upravni organi in civilna administracija je potrebna za uspešno izvajanje civilnega kriznega managementa in za podporo tranzicijskih družb. S tem namenom so se države članice EU odločile izboljšati izbor, izobraževanje in nastavitev strokovnjakov za delo v upravnih organih in za vzpostavitev administrativnega sistema. Države članice EU se lahko osredotočijo tudi na izobraževanje lokalnih uradnikov v upravnih organih v tranzicijskih službah (Rutten 2001:134).

4. 4 ORGANI SKUPNE VARNOSTNE IN OBRAMBNE POLITIKE

Kot smo v prejšnjem poglavju omenili, so se države članice EU sporazumele, da bodo okrepile ESDP s štirimi glavnimi vojaškopolitičnimi organi, ki so jih na naslednjem vrhu v Helsinkih (od 10. do 11. decembra 1999) formirale v okviru Sveta EU. Novi organi znotraj institucionalne ureditve EU bodo omogočili delovanje EU pri preprečevanju konfliktov in na področju vojaškega kot tudi civilnega kriznega managementa. Organi

omogočajo sprejemanje odločitev o izvajanju Petersberških nalog, pod vodstvom EU oziroma Sveta EU ter njihovo politično nadzorovanje in strateško usmeritev teh nalog. Na predzadnjem zasedanju Evropskega sveta na vrhu v Nici (od 7. do 11. decembra 2000) so države članice EU pravnoformalno ustanovile politični in varnostni odbor (PSC), vojaški odbor in vojaški štab, ki so s formalno odločitvijo Sveta EU začeli delovati 22. januarja 2001.

4. 4. 1 Visoki predstavnik za CFSP

Že v prejšnjih poglavjih smo omenili, da so države članice EU na vrhu v Amsterdamu dogovorile o imenovanju visokega predstavnika za CFSP. Tako so l. 1997 na ta položaj imenovale nekdanjega generalnega sekretarja zveze NATO Javierja Solano. Položaj visokega predstavnika za CFSP avtomatično vključuje tudi funkcijo generalnega sekretarja Sveta EU in od meseca oktobra l. 1999 tudi funkcijo generalnega sekretarja WEU (Howorth 2000: 32). Takšna akumulacija odgovornosti zagotavlja Svetu EU center za politično in vojaško načrtovanje ter analizo in svetovanje na področju ESDP. Vendar pa je osebje visokega predstavnika majhno in se zato lahko zanaša na dodatno pomoč dvajsetih svetovalcev iz petnajstih držav članic EU, ki sestavljajo nov organ za načrtovanje in zgodnje opozarjanje (Policy Planning in Early Warning Unit). Vendar pa položaj visokega predstavnika za CFSP ni točno definiran in ločen od evropskega komisarja za zunanjo politiko²¹ (Howorth 2000: 32).

4. 4. 2 Politični in varnostni odbor

Na podlagi smernic iz Helsinkov je Politični in varnostni odbor (PSC) najvišji organ CFSP in hkrati ESDP, saj obravnava vse razsežnosti CFSP kot tudi ESDP. PSC se sestaja dvakrat tedensko na ravni veleposlanikov vseh držav članic EU in ima osrednjo vlogo pri definiranju in spremljanju odgovorov EU na krizne razmere ter izvaja naloge

²¹ Junija 2000 je Chris Patten, evropski komisar za zunanjo politiko, izrazil zaskrbljenost o položaju visokega predstavnika za CFSP, saj meni, da se je s tem novim položajem otežilo izvajanje zunanje politike EU. Zaradi tega so se odnosi med Pattenom in Solano ohladili. Tako je mesec pozneje (5. julija 2000) Komisija EU podprla Pattenovo zahtevo po večji vlogi komisije v zunanji politiki EU (Norman 2000: 10).

zapisane, v členu 25²² TEU. Po posvetovanju s predsedstvom EU in ob upoštevanju člena 18. TEU lahko visoki predstavnik za CFSP predseduje PSC, še posebej v primeru kriznih razmer. PSC ima tudi zelo pomembno nalogo pri posvetovanju z zvezo NATO in vodenju dialoga s tretjimi državami (Howorth 2000: 33). Politični in varnostni odbor EU je pristojen za izvajanje naslednjih nalog:

- v skladu s členom 207 TEU Politični in varnostni odbor spremlja mednarodne razmere na področju CFSP, pomaga oblikovati in definirati CFSP, ki jih nato posreduje Svetu EU,
- preverja ustreznost osnutkov in zaključkov Sveta za splošne zadeve na področju CFSP,
- za ostale odbore EU pripravlja smernice na področju CFSP,
- ohranja posebno zvezo med visokim predstavnikom za CFSP in drugimi posebnimi predstavniki EU,
- vojaškemu odboru posreduje smernice in hkrati od njega sprejema mnenja in priporočila. Zasedanj PSC se lahko udeleži predsednik Vojaškega odbora, ki vzdržuje hierarhično povezavo z Vojaškim štabom,
- od odbora za civilni krizni management prejema informacije, priporočila in mnenja ter temu odboru tudi posreduje smernice na področju CFSP,
- PSC v delovnih skupinah opravlja nalogo koordiniranja in nadzоровanja razprav ter posredovanja smernic na področju CFSP,
- na podlagi določil TEU vodi politični dialog EU z drugimi državami,
- pripravlja forume, v katerih petnajst držav članic EU, kot tudi šest evropskih članic zveze NATO ("15-plus-6") razpravljajo o zadevah s področja ESPD,
- pod pokroviteljstvom Sveta EU je PCS odgovoren za razvoj vojaških zmogljivosti v skladu z vrsto kriznih razmer v katerih bo delovala EU. V povezavi z razvojem vojaških zmogljivosti upošteva mnenja Vojaškega odbora in Vojaškega štaba (Council Decision on setting up the Political and Security Committee 2001: L 27/2).

V kriznih razmerah je PSC organ Sveta EU, ki ob upoštevanju strukture odločanja znotraj EU spremlja, preučuje in analizira krizne razmere ter pripravlja različne scenarije in

²² Člen 25 TEU navaja naloge političnega in varnostnega odbora: *"Without prejudice to Article 207 of the Treaty establishing the European Community, a Political Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the responsibility of the Presidency and the Commission"* (Consolidated Version of the Treaty on EU 1997: 21).

možnosti za reagiranje EU. Ključnega pomena je, za posredovanje v kriznih razmerah tesno sodelovanje in koordinacija med organi EU, tu mislimo predvsem na sodelovanje predsednika PSC in na vlogo svetovalcev za zunanje odnose s področja CFSP.

PSC za pripravo odgovora na krizne razmere predlaga Svetu EU politične cilje, katerim naj bi EU sledila, hkrati pa predlaga tudi različne možnosti za ureditev kriznih razmer. V tem primeru lahko PSC Svetu EU za razrešitev kriznih razmer predlaga tudi izvedbo skupne akcije oz. operacije v okviru Petersberških nalog. Z upoštevanjem vloge in pristojnosti, ki jo ima Komisija EU, PSC nadzoruje izvajanje sprejetih ukrepov in ocenjuje njihovo učinkovitost. Komisija obvesti PSC, kakšne ukrepe je sprejela za razrešitev kriznih razmer, ravno tako pa države članice EU odbor obvestijo, kakšne ukrepe za reševanje kriznih razmer so one sprejele na nacionalni ravni. PSC v primeru vojaškega odgovora EU na krizne razmere izvaja "politični nadzor in strateško usmeritev" zadanih nalog. Na podlagi mnenj in priporočil vojaškega odbora oceni bistvene elemente (vojaško strateške možnost vključno s poveljevanjem, koncept operacije, načrt operacije itn.), ki jih nato posreduje v obravnavo Svetu EU (Council Decision on setting up the Political and Security Committee 2001: L 27/2). Predsednik PSC je visoki predstavnik za CFSP, medtem ko bo predsednik ožjega odbora, ki so ga naknadno ustanovili 1. marca 2000 za oblikovanje sestave PSC, predstavnik države, ki predseduje EU.

4. 4. 3 Vojaški odbor EU

Na podlagi člena 17 TEU in glede na srečanje držav članic EU v Nici je 22. januarja 2001 začel delovati tudi Vojaški odbor EU. Vojaški odbor je najvišji vojaški organ v okviru Sveta EU. Sestavljajo ga obrambni ministri vseh držav članic EU (Howorth 2000: 33). Vojaški odbor se sestaja dvakrat letno in posreduje vojaška mnenja ter priporočila PSC, poleg tega tudi pripravlja vojaške usmeritve Vojaškemu štabu EU. Glede na to, da je Vojaški odbor najvišji vojaški organ v strukturi EU, izvršuje vojaška navodila v vseh vojaških aktivnostih znotraj institucionalnega okvira EU (Rutten 2001: 96).

Vojaški odbor je vir vojaških nasvetov, ki jih sprejema s soglasjem. Še več, odbor predstavlja forum za vojaška posvetovanja in sodelovanje med državami članicami EU na področju preprečevanja konfliktov in kriznega managementa. Na svojo lastno iniciativo ali na prošnjo PSC pripravlja priporočila na področjih:

- razvoja celotnega koncepta vojaškega kriznega managementa,
- vojaškega vidika političnega nadzora in strateške usmeritve kriznega managementa,

- ocenitve rizičnosti potencialne krize,
- ocenitve in pregleda zmogljivosti EU glede na dogovorjeni postopek,
- vojaških razmerij EU z evropskimi članicami zveze NATO, ki niso članice EU, držav kandidatka za vstop v EU in drugimi državami in organizacijami, vključno z zvezo NATO,
- finančne ocene predvidene operacije in vaje (Council Decision on setting up the Military Committee of the European Union 2001: L 27/5).

V izvajanju vojaškega kriznega managementa ima Vojaški odbor EU posebne naloge in zadolžitve. Tako na podlagi prošnje PSC izda osnovno direktivo Vojaškemu štabu EU za izdelavo in prikaz vojaških zmogljivosti delovanja EU v določeni krizni situaciji. Vojaški štab EU predvidi vojaške možnosti delovanja EU, nakar posamezne možnosti oceni Vojaški odbor EU in jih potem skupaj z ocenami in nasveti preda PSC. Na podlagi opcije, ki jo izbere Evropski svet, Vojaški odbor EU odobri poveljniku operacije začetno načrtovano direktivo. Na podlagi ocen Vojaškega štaba Vojaški odbor pripravi nasvete in priporočila o konceptu in osnutku načrta operacije za PSC in jo med samim izvajanjem tudi nadzoruje. Člani Vojaškega odbora sodelujejo ali so predstavljeni tudi v odboru darovalcev (držav članic EU, ki so ponudile svoje kapacitete za vzpostavitev ERRF).

Svet EU imenuje predsednika odbora na podlagi priporočila Vojaškega odbora. Le-ta mora biti general s "štirimi zvezdicami" ter nekdanji obrambni minister ene izmed držav članic EU. Predsedniški mandat traja tri leta, razen če Svet EU ne predvidi drugače. V primeru, da Svet EU na svojih srečanjih obravnava obrambne vsebine, se mora sestanka sveta udeležiti tudi predsednik Vojaškega odbora. Predsednik Vojaškega odbora predstavlja ta organ tudi v Političnem in varnostnem odboru ter po potrebi tudi v Svetu EU. Naloge predsednika Vojaškega odbora izhajajo iz odločitve Sveta EU o oblikovanju vojaškega odbora (2001: L 27/6), ki zahteva, da:

- predsednikuje na sestankih Vojaškega odbora na ravni vojaških predstavnikov in obrambnih ministrov držav članic,
- aktivno sodeluje na sestankih PSC in se udeležuje tudi sestankov Sveta EU, kadar le-ta obravnava obrambne zadeve,
- je po funkciji vojaški svetovalec za obrambne zadeve pri visokem predstavniku za CFSP z namenom, da se zagotovi in ohrani povezanost s strukturo kriznega managementa EU,

- deluje v skladu z odborom, izdaja direktive in smernice glavnemu direktorju Vojaškega štaba EU,
 - je glavna vez s poveljnikom operacije med izvajanjem Petersberških nalog in EU.
- V primeru odsotnosti predsednika ga lahko nadomeščajo glavni direktor Vojaškega štaba EU, predstavnik predsedstva ali dekan.

4. 4. 4 Vojaški štab EU

Na vrhu v Nici so se države članice EU dogovorile, da poleg Političnega in varnostnega odbora in Vojaškega odbora ustanovijo tudi Vojaški štab EU za izvajanje Petersberških nalog na področju zgodnjega obveščanja, ocenjevanja kriznih razmer in strateškega načrtovanja, vključno z identifikacijo nacionalnih in večnacionalnih EU sil. Vojaški štab deluje po vojaški direktivi Vojaškega odbora, kateremu posledično tudi poroča in odgovarja. Vojaški štab, ki ga sestavljajo državljani držav članic EU, je pravzaprav oddelek sekretariata Sveta EU, ki je neposredno povezan z visokim predstavnikom za CFSP. Vodja Vojaškega štaba je t. i. direktor oz. general s "treimi zvezdicami", ki opravlja naloge na podlagi smernic vojaškega odbora (Rutten 2001: 172). Čeprav Vojaški štab ne opravlja operacijskih nalog generalštaba, ima naslednje naloge:

- je središče vojaškega znanja, ki je na razpolago EU,
- zagotavlja povezavo med Vojaškim odborom na eni strani in med vojaškimi sredstvi, do katerih ima dostop EU, na drugi strani ter zagotavlja vojaško znanje organom EU,
- zagotavlja zgodnje opozarjanje z načrtovanjem, ocenjevanjem in s priporočili v sklopu kriznega managementa in splošne vojaške strategije ter uresničuje odločitve in smernice Vojaškega odbora EU,
- Vojaškemu odboru pripravlja ocene razmer in vojaške vidike strateškega načrtovanja²³ za različne vrste Petersberških nalog pod vodstvom EU, ne glede na to, ali se uporabljajo sredstva zveze NATO ali ne,
- spremlja, ocenjuje in posreduje priporočila za urjenje, interkompatibilnosti sil in zmogljivosti, ki jih države članice EU ponudijo za izvajanje nalog na področju

²³ V Odločitvi Sveta EU o ustanovitvi Vojaškega štaba (2001: L 27/8) so opredelili, da se strateško načrtovanje nanaša na dejavnosti, ki se pričenej takoj ob nastanku krizne situacije in končajo, ko politična oblast EU odobri vojaško-strateško možnost ali možnosti. Strateški proces obsega celoto oceno vojaških razmer, definiranje političnih in vojaških okvirov in razvoj vojaško-strateških možnosti na podlagi katere se Svet EU odloči o nadaljnjih ukrepih.

kriznega managementa,

- zagotavlja stalno povezanost z zvezo NATO in ohranja primerne odnose z OUN in OSCE (Council Decision on the establishment of the Military Staff of the European Union 2001: L 27/9).

Vojaški štab dodatno spremlja še potencialne krizne razmere prek nacionalnih in večnacionalnih obveščevalnih zmogljivosti. Njegova naloga je tudi organiziranje in koordinacija postopkov z nacionalnimi generalštabi in tudi s tistimi, ki so v zvezi NATO dostopni EU, in zagotavlja združljivost s postopki zveze NATO.

Pri izvajanju nalog kriznega managementa izvaja Vojaški štab dodatno še naslednje naloge in funkcije:

- zahteva dostop do informacij relevantnih virov in obveščevalnih organizacij držav članic EU, ki jih nato analizira,
- s pripravo začetnih načrtovalnih smernic nudi podporo Vojaškemu odboru, PSC pa z izdelavo načrtovalnih direktiv,
- Vojaškemu odboru in PSC oblikuje in po pomembnosti rangira vojaško-strateške možnosti EU,
- pomaga poveljniku operacije pri tehnični izmenjavi vojaške pomoči tretjih držav, ki ponudijo lastne vojaške zmogljivosti pri operacijah EU,
- stalno spremlja vse vojaške vidike operacij. Izpeljuje strateške analize, povezane z načrtano operacijo in na podlagi analiz lahko svetuje PSC spremembo strategije (Council Decision on the establishment of the Military Staff of the European Union 2001: L 27/9).

4.5 VOJAŠKE ZMOGLJIVOSTI V OKVIRU ESDP

V skladu z obveznostmi, ki so jih sprejele na zasedanju v Kölnu, so se države članice EU v Helsinkih obvezale, da bodo oblikovale primerne vojaške zmogljivosti, s katerimi bo EU lahko izvajala celotno serijo Petersberških nalog v podporo ESDP in CFSP. Petersberške naloge vključujejo tudi vojaška sredstva za utrjevanje in vzdrževanje miru, a v primeru vojaške grožnje ne posegajo na področje tradicionalnega zagotavljanja nacionalne obrambe in ne na področje kolektivne obrambe. Vendar pa François Heisbourg (2000a: 4) meni, da lahko v prihodnosti države članice EU večjo pozornost namenijo kolektivni in teritorialni obrambi.

Vojaške zmogljivosti bodo razvile na podlagi obstoječih nacionalnih, binacionalnih

in večnacionalnih zmogljivosti, zbrale jih bodo za vsako operacijo kriznega managementa posebej, EU jih bo izvajala s pomočjo ali brez sredstev zveze NATO. Države članice EU so se dalje obvezale, da bodo vzpostavile evropske vojaške zmogljivosti do l. 2003 na podlagi prostovoljnega sodelovanja držav članic za izpolnitev vrste Petersberških nalog, vključno z najbolj zahtevnimi nalogami, kjer bi sodelovale do velikosti korpusa (do 15 brigad ali 50.000 – 60.000 pripadnikov). Vendar pa general Klaus Naumann (2000: 4) meni, da bo za uresničitev tega projekta EU potrebovala veliko širši časovni okvir, saj vzpostavitev evropskih sil za hitro posredovanje (EFFR) ne bo mogla izpeljati do l. 2003. Ne glede na to, v kakšnem časovnem okviru bo EU oblikovala EFFR, bodo le-te morale imeti potrebne poveljniške in obveščevalne zmogljivosti, vključno z logističnimi in drugimi podpornimi vojaškimi sredstvi (letalskimi in mornariškimi elementi), ki bodo morala biti razporejena tudi v okviru 60 dni (Hochleitner 2000: 20).

Države članice EU so se sporazumele, da v podporo vojaškim zmogljivostim razvijejo za vodenje in poveljevanje, za obveščevalne dejavnosti in strateški transport. V tem pogledu so pozdravili predloge nekaterih držav članic, po katerih naj bi:

- razvili in koordinirali vojaška sredstva za opazovanje in za zgodnje opozarjanje,
- odprli obstoječe skupne nacionalne generalštabe častnikov iz drugih držav članic EU,
- okrepili sile za hitro posredovanje obstoječih evropskih večnacionalnih sil,
- ustanovili poveljstvo evropskega letalskega transporta,
- povečali število usposobljenih čet,
- povečali strateško sposobnost za pomorsko premeščanje vojaških enot (Rutten 2001: 82).

Države članice EU bodo uporabljale tudi obstoječa obrambna načrtovalna sredstva, vključno s tistimi, ki jih ima na voljo zveza NATO in Partnerstvo za mir (npr. proces načrtovanja in pregledovanja). Evropske članice zveze NATO, ki niso še članice EU, in druge države kandidatke za vstop v EU so povabili k sodelovanju pri nalogi izboljšanja evropskih vojaških kapacitet. Resnično napredovanje pri oblikovanju vojaških zmogljivosti je bila konferenca (Capability Commitment Conference) v Bruslju (20.-21. novembra 2000), na kateri so se sestali obrambni ministri držav članic EU in 15 obrambnih ministrov evropskih držav, ki niso članice EU. Podlaga za konferenco je bil Helsinški katalog vojaških sredstev (Helsinki Headline Catalogue), ki ga je oblikoval Vojaški štab EU s pomočjo strokovnjakov zveze NATO. Na konferenci so se dogovorili, da bodo v okviru EU oblikovali celoto vojaških zmogljivosti, iz katerih se bodo oblikovale ERRF za vsako

izvajanje Petersberških nalog posebej, t. j. za podporo miru, za interveniranje v konfliktnih visoke intenzivnosti. ERRF, ki bodo imele od 50.000 do 60.000 pripadnikov z letalskimi in mornariškimi sredstvi in jih bo lahko EU razporedila v 60 dneh, so odgovor na boleče izkušnje izpred skoraj desetih let. Vzpostavitev novih sil je tudi priznanje, da oborožene sile ZDA ne bodo vedno in mogoče tudi ne bodo želele reševati vsakršne evropske konflikte²⁴.

Katalog vojaški sil (Helsinki Headline Catalogue) opredeljuje štiri pomembna vojaška področja, ki jih EU nujno potrebuje za uspešno opravljanje Petersberških nalog: a) kopenske, pomorske in letalske sile; b) strateški transport; c) sisteme za vodenje, poveljevanje, komuniciranje in obveščanje; d) izvidniške in opazovalne sisteme na omočju izvajanja operacij (Sköld 2000: 3). Obrambni ministri so zagotovili, da bodo prvi elementi novih sil razporejeni že v 30 dneh in celotne ERRF bodo na določenem območju vzdržale vsaj eno leto. V deklaraciji, ki jo je sprejel Svet EU ne navaja točno določenega števila vojaških sredstev, potrebnih za izvajanje Petersberških nalog, vendar navaja, da za oblikovanje ERRF potrebuje bazo vojaških sredstev, v kateri bi bilo vsaj 100.000 vojakov, okrog 400 bojnih letal za podporo in 100 ladij (Mader in Rosenkranz 2001: 21).

Za popolnitev te baze se morajo odločiti države članice EU same in tudi koliko in katera vojaška sredstva bodo EU ponudila. Tudi obrambni ministri držav²⁵, ki niso članice EU, so ponuditi del svojih oboroženih sil za oblikovanje evropskih sil, vendar pa se te sile ne bodo upoštevale za dosego helsinškega cilja o oblikovanju baze vojaških sil in sredstev za ERRF²⁶.

4. 5. 1 Vojaška sredstva EU

Oblikovanje ERRF nikakor ne smemo enačiti z t. i. evropsko vojsko, saj se obrambni ministri držav članic EU na konferenci o vojaških zmogljivostih (novembra 1. 2000) v Bruslju niso dogovarjali o stalnih oboroženih silah EU, ampak o vojaških

²⁴ EFRF so namenjene za humanitarno pomoč in pomoč pri evakuaciji v primeru naravnih nesreč, za izvajanje mirovnih operacij, za vojaške operacije pri katerih bodo vzpostavile mir, zaščitile vitalne interese EU (Mader in Rosenkranz 2001: 21).

²⁵ Svoje oborožene sile so ponudile Turčija, Norveška, Bolgarija, Ciper, Estonija, Latvija, Litva, Malta, Romunija, Slovaška, Slovenija ter tri nove članice zveze Nato Češka, Madžarska in Poljska (Mader in Rosenkranz 2001: 22).

²⁶ Tako je Turčija, zaradi bojazni izgube veljave pri odločanju o evropskih varnostnih zadevah, ponudila EU 6.000 pripadnikov oboroženih sil in bojna letala F-16 (Mader in Rosenkranz 2001: 22).

sredstvih, ki jih bodo države članice EU ponudile za izvajanje potencialnih operacij EU. Iz te celote ponujenih zmogljivosti bodo izbrale določena sredstva za vsako izvajanje Petersberških nalog posebej. Države članice EU so se torej obvezale, da bo del nacionalnih vojaških sil sodelovalo, po vzoru držav članic zveze NATO in OUN, v potencialnih operacijah pod vodstvom EU (Hatfield 2001: 35). Obrambni ministri držav članic EU so na konferenci o vojaških zmogljivostih EU ponudili zmogljivosti nacionalnih oboroženih sil za postavitve baze vojaških zmogljivosti, iz katerih se bodo oblikovale ERRF in so razvidne v spodnji tabeli.

Tabela 4. 5. 1 Vojaška sredstva, ki so jih države članice EU ponudile za izvajanje Petersberških nalog (* potrjeno).

DRŽAVA	KOPENSKA VOJSKA	LADJE	LETALSTVO
Nemčija	13.500	20	93
Velika Britanija	12.500*	18*	72*
Francija	12.000	15	75
Italija	12.000	19	47
Španija	6.000	/	/
Nizozemska	2 bataljona, 1 brigada	2	1-2 skvadrona, 1 baterija izstrelkov Patriot*
Grčija	4.000	/	/
Avstrija	2 bataljona*	/	/
Finska	1.430*	1 čistilec min*	/
Švedska	1 bataljon	/	/
Irska	850*	/	/
Belgija	1.000	/	/
Portugalska	1.000	/	/
Luksemburg	100	/	/
Danska	0	0	0

Vir: Sköld, Thomas (December 2000) States Pledge Resources for Crisis Management. *ISIS Europe*, 3.

Iz tabele je razvidno, da države članice EU niso popolnile predvidene baze vojaških sredstev in sil za izvajanje Petersberških nalog, ki jih je predlagal Svet EU. Težave so se pojavile pri zagotavljanju strateških (strateški transport, komunikacijski sistemi...) in

taktičnih (precizni izstrelki, vojaška sredstva za reševanje, sredstva za uničenje zračne obrambe...) vojaških sredstev. Največje število vojaških sredstev in sil so za popolnitev baze ponudile največje zagovornice ESDP Velika Britanija, Francija in Nemčija. Iz tabelaričnega prikaza je jasno razvidno, da države članice EU razpolagajo z velikim človeškim potencialom, občutno pa zaostajajo v vojaški tehniki, kot so npr. strateška transportna letala, bojna letala, mornarica...

Države članice EU ne premorejo velikega števila transportnih letal za hitro posredovanje v humanitarnih nesrečah. Vendar pa še večji problem za nove evropske sile pomeni letalski transport v bojnih situacijah. Države članice EU skupno premorejo 150 transportnih letal C-160 in 90 transportnih letal C-130, ki so starejša od 40 let in predstavljajo skoraj 70 odstotkov vseh transportnih zmogljivosti EU, ki lahko nosi 10-tonski tovor v dosegu 2.000 km (Mader in Rosenkranz 2001: 22). Vsi transporti velikega dosega se opravljajo in testirajo prek računalniških programov, predvsem zaradi pomanjkanja proračunskih sredstev so pokazali, da lahko z uporabo vseh letal C-160 držav članic EU premestijo v prvem valu le 10.000 pripadnikov oboroženih sil. Velika in težka vojaška sredstva, kot so glavni bojni tanki, transportni helikopterji, obrambni sistemi itn., EU s trenutnimi in predvidenimi sredstvi ERRF ne bo mogla prepeljati na krizno območje. Države članice EU so spoznale, da morajo transportno letalstvo, ki je prilagojeno za bojevanje v Evropi, prilagoditi globalnemu strateškemu interesu EU. Odločile so se do l. 2007/8 posodobiti letalstvo z zmogljivejšimi transportnimi letali, ki bodo sposobna prenesti do 37-tonske tovore in bodo imela doseg do 4.000 km (Mader in Rosenkranz 2001: 22). Pri letalskem premeščanju vojaških enot in oboroženih sistemov so zelo pomembna tudi letala za podporo, kot so npr. letalski tankerji. Države članice EU skupaj premorejo le 60 letalskih tankerjev, a ker so različnih izvedb, starosti in nekompatibilni, jih bo težko učinkovito uporabiti.

Trenutno države članice EU skupno razpolagajo s kar 3.000 bojnimi vojaškimi letali, vendar je od teh 880 zastarelih in neprimernih za izvajanje mednarodnih nalog, kjer je potrebna najnovejša tehnologija. Mader in Rosenkranz (2001: 23) ugotavljata, da bo EU l. 2003 imela le 250 bojnih letal zadnje generacije ali zadnje verzije, večina preostalih (okrog 1.900) pa bo imela za seboj že več kot polovico "operacijskega življenja". Neglede na ta dejstva pa so od vseh oboroženih sistemov bojna letala še vedno najboljše vojaško sredstvo, s katerim razpolagajo države članice EU. Po drugi strani pa bojnim letalom primanjkuje sposobnosti za precizne napade in udare, čeprav EU poseduje kar nekaj bojnih letal za precizno vodene izstrelke. Največja pomanjkljivost evropskih bojnih letal pa je

nezmožnost izvajati natančne napade s natančno vodenimi izstrelki. Takšne zmogljivosti bojnih letal so potrebne predvsem za ohranjanje medijske podpore in pozitivnega javnega mnenja.

EU bo lahko uporabljala sredstva za zgodnje opozarjanje in nadzor zveze NATO, vendar pa ne bodo vedno dostopna, predvsem na kratki rok ne. Države EU imajo v svojih oboroženih silah tudi sredstva za zgodnje opozarjanje in nadzor (npr. AWACS), ki jih bodo lahko uporabila pri izvajanju Petersberških nalog. Vendar pa so za pridobivanje obveščevalnih podatkov države EU zelo skromno opremljene in se bodo morale zanašati predvsem na sredstva zveze NATO oz. ZDA (CIA – Central Intelligence Agency, NRO – National Reconnaissance Office, DIA – Defence Intelligence Agency ...).

Poleg bojnih letal lahko države članice EU za prevoz pripadnikov oboroženih sil in oborožitvenih sistemov uporabijo tudi 1.000 srednjih transportnih helikopterjev. Na krizno žarišče lahko prenesejo od 10 do 25 vodov ali do štiri tone tovora (Mader in Rosenkranz 2001: 24). Čeprav bi bila večina transportnih helikopterjev primerna za izvajanje mirovniških operacij, pa ne bi bila primerna za intenzivne boje, predvsem zaradi prešibkih obrambnih sistemov in prešibkega oklepa.

ERRF bodo za uspešno izvajanje Petersberških nalog po mnenju Jolyon Howorth (2000: 39) potrebovale večje število vojaških sredstev, kot so jih predvideli v Helsinškem cilju za oblikovanje ERRF, in to med 200.000 do 230.000 pripadnikov oboroženih sil, ki bodo sestavljali 15 brigad za operacije, 15 brigad za urjenje ter 15 rezervnih brigad. Od letalskih sil pa 300 do 350 bojnih letal s 180 podpornimi letali in 20 bojnimi fregatami ter 15 fregat za podporo. Države članice niso izpolnile prvega načrta za oblikovanje baze vojaških sredstev, kaj šele, da bi poskušale izpolniti drugi, bolj ambiciozni načrt popolnitve.

4. 5. 2 Zagotovitev sredstev za ERRF

Ena izmed velikih prednosti pri oblikovanju ERRF je človeški potencial, vendar pa ne smemo zanemariti pomanjkanja vojaških sredstev v državah članicah EU. Vsekakor je največja pomanjkljivost, ki se je pokazala pri oblikovanju baze za ERRF, letalstvo, strateški transport in zbiranje obveščevalnih podatkov. Zaradi tega analitiki poudarjajo, da

bodo morale države članice EU za samostojne ERRF nameniti več denarnih sredstev²⁷ (npr. povečanje obrambnih proračunov). Tudi visoki predstavnik za CFSP Javier Solana je na vrhu v Feriji poudaril, da bodo države članice EU za učinkovito izvajanje Petersberških nalog neogibno morale povečati obrambne proračune (Rutten 2001: 122). Države EU že dejansko za vojaške namene odštejejo 60 odstotkov vsote, ki jo prispevajo ZDA (165 milijard ameriških dolarjev v primerjavi s 285 milijardami ameriških dolarjev), da zagotavljajo globalno varnost. Na podlagi teh podatkov François Heisbourg (2000d: 9), meni, da EU lahko vzpostavi ERRF brez povečanja nacionalnih obrambnih proračunov držav članic EU. Vendar menimo, da EU ne bo mogla oblikovati ERRF brez povečanja nacionalnih obrambnih proračunov zaradi dejanskega trenda zmanjševanja obrambnih proračunov držav članic EU in seveda tudi zaradi zastarelih in pomanjkljivih vojaških sredstev. Za posodobitev in za odpravo pomanjkljivosti vojaških sredstev in tehnike bi morale države članice EU nujno občutno povečati obrambne izdatke, tako v absolutnem kot v relativnem merilu.

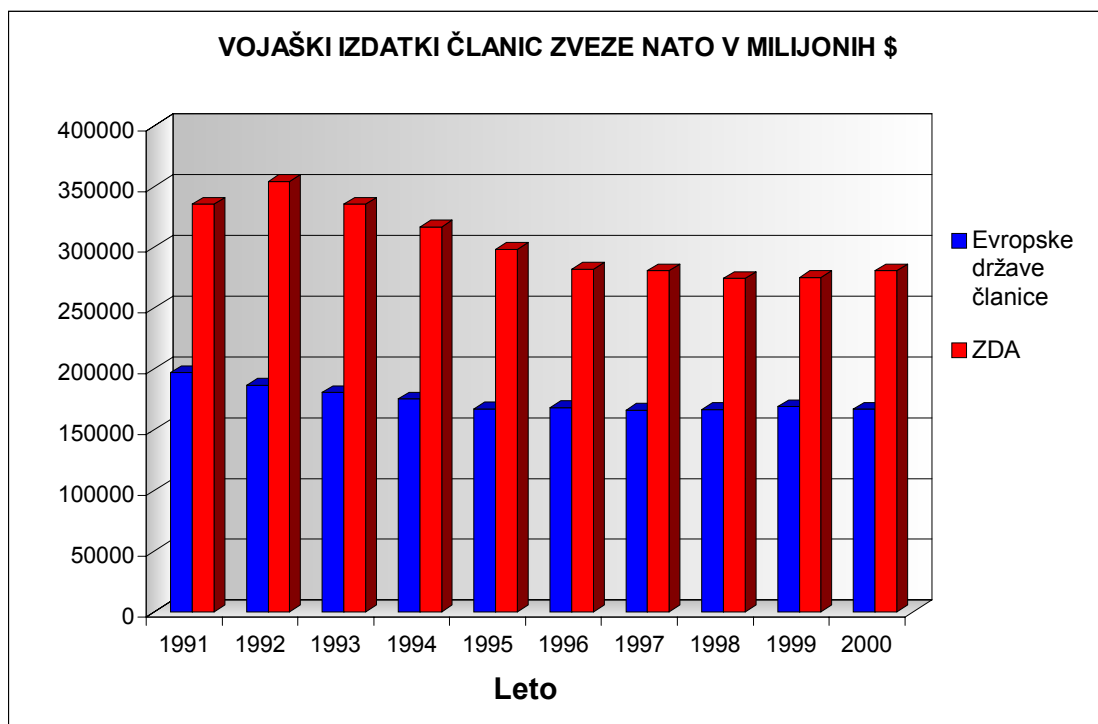
Vojaški izdatki evropskih držav članic zveze NATO nazorno pričajo, da se njihovi vojaški izdatki zmanjšujejo, tako absolutno kot tudi realno. Tako so se absolutni vojaški izdatki vseh evropskih držav članic zveze NATO (brez novih držav članic) od l. 1991 do l. 2000 zmanjšali od 196.801 milijonov ameriških dolarjev na 166.928 milijonov dolarjev²⁸.

Iz grafičnega prikaza je razvidno, da so evropske države članice zveze NATO od l. 1991 do l. 2000 skupno zmanjšale vojaške izdatke za 29.873 milijonov ameriških dolarjev, t. j. 15,2 odstotka. Vendar opazimo, da so jih od l. 1998 skoraj neopazno začele povečevati, in sicer za 0,31 odstotka. Za dosledno izvajanje Petersberških nalog in za posodobitev vojaških sredstev bi morale evropske države občutno povečati vojaške izdatke, vendar pa s prihajajočim upadanjem gospodarskega razcveta EU izdatno povečanje ni mogoče realno pričakovati. Za podkrepitev naše teze smo skupne vojaške izdatke evropskih držav, članic zveze NATO, primerjali še z vojaškimi izdatki ZDA od l. 1991 do l. 2000. Ugotovili smo, da so se vojaški izdatki ZDA od l. 1992 pravtako zmanjševali, vendar so ZDA za vojaške izdatke namenile povprečno 40 odstotkov več kakor pa vse evropske države članice zveze NATO skupaj.

²⁷ Peter W. Rodman (1999: 2), direktor nacionalno-varnostnega programa v Nixon Centru ugotavlja, da Evropejci očitno ne želijo povečati obrambne proračune. Zaradi tega se njihova želja po avtonomnem vojaškem delovanju ne bo izpolnjena še nekaj desetletij.

²⁸ Absolutni vojaški izdatki v ameriških dolarjih za evropske članice zveze Nato so prikazani v poglavju VI. Priloge i. t. v tabeli 1 (vojaški izdatki držav članic zveze Nato v ameriških dolarjih).

Graf 4. 5. 2. 1. Vojaški izdatki evropskih držav članic zveze NATO (brez novih držav članic) in ZDA.



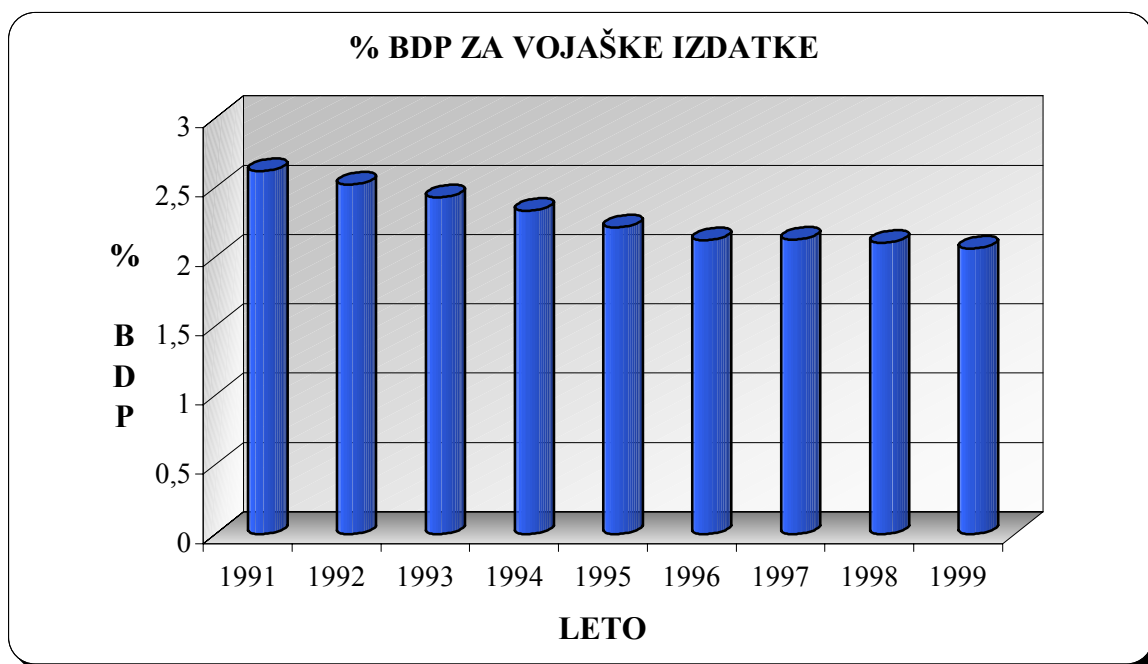
Vir: Baza podatkov vojaških izdatkov pri institutu SIPRI. http://projects.sipri.se/milex/mex_database1.html (16.4.2001).

Opazna je ponovna rast vojaških izdatkov v ZDA pa je rezultat zastavljenih novih projektov Bushove administracije in lahko pričakujemo, da se bodo njihovi vojaški izdatki povečevali tudi v prihodnosti. Predpostavko je potrdil tudi obrambni minister ZDA, Donald Rumsfeld, z oznanitvijo, da morajo ZDA investirati v novo vojaško tehnologijo ter posodobiti vojaška sredstva oboroženih sil ZDA, npr. obveščevalne sisteme, raketno obrambo, sile za hitro posredovanje, strateško mobilnost, infrastrukturo, logistiko... (Burger 2001: 3). Čeprav evropske države članice zveze NATO dandanes skupno namenjajo približno 60 odstotkov ameriških vojaških izdatkov, to ni dovolj za oblikovanje učinkovitih sil ERRF, še posebej zaradi trenda povečevanja izdatkov ZDA in povečanja namenskih sredstev za raziskave in razvoj na vojaškem področju. Po predvidevanjih O'Hanlona (v Mulholland 2001: 19), analitika Brookings Instituta, bodo ZDA za posodobitev oboroženih sil in izvajanje novih projektov povečale obrambni proračun a sedanje ravni, ki znaša 60 milijard ameriških dolarjev, na 80 ali celo 90 milijard ameriških dolarjev. Ministrstvo za obrambo ZDA je zaprosilo za dodatnih 32,6 milijarde ameriških dolarjev k odobrenemu proračunu za l. 2001 in za dodatnih 18,4 milijarde ameriških

dolarjev k 328,9 milijard ameriških dolarjev predlaganega obrambnega proračuna za proračunsko l. 2002 (Koch 2001: 9).

Naknadno smo ugotovili, da se poleg absolutnega zmanjševanja vojaških izdatkov evropskih držav, članic zveze NATO od l. 1991, zmanjšuje tudi odstotek družbenega bruto proizvoda (BDP), ki ga te evropske države namenjajo za vojaške izdatke²⁹.

Graf 4. 5. 2. 2 % BDP, ki ga evropske države članice zveze NATO namenjajo za vojaške izdatke (brez novih članic).



Vir: Baza podatkov vojaških izdatkov pri institutu SIPRI. http://projects.sipri.se/milex/mex_database1.html (16.4.2001).

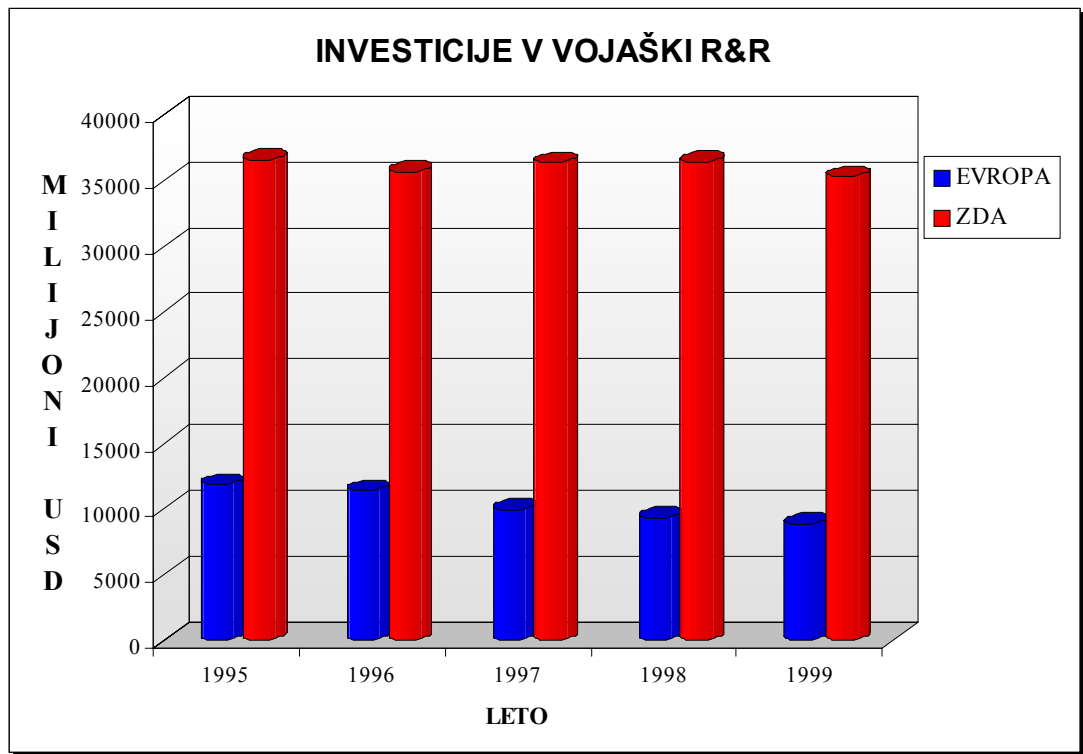
Tako so evropske države članice zveze NATO skupno namenile l. 1991 2,62 odstotka BDP za vojaške izdatke, odstotek pa se je vsako leto zmanjševal in je tako l. 1999 znašal le še 2,06 odstotka BDP. Poleg tega so l. 1999 ZDA namenile za raziskovanje in razvoj na vojaškem področju³⁰ 37 milijard ameriških dolarjev, evropske države članice zveze NATO pa so tega leta skupno namenile le 4 milijarde ameriških dolarjev za raziskave in razvoj (Hamre 2000: 28). V primeru, da države članice EU ne bodo povečale vojaških izdatkov ter ne bodo povečale investicij na področju raziskav in razvoja vojaške

²⁹ Relativno zmanjšanje vojaških izdatkov je nazorno pokazano v poglavju VI. Priloge i. t. v tabeli 2 (odstotek bruto domačega proizvoda namenjenega za vojaške izdatke).

³⁰ Preglednica o gibanju investicij na področje vojaških raziskav ter razvoj ZDA in evropskih članic zveze Nato se nahaja v zadnjem poglavju Priloge tabela 5.

opreme, se bo tehnološki prepad med ZDA in državami EU še povečeval.

Graf 4. 5. 2. 3 Prikaz investicij v vojaške raziskave in razvoj, ki ga namenjajo evropske države članice zveze NATO in ZDA.



Vir: (1999) The Military Balance 1999-2000. IISS, 37.

Države članice EU poudarjajo, da so od Amsterdama in Kölna do Nice naredile velik napredek pri vzpostavljanju ESDP in posledično tudi ERRF. Vendar pa je potrebno poudariti, da se je večina energije, pogovorov in dogovorov držav članic EU nanašala izključno na normativno ter institucionalno ureditev drugega stebra EU in znotraj tega politiko in organe ESDP. Pri tem procesu pa so drugotno obravnavali vojaške zmogljivosti EU za izvajanje glavnih Petersberških nalog v okviru ESDP. Na to je opozoril veleposlanik pri zvezi NATO Alexander Vershbow (18.5.2000) na Transatlantskem forumu, kjer je poudaril, da mora EU prioriteto obravnavati vojaške zmogljivosti EU pred institucionalno gradnjo novih organov ESDP znotraj EU. Vendar, če bodo države članice EU podpirale proces oblikovanja ERRF, ki so ga zastavile v Bruslju in v Nici, ter nadomestile primanjkljaj v vojaški sredstvih, bodo premostile tudi težave, na katere lahko ERRF naletijo pri izvajanju Petersberških nalog.

V. ODNOSI ZNOTRAJ EU IN RAZMERJE Z ZVEZO NATO

Ob koncu hladne vojne in z razpustom bipolarne ureditve se je spremenilo evropsko varnostno okolje. Tako je nevtralna Avstrija, ki želi sodelovati v evropskih mirovnih operacijah, pristopila k Partnerstvu za Mir (PfP) in zaradi pozitivnih izkušenj resno razmišljala o včlanitvi v zvezo NATO. V okviru EU je Avstrija podprla ESDP, saj bo tako vključena tudi v sodelovanje z zvezo NATO. Irska je l. 1999 ravnala podobno kot Avstrija in podpisala pristopno izjavo k PfP. V Švedski in Finski so potekale javne razprave o opustitvi nevtralnosti, vendar pa zaradi zgodovinske varnostne kulture in posebnega geostrateškega položaja Finska ni opustila politike nevtralnosti in se ni vključila v PfP. Na začetku sta iz enakega razloga bili skeptični do ESDP, vendar pa sta l. 2000 stališče omehčali³¹. Švedska ni močno nasprotovala ESDP in je bila pravzaprav francoska zaveznica, saj je bila ravno tako zaskrbljena nad "prevlado" ZDA v zvezi NATO. Danska ne sodeluje pri CFSP in hkrati tudi ne na področju ESDP, saj ne odobrava oblikovanja samostojnih vojaških sil EU, t. i. ERRF, saj naj bi nad tem področjem ekskluzivno pravico imela izključno zveza NATO (Howorth 2000: 46). Nevtralne in neopredeljene države, kot je npr. Danska, se zavzemajo, da EU razvije civilne zmogljivosti kriznega managementa (humanitarne operacije, reševanje, pomoč beguncem, preventivna diplomacija, opazovanje...) za posredovanje na kriznih območjih. Vendar pa bodo morale v prihodnosti neopredeljene države sprejeti odločitev o vojaških operacijah brez jasno določenega mandata ZN, vojaške naloge v okviru operacij uveljavljanja miru, večjo vlogo visokega predstavnika za CFSP itn.

5. 1 SODELOVANJE MED ZVEZO NATO IN EU

Portugalsko predsedstvo EU (januar-junij 2000) in finsko predsedstvo EU (julij-december 2000) je veliko pozornosti namenilo novemu razmerju med EU in zvezo NATO oz. ZDA. Od l. 1999 potekajo uradni pogovori o oblikovanju učinkovite koordinacije in preglednosti med zvezo NATO in EU. Pogovori in sodelovanje z zvezo NATO so se začeli z oblikovanjem štirih koordinacijskih skupin, ki pokrivajo naslednja področja: 1) vojaške zmogljivosti; 2) vprašanja o varnosti – infrastrukture, informacij in dokumentov; 3) prenos

³¹ L. 1999 je EU predsedovala Finska, ki je dosegala, da so države članice EU v Helsinikih sprejele odločitev o oblikovanju vojaških zmogljivosti za izvajanje Petersberških nalog.

sredstev zveze NATO na EU ("Berlin plus"³²); 4) vprašanje stalnega dialoga, srečanj in konzultacij med zvezo NATO in EU (Howorth 2000: 57). Od ustanovitve teh delovnih teles sta se organizaciji osredotočili predvsem na prve tri skupine vprašanj in sta zadnjega, najpomembnejšega, do sedaj zanemarjali.

Najtežje vprašanje, ki ga morajo države članice EU rešiti, je sodelovanje evropskih držav članic zveze NATO³³, ki niso članice EU, t. i. "šesterice" in tudi devet kandidat³⁴ za vstop v EU, ki pa niso članice zveze NATO, v institucionalnem okviru ESDP. Zaradi diskriminacije evropskih držav članic zveze NATO, ki niso članice EU, Velika Britanija l. 1997 ni podprla avtomatičnega prehoda WEU v EU, saj je imela WEU drugačno institucionalno ureditev³⁵ kot pa EU. Velika Britanija, Nizozemska, Portugalska in ostale države članice zveze NATO, ki so hkrati tudi članice EU, so od vsega začetka zahtevale, da mora "šesterica" prisostvovati v vlogi opazovalk na rednih sestankih vojaškega odbora EU. Poleg tega pa so poudarjale, da se mora politični in varnostni odbor EU s "šesterico" mesečno sestajati z namenom zagotovitve transparentnosti med EU in zvezo NATO (Howorth 2000: 58).

Ugotovili smo, da je v tem primeru prišlo do korenite spremembe, saj je "šesterica" v WEU imela pomembno vlogo pri sprejemanju odločitev, medtem ko nevtralne države pravzaprav niso imele pomembnejše vloge. Z normativno izgradnjo ESDP pa se je položaj obrnil in so tako nevtralne države postale pravnomočne članice v organih ESDP, medtem ko "šesterica" v okviru ESDP nima vidnejše vloge. Vendar bo morala "šesterica" sodelovati vsaj pri vojaškem načrtovanju operacij pod vodstvom EU, saj bodo vpletene, če bo zveza NATO na podlagi 5. člena Severnoatlantskega sporazuma morala posredovati na konfliktnem območju. Zaradi tega se je v preteklosti odvijal dialog o sodelovanju z ZDA in Kanado ter državami članicami zveze NATO, ki niso članice EU.

Francija poudarja, da je ESDP projekt EU in se mora EU o sodelovanju na področju ESDP dogovoriti tako s štirimi državami "šesterice", kot tudi z drugimi devetimi

³² Termin "Berlin plus" predstavlja vzpostavitev mehanizmov, ki bodo pospešili dostop EU do sredstev za načrtovanje in zmogljivosti zveze Nato.

³³ Češka, Madžarska, Islandija, Norveška, Poljska in Turčija t. i. "šesterica".

³⁴ Bolgarija, Ciper, Estonija, Latvija, Litva, Malta, Romunija, Slovaška in Slovenija.

³⁵ WEU pozna štiri vrste članstva: polnopravne članice (5 izvirmih članic: Belgija, Francija, Velika Britanija, Nizozemska, Luksemburg in 5 pozneje sprejetih članic: ZRN, Italija, Portugalska, Španija, Grčija), pridružene članice (Islandija, Norveška in Turčija), opazovalke (Irska, Danska, Avstrija, Finska, Švedska) in pridružene partnerke (Bolgarija, Češka, Estonija, Latvija, Litva, Madžarska, Poljska, Romunija, Slovaška in Slovenija) (Grizold 1999: 101-102).

kandidatkami za vstop v EU (Češka, Madžarska, Poljska, Turčija; plus Bolgarija, Ciper, Estonija, Latvija, Litva, Malta, Romunija, Slovaška in Slovenija). Pri tem pa je francoski predlog izpustil iz sodelovanja Norveško in Islandijo (Howorth 2000: 59), saj je francosko stališče, da se ne sme preferirati tistih držav, ki niso nikoli izrazile želje po vključitvi v EU, ampak se mora k sodelovanju izključno povabiti države kandidatke za vstop v EU. Zaradi različnih stališč so nastali tudi različni predlogi modelov sodelovanja med EU in ostalimi državami, npr. "15-plus-15" (Francija zagovarja model "15-plus-13") in model "15-plus-6".

Zadrego o načinu sodelovanja so razrešili na sestanku političnega in varnostnega odbora EU 19. aprila 2000. Sporazumeli so se, da bodo v okviru institucionalne strukture ESDP potekali redni sestanki s skupino "15-plus-15" in vsaj dvakrat (enkrat na ravni ministrov) se bodo v šestmesečnem roku države članice EU sestale s "šesterico" ("15-plus-6"). Vendar so države članice zveze NATO, še posebej ZDA, skeptične o takšni rešitvi sodelovanja. Dodatno Turčija trdi, da je takšna ureditev nepravilna do "šesterice" in neposredno nasprotuje odločitvi na vrhu v Feiriji o striktni ločitvi med operacijami EU z uporabo sredstev zveze NATO in operacijami EU. V operacijah, kjer bi EU uporabljala sredstva zveze NATO, bi Turčija oz. "šesterica" avtomatično sodelovala, pri avtonomnih operacijah EU pa bi "šesterica" sodelovala samo ob povabilu EU (Tocci in Houben 2001: 6). Ankara je obravnavala takšno rešitev kot diskriminatorno in je zagrozila, da bo na predlog "Berlin-plus", če rešitve ne spremenijo podala veto. EU je na to grožnjo odgovorila s predlogom, da "Turčijo povabijo k sodelovanju še zlasti pri načrtovanju in dogovarjanju o morebitnih posegih ERRF v vzhodnem Sredozemlju, Ankara pa bi dobila tudi pravico do vojaške udeležbe v takšnih operacijah" (Slabe 2001: 5). Zaostrovanja so še dodatno razburila ZDA oz. Washington, predvsem zaradi možnosti spodkopavanja in slabitve zveze NATO z oblikovanjem ESDP.

Države članice EU so zvezi NATO zagotovile, da zveza NATO ostaja primarna organizacija na področju zagotavljanja kolektivne varnosti v Evropi, kljub temu, da bo EU oblikovala avtonomne vojaške sile za posredovanje na kriznih območjih. EU bo zagotovila transparentnost med sodelovanjem EU in zvezo NATO, saj slednja pri izvajanju Petersberških nalog potrebuje sredstva za strateško vojaško načrtovanje. Velika Britanija zagovarja stališče, da se EU mora posluževati zmogljivosti zveze NATO, saj sama nima takšnih zmogljivosti in s tem bi bila zagotovljena tudi primerljivost in jasnost načrtovanja med zvezo NATO in EU. Francija, ki ni vključena v strateško načrtovanje zveze NATO, zagovarja ustanovitev lastnih sredstev za strateško vojaško načrtovanje (Howorth 2000: 61).

5. 2 ODNOS ZDA DO ESDP

Stanley R. Sloan (2000: 49-60) opredeljuje različna stališča ZDA do ESDP, ki se med seboj dokaj razlikujejo. Večina analitikov, ki odobrava sodelovanje ESDP z zavezništvom, tvori t. i. šolo "Yes, but" (Da, ampak). Druga bolj skeptična skupina tvori šolo "Oh, yeah?" (O, ja?), ki zagovarja, da mora zveza NATO imeti primarno vlogo pri zagotavljanju varnosti v Evropi. Tretjo šolo pa lahko imenujemo "Yes, please" (Da, prosim), ki zagovarja oblikovanje ESDP z namenom, da se okrepi čezatlantsko zavezništvo. Četrta skupina stališč pa poudarja pomanjkanje zanimanja in interesa v Evropi, kar se nanaša na oportunitetne stroške ZDA v Evropi.

Ne glede na zgornja stališča pa je Clintonova administracija uradno podprla oblikovanje ESDP, čeprav v določenih obdobjih ne zelo jasno in eksplicitno. Nekdanji ameriški predsednik Bill Clinton je 20. junija 2000 pozdravil odločitve, ki so jih države članice EU sprejele v Feiraji, in poudaril, da bo ESDP okrepila zavezništvo, vendar pa morajo članice države EU napredovati pri procesu vključevanja držav članic zveze NATO, ki niso članice EU v odločanje v okviru ESDP in podpreti vzpostavitev širšega dialoga med EU in zvezo NATO. Stališče t. i. "Yes, but" (Da, ampak) je ponazoril tudi Philip Gordon, ameriški specialist za Evropo, ki zgovorno predstavlja večinsko stališče do ESDP: *"We want to go ahead with CESDP because it should be in all our interests, but, because we have only limited confidence in your ability to achieve your own objectives, we need to lay down some firm guidelines and conditions which must be adhered to if you are not to fail in your endeavours and simply make matters worse"* (Gordon v Howorth 2000: 65). ZDA poudarjajo, da je potrebno zagotoviti primarno vlogo zveze NATO pri vodenju vojaških intervencij, da se mora EU osredotočiti predvsem na uresničevanje predloga "Berlin-plus", kot na podvajanje zmogljivosti in pospešiti čezatlantsko industrijsko sodelovanje.

Ameriški pristop "Yes, but" (Da, ampak) od ESDP vpliva dokaj negativno na čezatlantske odnose. EU je tri pogoje (sodelovanje "šesterice", dialog med zvezo NATO in EU, osredotočenje na vojaške zmogljivosti), ki jih je postavila zveza NATO, že sprejela. Uresničitev drugih treh pogojev (primarna vloga zveze NATO, "Berlin-plus" in čezatlantsko industrijsko sodelovanje) pa je odvisna tako od zveze NATO kot tudi od EU.

After all, was it not the presence of a certain ambiguity that made it possible for European construction to progress – in the face of the great difficulties and disagreements among members on the very notion of the Europe they wish to build?

Alfred Cahen 2001

VI. SKLEP

V diplomskem delu smo strnjeno predstavili razvoj CFSP, iz katere se je postopoma razvila tudi ESDP. Ideja o vzpostavitvi evropske obrambne in varnostne identitete SE porajala že v antičnih časih, vendar nikoli ni resnično zaživela. Resni poskusi skupinskega zagotavljanja varnosti zahodnoevropskih držav so se pričeli po koncu druge svetovne vojne s podpisom Bruseljske pogodbe. Vendar pa se je zaradi zaostrovanja razmer v odnosih s Sovjetsko zvezo se je v evroatlantskem prostoru izoblikovalo vojaško politično zavezništvo med ZDA, Kanado in skupino zahodnoevropskih držav, ki je zasenčilo in prevzelo naloge evropske obrambne skupnosti. S spremembo Bruseljske pogodbe (od tod naprej WEU) so si želele zahodnoevropske države ustvariti organizacijo za zagotavljanje evropske varnostne dimenzije. Vendar pa tudi WEU ni zaživela ter je delovala kot povezava med zvezo NATO in evropskimi skupnostmi vse do konca hladne vojne.

Konec "hladne vojne" l. 1990 in sprememba geopolitičnih razmer sta občutno vplivala na zagotavljanje nacionalne in mednarodne varnosti. Z razpustom Varšavskega sporazuma in razpadom večnacionalne Sovjetske zveze se je morala tudi zveza NATO prilagoditi novim mednarodnim razmeram. V tem razburljivem obdobju so l. 1993 države evropskih skupnosti podpisale Maastrichtski sporazum, s katerim so ustanovile Evropsko unijo s tremi temeljnimi institucionalnimi stebri. Drugi steber, na katerega smo se v diplomskem delu osredotočili, je CFSP, kateri države članice niso posvečale prioriteta pomena. Medtem ko so se države članice na začetku instucionalizacije EU osredotočile predvsem na prvi steber, t. j. gospodarsko sodelovanje, denarno unijo, pravtako pa, želijo vzpostaviti tudi politično unijo. Že ob razpadu SFRJ in nato tudi pri posredovanju zveze NATO na Kosovu so države članice spoznale, da morajo prevzeti večjo odgovornost za reševanje kriznih razmer v Evropi in na interesnih območjih EU. Gospodarska moč in preventivna diplomacija držav EU ni mogla preprečiti in zaustaviti oboroženih spopadov na območju nekdanje Jugoslavije. Zaradi tega so se države članice EU odločile okrepiti drugi steber, t. j. CFSP, ki po pogodbi o EU predvideva tudi možnost oblikovanja skupne obrambe, z vojaškimi sredstvi.

Podlaga za normativno oblikovanje ESDP v okviru CFSP je bila revizija pogodbe o EU, t. i. Amsterdamska pogodba l. 1997. Države članice EU so, pod vodstvom Velike Britanije, sprejele odločitev, da oblikujejo institucionalni okvir ESDP in jo hkrati podkrepijo tudi z vojaškimi sredstvi. Petersberške naloge WEU naj bi se postopno prenesle na EU, ki bi jih izpolnjevala z lastnimi vojaškimi silami, ki bi jih dale na razpolago države članice EU, ali pa bi jih izvajala s sredstvi zveze NATO. Temu so sledila vsakoletna srečanja držav članic EU (Köln, Helsinki, Nica...), na katerih so razpravljale o nadaljnjem razvoju ESDP, predvsem na področju oblikovanja institucij ESDP. Na srečanju v Helsinkih l. 1999 so predlagali ustanovitev temeljnih organov ESDP, ki so jih na naslednjem srečanju v Nici odobrili in ustanovljeni so bili: politični in varnostni odbor, vojaški odbor in vojaški štab. Med posameznimi organi je zelo zapletena korelacija, kar še bolj otežuje izvajanje in delovanje ESDP. S prikazom, kako so potekala prizadevanja za institucionalizacijo smo podkrepili našo izhodiščno misel, da je izgrajevanje skupnega zagotavljanja varnosti zahodnoevropskih držav dolgotrajen proces, h kateremu težijo države članice EU. Zaradi tega tudi ni pričakovati, da bodo države članice EU do l. 2003 dokončno vzpostavile ESDP, tako institucionalno kot vojaško, vsaj za učinkovito izvajanje ne.

Prav tako zavira dokončno normativno postavitve ESDP način odločanja in odnos držav članic zveze NATO do ESDP. Čeprav je EU priznala zvezi NATO, primarno vlogo pri zagotavljanju varnosti v Evropi, prihaja do razhajanj v institucionalnem sodelovanju med njima. WEU je razpuščena in njene naloge je vsrkala EU, vendar pa ni integrirala in prevzela njenih institucionalnih okvirov. Zaradi tega države članice zveze NATO, ki niso članice EU, in so imele status članic WEU, ne morejo enakovredno sodelovati pri sprejemanju odločitev na področju in v okviru organov ESDP. Na pritisk zveze NATO je se EU odločila, da bodo države članice zveze NATO, ki niso članice EU, na podlagi vabila prisostvovala sestankom političnega in varnostnega odbora ter vojaškega odbora. Vsekakor pa se takšna rešitev ne zdi primerna Turčiji, ki želi tvorno delovati v okviru ESDP, čeprav ni članica EU in ima tudi možnost blokiranja EU pri uporabi sredstev zveze NATO. Vprašanje sodelovanja pri odločitvah tako s članicami zveze NATO, ki niso članice EU, kot tudi s članicami kandidatki za vstop v EU še ni rešeno in bo potrebno doseči dogovor, ki bo upošteval vse razsežnosti problema.

Izhodiščna domneva, da so države članice EU veliko naporov vložile izključno v izgradnjo organov za podporo ESDP in zelo malo pozornosti namenile temeljnemu vzroku, zaradi katerega so se odločile oblikovati ESDP, t. j. vojaški zmogljivosti, se je potrdila.

Vojaške zmogljivosti so temeljnega pomena za EU in za učinkovito izvajanje ESDP, a so bile postavljene na stranski tir zaradi preokupacije z oblikovanjem organov, ki bodo upravljali z zmogljivostmi. Na tem področju je bila organizirana konferenca o vojaških zmogljivostih, kjer so države (tudi nečlanice EU) ponudile določen del nacionalnih sil za osnovo, iz katere se bodo oblikovale ERRF za vsako nalogo posebej. Iz tega sledi, da EU ne bo imela svoje lastne vojske ali t. i. evropske vojske, ampak bo oborožene sile oblikovala po vzoru zveze NATO in OUN, ki sproti sestavijo sile za hitro posredovanje na podlagi ponujenih nacionalnih oboroženih sil držav članic.

Ugotovili smo, da državam članicam EU primanjkujejo sodobna vojaška sredstva, ki bi jih ERRF nujno potrebovale za uspešno izvajanje Petersberških nalog. Za posodobitev oborožitvenih sistemov (obveščevalni sistemi, sistemi poveljevanja in nadzora, sredstva za strateški transport, sistemi komunikacij...) bi morale države članice EU povišati obrambni proračun, obrambne izdatke in seveda tudi odstotek bruto družbenega proizvoda za vojaške izdatke. Vendar pa empirični podatki nazorno prikazujejo, da se obrambni izdatki in odstotek, ki ga države članice EU namenjajo za vojaške izdatke, zmanjšujejo. Povečanja obrambnih izdatkov in s tem obrambnega proračuna tudi v prihodnje ni mogoče pričakovati, ker je gospodarska rast EU v zatonu. Zaradi pomanjkanja strateških zmogljivosti držav članic EU bo morala EU sodelovati in si za izvajanje nalog kriznega managementa zagotoviti sredstva zveze NATO. Pred tem pa je potrebno vzpostaviti tvoren dialog z zvezo NATO in transparentne odnose ter dejavno vključiti v oblikovanje le-teh tudi države članice zveze NATO.

Po besedah generalnega sekretarja zveze NATO Lorda Robertsona (Vinocur 2001: 1) EU ne bo dosegla zastavljenega cilja, da bi do l. 2003 operativno oblikovala ERRF, saj je do konca l. 2001 opravila le polovico dogovorjenih nalog pri okrepitvi vojaških sil, pa še to te so bile najlažje. Predvidevamo, da si je EU postavila prekratek rok (do l. 2003) za vzpostavitev učinkovitih in primerno opremljenih ERRF in tako ne bo mogla uresničiti zastavljenih načrtov, kar bo spodkopalo kredibilnost EU. Predvsem bi se morala osredotočiti na same vojaške zmogljivosti in zmanjšati tehnološki razkorak med EU in ZDA, zato pa bi morala povečati nacionalne obrambne proračune in nameniti višje zneske denarnih sredstev za raziskovanje.

V primeru, da bo EU ugodno razrešila dileme v okviru sodelovanja držav članic zveze NATO, ki niso članice EU, in kandidatki za vstop v EU in bo v doglednem času oblikovala sodobno opremljene ERRF, bo lahko tvorno delovala na področju vzpostavljanja stabilnosti in varnosti v Evropi. Ker bodo silam ERRF še vedno

primanjkovala strateške zmogljivosti (predvsem logistične zmogljivosti, obveščevalni sistemi, komunikacijski sistemi...), bo EU morala imeti dostop do teh zmogljivosti prek zveze NATO. Zaradi tega bo EU morala negovati odnose z zvezo NATO, vzpostaviti organe za posvetovanje in dialog, ter zagotoviti transparentnost ESDP. V primeru, da EU spodleti na eni od težav, ki preže nanjo v tem procesu, pa bomo ponovno priča spodletelemu poskusu samostojnega delovanja evropskih držav na področju zagotavljanja evropske varnosti. Vendar menimo, da bo EU v tem zgodovinskem procesu uspelo zagotoviti zgoraj naštetе pogoje in bomo priča avtonomnemu delovanju skupnosti evropskih držav v kriznem managementu in aktivnem zagotavljanju varnosti in stabilnosti v Evropi.

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Tabela 1. Vojaški izdatki držav članic zveze Nato v ameriških dolarjih (brez novih članic).

VOJAŠKI IZDATKI V AMERIŠKIH DOLARJIH										
Vojaški izdatki so izraženi v milijonih po konstantnih cenah in menjalnih tečajih iz leta 1998.										
	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Belgija	4 894	4 019	3 817	3 795	3 719	3 646	3 666	3 664	3 662	3 677
Danska	2 917	2 864	2 870	2 798	2 770	2 777	2 814	2 847	2 829	2 738
Francija	45 906	44 436	43 954	44 177	42 009	40 978	41 152	40 042	40 386	40 442
Grčija	4 499	4 678	4 564	4 643	4 742	5 026	5 357	5 836	6 111	6 320
Italija	22 624	21 974	22 091	21 545	19 672	21 696	22 751	23 478	24 397	23 787
Luksemburg	117	122	111	123	120	123	133	143	145	145
Nemčija	44 646	42 452	38 185	35 615	34 980	34 286	33 065	33 146	33 816	33 025
Nizozemska	8 055	8 008	7 355	7 097	6 893	6 933	6 863	6 836	7 191	6 797
Norveška	3 265	3 539	3 298	3 465	3 129	3 169	3 117	3 325	3 342	3 227
Portugalska	2 334	2 398	2 314	2 258	2 426	2 337	2 391	2 336	2 457	2 511
Španija	8 274	7 650	8 319	7 487	7 760	7 580	7 650	7 524	7 720	7 997
VB	49 270	44 537	43 544	42 110	38 818	39 463	37 032	37 232	36 780	36 262
Σ (Evropa)	196 801	186 677	180 422	175 113	167 038	168 014	165 991	166 409	168 836	166 928
ZDA	335 436	354 293	335 582	316 763	298 228	282 047	280 599	274 278	275 014	280 620
Σ (E.+ZDA)	532 237	540 970	516 004	491 876	465 266	450 061	446 590	440 687	443 850	447 548

Vir: Baza podatkov vojaških izdatkov pri institutu SIPRI. http://projects.sipri.se/milex/mex_database1.html (16.4.2001).

Tabela 2. Odstotek bruto domačega proizvoda (BDP) za vojaške izdatke (brez novih članic).

Odstotek bruto domačega proizvoda (BDP) za vojaške izdatke									
	1991	1992	1993	1994	1995	1996	1997	1998	1999
Belgija	2,3	1,8	1,7	1,7	1,6	1,6	1,5	1,5	1,4
Danska	2	1,9	1,9	1,8	1,7	1,7	1,7	1,6	1,6
Francija	3,6	3,4	3,4	3,3	3,1	3	2,9	2,8	2,7
Grčija	4,3	4,5	4,4	4,4	4,3	4,5	4,6	4,8	4,8
Italija	2,1	2	2,1	2	1,8	1,9	2	2	2
Luksemburg	0,9	0,9	0,8	0,8	0,8	0,8	0,8	0,8	0,8
Nemčija	2,3	2,1	2	1,8	1,7	1,6	1,6	1,5	1,5
Nizozemska	2,5	2,5	2,3	2,1	2	1,9	1,8	1,7	1,8
Norveška	2,8	3	2,7	2,8	2,4	2,2	2,1	2,3	2,2
Portugalska	2,7	2,7	2,6	2,5	2,6	2,4	2,4	2,2	2,2
Španija	1,7	1,6	1,7	1,5	1,5	1,4	1,4	1,3	1,3
VB	4,2	3,8	3,6	3,3	3	3	2,7	2,7	2,5
Σ (Evropa)	2,62	2,52	2,43	2,33	2,21	2,12	2,125	2,1	2,06
ZDA	4,7	4,8	4,5	4,1	3,8	3,5	3,3	3,1	3
Σ (E.+ZDA)	3,66	3,658	3,47	3,22	3,004	2,83	2,71	2,6	2,53

Vir: Baza podatkov vojaških izdatkov pri institutu SIPRI. http://projects.sipri.se/milex/mex_database1.html (16.4.2001).

Tabela 3. Odstotek vojaških izdatkov, ki jih evropske države članice zveze Nato in ZDA namenjajo za vojaško opremo.

% VOJAŠKIH IZDATKOV NAMENJENIH ZA OPREMO									
	1980	1985	1990	1995					
	-1984	- 1989	- 1994	- 1999	1996	1997	1998	1999	2000
Belgija	13,8	12,1	7,8	5,8	5,3	6,2	5,9	6,5	8,4
Danska	16,9	14,0	15,8	12,8	12,5	13,7	13,8	11,4	12,8
Francija	20,0	19,6	13,5	11,8	11,1	10,8	12,7	13,2	14,3
Grčija	17,4	18,2	22,8	20,1	21,1	19,4	20,6	19,4	18,3
Italija	17,4	19,7	16,3	12,9	14,3	11,3	12,4	11,7	12,5
Luksemburg	1,8	3,5	3,4	4,1	4,1	3,5	6,5	5,0	5,4
Nemčija	20,5	19,8	15,6	16,4	18,7	15,7	15,3	16,9	14,3
Nizozemska	19,4	21,7	24,9	24,5	25,2	24,6	25,0	22,6	20,7
Norveška	5,5	7,6	5,7	5,5	6,3	8,2	3,8	4,2	7,1
Portugalska	12,4	12,8	13,4	13,6	12,0	11,5	12,5
Španija	9,1	18,2	23,7	26,5	30,8	27,0	20,6	25,5	33,6
VB	26,2	24,8	21,0	24,8	23,9	24,9	26,5	26,9	27,4
Σ (Evropa)	14,0	14,9	15,2	14,8	15,6	14,9	14,6	14,6	15,6
ZDA	21,9	25,6	25,1	26,2	26,9	26,0	25,6	24,9	23,2

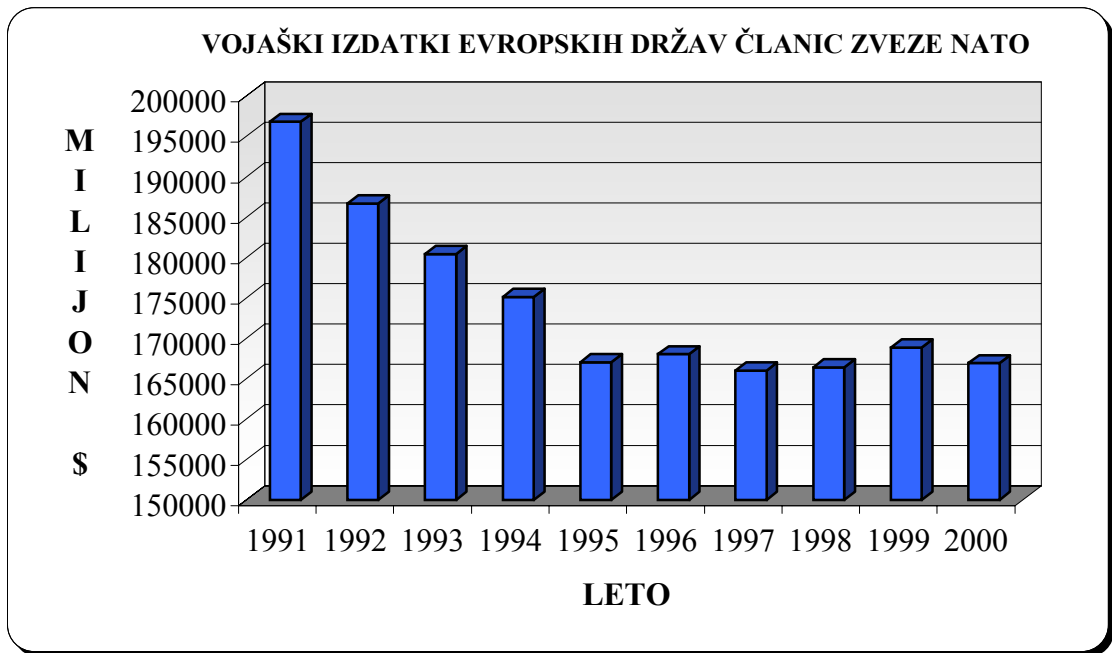
Vir: Defence Spending (Spring 2001), NATO Review, 34.

Tabela 4. Investicije (v milijonih ameriških dolarjev) evropskih držav članic zveze Nato in ZDA, ki jih namenjajo raziskovanju in razvoju na vojaškem področju.

RAZISKOVANJE IN RAZVOJ NA VOJAŠKEM PODROČJU					
Investicije so izraženi v milijonih USD na podlagi konstantnih cen l. 1997.					
	1995	1996	1997	1998	1999
Belgija	2	2	2	1	2
Danska	5	5	5	5	5
Francija	5 525	4 932	3 821	3 254	3 148
Grčija	1 981	1 850	1 487	1 410	1 262
Italija	579	756	751	533	298
Luksemburg	0	0	0	0	0
Nemčija	8	9	18	23	21
Nizozemska	79	121	102	99	64
Norveška	48	36	22	21	21
Portugalska	4	4	4	4	4
Španija	229	282	242	198	170
VB	3 408	3 422	3 491	3 785	3 909
Σ (Evropa)	11 868	11 419	9 945	9 333	8 904
ZDA	36 597	35 722	36 404	36 469	35 324

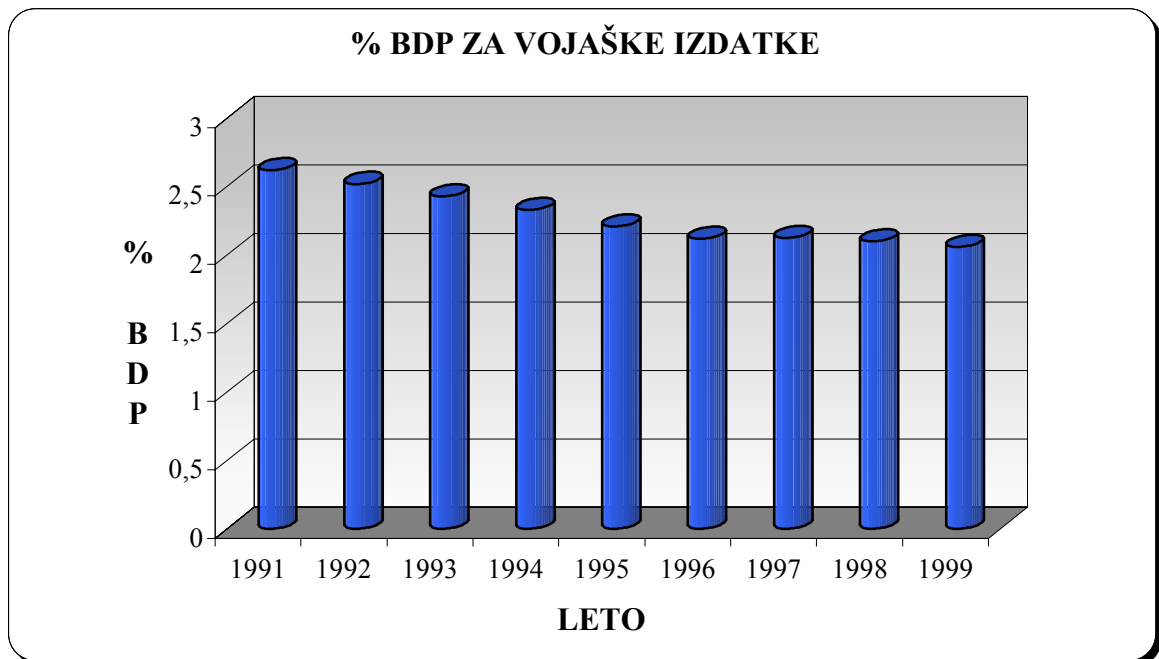
Vir: The Military Balance 1999-2000. IISS, 37.

Graf 1. Vojaški izdatki evropskih držav članic zveze Nato (brez novih držav članic).



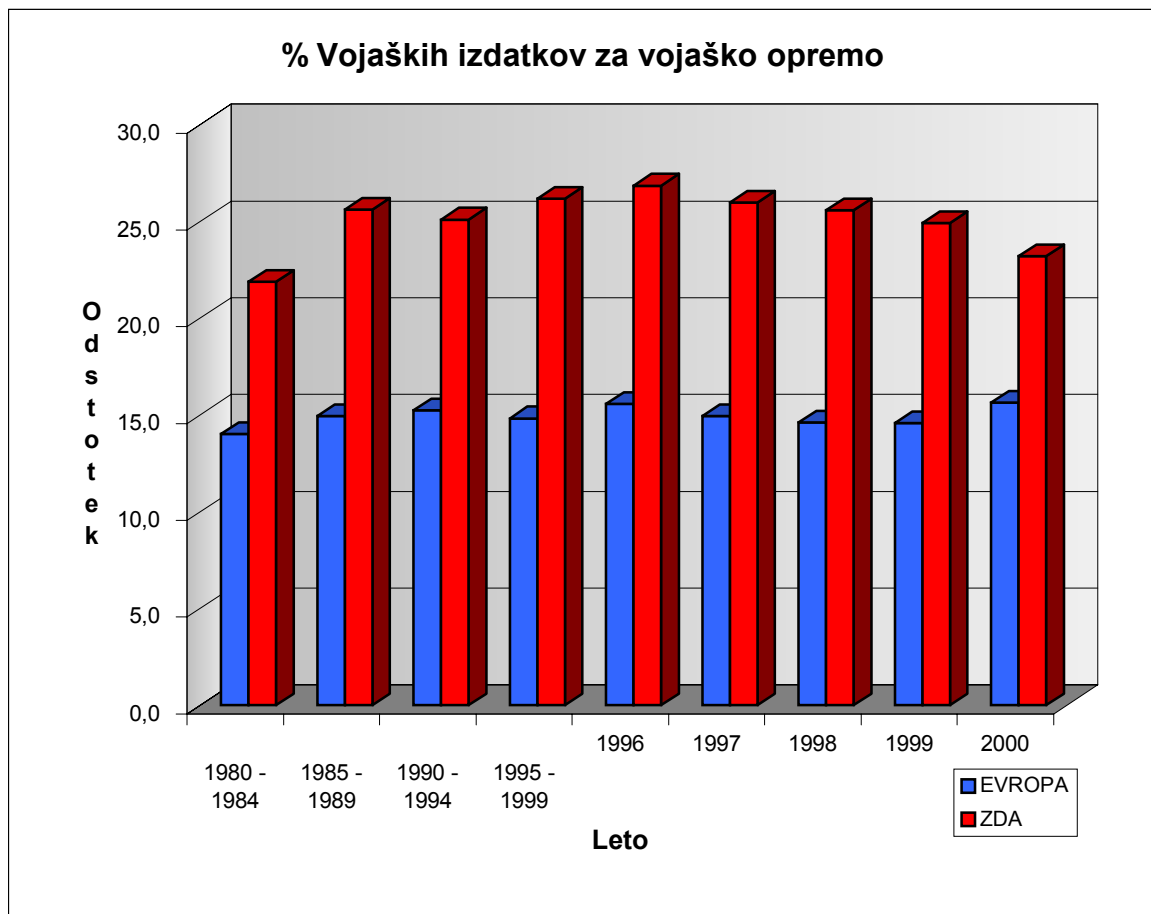
Vir: Baza podatkov vojaških izdatkov pri institutu SIPRI. http://projects.sipri.se/milex/mex_database1.html (16.4.2001).

Graf 2. % BDP, ki ga evropske države članice zveze Nato namenjajo za vojaške izdatke (brez novih članic).



Vir: Baza podatkov vojaških izdatkov pri institutu SIPRI. http://projects.sipri.se/milex/mex_database1.html (16.4.2001).

Graf 3. Odstotek vojaških izdatkov, ki ga namenjajo evropske države članice zveze Nato in ZDA za vojaško opremo.



Vir: Defence Spending (Spring 2001), NATO Review, 34.

CONSOLIDATED VERSION
OF THE TREATY ESTABLISHING
THE EUROPEAN COMMUNITY

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II — Protocols (text not reproduced)

Note: The references to Treaty articles, titles and sections contained in the protocols are adapted in accordance with the tables of equivalence set out in the Annex to the Treaty of Amsterdam.

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

— Protocol (No 2) integrating the Schengen acquis into the framework of the European Union (1997)

- Protocol (No 3) on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland (1997)
- Protocol (No 4) on the position of the United Kingdom and Ireland (1997)
- Protocol (No 5) on the position of Denmark (1997)

Protocols annexed to the Treaty on European Union and to the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community:

- Protocol (No 6) annexed to the Treaty on European Union and to the Treaties establishing the European Communities (1992)
- Protocol (No 7) on the institutions with the prospect of enlargement of the European Union (1997)
- Protocol (No 8) on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol (1997)
- Protocol (No 9) on the role of national parliaments in the European Union (1997)

Protocols annexed to the Treaty establishing the European Community:

- Protocol (No 10) on the Statute of the European Investment Bank (1957)
- Protocol (No 11) on the Statute of the Court of Justice of the European Community (1957)
- Protocol (No 12) on Italy (1957)
- Protocol (No 13) on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State (1957)
- Protocol (No 14) concerning imports into the European Community of petroleum products refined in the Netherlands Antilles (1962)
- Protocol (No 15) on special arrangements for Greenland (1985)
- Protocol (No 16) on the acquisition of property in Denmark (1992)
- Protocol (No 17) concerning Article 141 of the Treaty establishing the European Community (1992)
- Protocol (No 18) on the Statute of the European System of Central Banks and of the European Central Bank (1992)
- Protocol (No 19) on the Statute of the European Monetary Institute (1992)
- Protocol (No 20) on the excessive deficit procedure (1992)

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- Protocol (No 21) on the convergence criteria referred to in Article 121 of the Treaty establishing the European Community (1992)
 - Protocol (No 22) on Denmark (1992)
 - Protocol (No 23) on Portugal (1992)
 - Protocol (No 24) on the transition to the third stage of economic and monetary union (1992)
 - Protocol (No 25) on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland (1992)
 - Protocol (No 26) on certain provisions relating to Denmark (1992)
 - Protocol (No 27) on France (1992)
 - Protocol (No 28) on economic and social cohesion (1992)
 - Protocol (No 29) on asylum for nationals of Member States of the European Union (1997)
 - Protocol (No 30) on the application of the principles of subsidiarity and proportionality (1997)
 - Protocol (No 31) on external relations of the Member States with regard to the crossing of external borders (1997)
 - Protocol (No 32) on the system of public broadcasting in the Member States (1997)
 - Protocol (No 33) on protection and welfare of animals (1997)

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

- Protocol (No 34) on the privileges and immunities of the European Communities (1965)

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

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

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

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

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

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

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

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

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

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

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

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;

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

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 Inter-governmental 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 (ex Article 1)

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

Article 2 (ex Article 2)

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

Article 3 (ex Article 3)

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

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

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

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

Article 4 (ex Article 3a)

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

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

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

Article 5 (ex Article 3b)

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

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

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

Article 6 (ex Article 3c)

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

Article 7 (ex Article 4)

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

— a EUROPEAN PARLIAMENT,

— a COUNCIL,

— a COMMISSION,

— a COURT OF JUSTICE,

— a COURT OF AUDITORS.

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

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

Article 8 (ex Article 4a)

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

Article 9 (ex Article 4b)

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

Article 10 (ex Article 5)

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

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

Article 11 (ex Article 5a)

1. Member States which intend to establish closer cooperation between themselves may be authorised, subject to Articles 43 and 44 of the Treaty on European Union, to make use of the institutions, procedures and mechanisms laid down by this Treaty, provided that the cooperation proposed:

- (a) does not concern areas which fall within the exclusive competence of the Community;
- (b) does not affect Community policies, actions or programmes;
- (c) does not concern the citizenship of the Union or discriminate between nationals of Member States;
- (d) remains within the limits of the powers conferred upon the Community by this Treaty; and
- (e) does not constitute a discrimination or a restriction of trade between Member States and does not distort the conditions of competition between the latter.

2. The authorisation referred to in paragraph 1 shall be granted by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

If a member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the granting of an authorisation by qualified majority, a vote shall not be taken. The Council may, acting by a qualified majority, request that the matter be referred to the Council, meeting in the composition of the Heads of State or Government, for decision by unanimity.

Member States which intend to establish closer cooperation as referred to in paragraph 1 may address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

3. Any Member State which wishes to become a party to cooperation set up in accordance with this Article shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of receipt of that notification. Within four months of the date of that notification, the Commission shall decide on it and on such specific arrangements as it may deem necessary.

4. The acts and decisions necessary for the implementation of cooperation activities shall be subject to all the relevant provisions of this Treaty, save as otherwise provided for in this Article and in Articles 43 and 44 of the Treaty on European Union.

5. This Article is without prejudice to the provisions of the Protocol integrating the Schengen acquis into the framework of the European Union.

Article 12 (ex Article 6)

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

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

Article 13 (ex Article 6a)

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

Article 14 (ex Article 7a)

1. The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992, in accordance with the provisions of this Article and of Articles 15, 26, 47(2), 49, 80, 93 and 95 and without prejudice to the other provisions of this Treaty.

2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

Article 15 (ex Article 7c)

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

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

Article 16 (ex Article 7d)

Without prejudice to Articles 73, 86 and 87, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Community and the Member States, each within their

respective powers and within the scope of application of this Treaty, shall take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions.

PART TWO

CITIZENSHIP OF THE UNION

Article 17 (ex Article 8)

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

Article 18 (ex Article 8a)

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.
2. The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1; save as otherwise provided in this Treaty, the Council shall act in accordance with the procedure referred to in Article 251. The Council shall act unanimously throughout this procedure.

Article 19 (ex Article 8b)

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

Article 20 (ex Article 8c)

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

Article 21 (ex Article 8d)

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

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

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

Article 22 (ex Article 8e)

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

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

PART THREE

COMMUNITY POLICIES

TITLE I

FREE MOVEMENT OF GOODS

Article 23 (ex 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 Article 25 and of Chapter 2 of this Title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

Article 24 (ex Article 10)

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

Chapter 1

The customs union

Article 25 (ex Article 12)

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

Article 26 (ex Article 28)

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

Article 27 (ex Article 29)

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

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

Chapter 2

Prohibition of quantitative restrictions between Member States

Article 28 (ex Article 30)

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

Article 29 (ex Article 34)

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

Article 30 (ex Article 36)

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

Article 31 (ex Article 37)

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

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

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

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

TITLE II
AGRICULTURE

Article 32 (ex 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 33 to 38, the rules laid down for the establishment of the common market shall apply to agricultural products.
3. The products subject to the provisions of Articles 33 to 38 are listed in Annex I to this Treaty.
4. The operation and development of the common market for agricultural products must be accompanied by the establishment of a common agricultural policy.

Article 33 (ex 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 34 (ex Article 40)

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

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

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

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

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

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

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

Article 35 (ex Article 41)

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

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

Article 36 (ex 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 37(2) and (3) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 33.

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

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

Article 37 (ex 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 34(1), and for implementing the measures specified in this Title.

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

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

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

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

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

Article 38 (ex 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 of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.

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

TITLE III

FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL

Chapter 1

Workers

Article 39 (ex Article 48)

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

Article 40 (ex Article 49)

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

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

Article 41 (ex Article 50)

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

Article 42 (ex Article 51)

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

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

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

Chapter 2

Right of establishment

Article 43 (ex 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 prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

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

Article 44 (ex Article 54)

1. In order to attain freedom of establishment as regards a particular activity, the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall act by means of directives.
2. The Council and the Commission shall carry out the duties devolving upon them under the preceding provisions, in particular:
 - (a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;
 - (b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Community of the various activities concerned;
 - (c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;
 - (d) by ensuring that workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;
 - (e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, insofar as this does not conflict with the principles laid down in Article 33(2);
 - (f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up

agencies, branches or subsidiaries in the territory of a Member State and as regards the subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;

- (g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and other, are required by Member States of companies or firms within the meaning of the second paragraph of Article 48 with a view to making such safeguards equivalent throughout the Community;
- (h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

Article 45 (ex 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 46 (ex 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. The Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the coordination of the abovementioned provisions.

Article 47 (ex Article 57)

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

Article 48 (ex 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 49 (ex Article 59)*

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

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

Article 50 (ex Article 60)

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

‘Services’ shall in particular include:

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

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

Article 51 (ex 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 liberalisation of movement of capital.

Article 52 (ex Article 63)

1. In order to achieve the liberalisation of a specific service, the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the European Parliament, issue directives acting by a qualified majority.

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

Article 53 (ex 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 52(1), if their general economic situation and the situation of the economic sector concerned so permit.

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

Article 54 (ex 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 49.

Article 55 (ex Article 66)

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

Chapter 4

Capital and payments

Article 56 (ex Article 73b)

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

Article 57 (ex Article 73c)

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

Article 58 (ex Article 73d)

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

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

Article 59 (ex Article 73f)

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

Article 60 (ex Article 73g)

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

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

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

TITLE IV (ex Title IIIa)

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

Article 61 (ex Article 73i)

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

- (a) within a period of five years after the entry into force of the Treaty of Amsterdam, measures aimed at ensuring the free movement of persons in accordance with Article 14, in conjunction with directly related flanking measures with respect to external border controls, asylum and immigration, in accordance with the provisions of Article 62(2) and (3) and Article 63(1)(a) and (2)(a), and measures to prevent and combat crime in accordance with the provisions of Article 31(e) of the Treaty on European Union;

- (b) other measures in the fields of asylum, immigration and safeguarding the rights of nationals of third countries, in accordance with the provisions of Article 63;
- (c) measures in the field of judicial cooperation in civil matters as provided for in Article 65;
- (d) appropriate measures to encourage and strengthen administrative cooperation, as provided for in Article 66;
- (e) measures in the field of police and judicial cooperation in criminal matters aimed at a high level of security by preventing and combating crime within the Union in accordance with the provisions of the Treaty on European Union.

Article 62 (ex Article 73j)

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

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

Article 63 (ex Article 73k)

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

- (1) measures on asylum, in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties, within the following areas:
 - (a) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum submitted by a national of a third country in one of the Member States,
 - (b) minimum standards on the reception of asylum seekers in Member States,
 - (c) minimum standards with respect to the qualification of nationals of third countries as refugees,
 - (d) minimum standards on procedures in Member States for granting or withdrawing refugee status;
- (2) measures on refugees and displaced persons within the following areas:
 - (a) minimum standards for giving temporary protection to displaced persons from third countries who cannot return to their country of origin and for persons who otherwise need international protection,
 - (b) promoting a balance of effort between Member States in receiving and bearing the consequences of receiving refugees and displaced persons;
- (3) measures on immigration policy within the following areas:
 - (a) conditions of entry and residence, and standards on procedures for the issue by Member States of long term visas and residence permits, including those for the purpose of family reunion,
 - (b) illegal immigration and illegal residence, including repatriation of illegal residents;
- (4) measures defining the rights and conditions under which nationals of third countries who are legally resident in a Member State may reside in other Member States.

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

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

Article 64 (ex Article 73l)

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

Article 65 (ex Article 73m)

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

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

Article 66 (ex Article 73n)

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

Article 67 (ex Article 73o)

1. During a transitional period of five years following the entry into force of the Treaty of Amsterdam, the Council shall act unanimously on a proposal from the Commission or on the initiative of a Member State and after consulting the European Parliament.

2. After this period of five years:

- the Council shall act on proposals from the Commission; the Commission shall examine any request made by a Member State that it submit a proposal to the Council;
- the Council, acting unanimously after consulting the European Parliament, shall take a decision with a view to providing for all or parts of the areas covered by this Title to be governed by the procedure referred to in Article 251 and adapting the provisions relating to the powers of the Court of Justice.

3. By derogation from paragraphs 1 and 2, measures referred to in Article 62(2)(b) (i) and (iii) shall, from the entry into force of the Treaty of Amsterdam, be adopted by the Council acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

4. By derogation from paragraph 2, measures referred to in Article 62(2)(b) (ii) and (iv) shall, after a period of five years following the entry into force of the Treaty of Amsterdam, be adopted by the Council acting in accordance with the procedure referred to in Article 251.

Article 68 (ex Article 73p)

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

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

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

Article 69 (ex Article 73q)

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

TITLE V (ex Title IV)

TRANSPORT

Article 70 (ex 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 71 (ex Article 75)

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

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

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

Article 72 (ex Article 76)

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

Article 73 (ex 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 74 (ex 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 75 (ex 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.

2. Paragraph 1 shall not prevent the Council from adopting other measures in pursuance of Article 71(1).

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

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

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

Article 76 (ex 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, unless authorised by the Commission.

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

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

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

Article 77 (ex 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 78 (ex 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 79 (ex 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 Economic and Social Committee.

Article 80 (ex Article 84)

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

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

The procedural provisions of Article 71 shall apply.

TITLE VI (ex Title V)

COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS

Chapter 1

Rules on competition

Section 1

Rules applying to undertakings*Article 81 (ex Article 85)*

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

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

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

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

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

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

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

Article 82 (ex 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 insofar as it may affect trade between Member States.

Such abuse may, in particular, consist in:

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

Article 83 (ex Article 87)

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

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

- (a) to ensure compliance with the prohibitions laid down in Article 81(1) and in Article 82 by making provision for fines and periodic penalty payments;
- (b) to lay down detailed rules for the application of Article 81(3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;
- (c) to define, if need be, in the various branches of the economy, the scope of the provisions of Articles 81 and 82;

- (d) to define the respective functions of the Commission and of the Court of Justice in applying the provisions laid down in this paragraph;
- (e) to determine the relationship between national laws and the provisions contained in this Section or adopted pursuant to this Article.

Article 84 (ex Article 88)

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

Article 85 (ex Article 89)

1. Without prejudice to Article 84, the Commission shall ensure the application of the principles laid down in Articles 81 and 82. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, 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 86 (ex 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 12 and Articles 81 to 89.

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

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

Section 2

Aids granted by States*Article 87 (ex 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, insofar 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, insofar as such aid is required in order to compensate for the economic disadvantages caused by that division.

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

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

Article 88 (ex 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 87, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

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

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

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

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

Article 89 (ex Article 94)

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

Chapter 2

Tax provisions

Article 90 (ex 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.

Article 91 (ex 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 92 (ex 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 93 (ex Article 99)

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

Chapter 3

Approximation of laws*Article 94 (ex Article 100)*

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

Article 95 (ex Article 100a)

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

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

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

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

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

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

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

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

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

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

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

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

Article 96 (ex 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 by a qualified majority, issue the necessary directives. The Commission and the Council may take any other appropriate measures provided for in this Treaty.

Article 97 (ex Article 102)

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

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

TITLE VII (ex-Title VI)

ECONOMIC AND MONETARY POLICY

Chapter 1

Economic policy

Article 98 (ex Article 102a)

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

Article 99 (ex Article 103)

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

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

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

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

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

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

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

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

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

Article 100 (ex Article 103a)

1. 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 economic situation, in particular if severe difficulties arise in the supply of certain products.

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

Article 101 (ex Article 104)

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

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

Article 102 (ex Article 104a)

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

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

Article 103 (ex Article 104b)

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

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

Article 104 (ex Article 104c)

1. Member States shall avoid excessive government deficits.

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

(a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:

— either the ratio has declined substantially and continuously and reached a level that comes close to the reference value;

— or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;

(b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 2

Monetary policy

Article 105 (ex Article 105)

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

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

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

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

4. The ECB shall be consulted:

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

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

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

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

Article 106 (ex Article 105a)

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

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

Article 107 (ex Article 106)

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

2. The ECB shall have legal personality.

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

4. The Statute of the ESCB is laid down in a Protocol annexed to this Treaty.
5. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB may be amended by the Council, acting either by a qualified majority on a recommendation from the ECB and after consulting the Commission or unanimously on a proposal from the Commission and after consulting the ECB. In either case, the assent of the European Parliament shall be required.
6. The Council, acting by a qualified majority either on a proposal from the Commission and after consulting the European Parliament and the ECB or on a recommendation from the ECB and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of the Statute of the ESCB.

Article 108 (ex Article 107)

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

Article 109 (ex Article 108)

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

Article 110 (ex Article 108a)

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

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

Recommendations and opinions shall have no binding force.

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

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

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

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

Article 111 (Article 109)

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

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

3. By way of derogation from Article 300, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organisations, the Council, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, shall decide the arrangements

for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.

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

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

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

Chapter 3

Institutional provisions

Article 112 (ex Article 109a)

1. The Governing Council of the ECB shall comprise the members of the Executive Board of the ECB and the Governors of the national central banks.
2. (a) The Executive Board shall comprise the President, the Vice-President and four other members.

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

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

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

Article 113 (ex Article 109b)

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

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

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

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

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

Article 114 (ex Article 109c)

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

It shall have the following tasks:

- to keep under review the monetary and financial situation of the Member States and of the Community and the general payments system of the Member States and to report regularly thereon to the Council and to the Commission;
- to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions;
- without prejudice to Article 207, to contribute to the preparation of the work of the Council referred to in Articles 59, 60, 99(2), (3), (4) and (5), 100, 102, 103, 104, 116(2), 117(6), 119, 120, 121(2) and 122(1);
- to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of this Treaty and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

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

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

The Economic and Financial Committee shall have the following tasks:

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

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

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

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

Article 115 (ex Article 109d)

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

Chapter 4

Transitional provisions*Article 116 (ex Article 109e)*

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

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

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

Article 117 (ex Article 109f)

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

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

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

2. The EMI shall:

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

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

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

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

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

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

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

Article 118 (ex Article 109g)

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

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

Article 119 (ex Article 109h)

1. Where a Member State is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are

liable in particular to jeopardise the functioning of the common market or the progressive implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions of this Treaty. The Commission shall state what measures it recommends the State concerned to take.

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

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

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

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

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

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

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

Article 120 (ex Article 109i)

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

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

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

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

Article 121 (ex Article 109j)

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

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

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

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

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

— whether a majority of the Member States fulfil the necessary conditions for the adoption of a single currency,

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

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

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

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

and if so:

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

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

Article 122 (ex Article 109k)

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

If the Council has confirmed which Member States fulfil the necessary conditions for the adoption of a single currency, in accordance with Article 121(4), those Member States which

do not fulfil the conditions shall have a derogation as defined in paragraph 3 of this Article. Such Member States shall in this Treaty be referred to as 'Member States with a derogation'.

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

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

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

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

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

Article 123 (ex Article 109l)

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

— the Council shall adopt the provisions referred to in Article 107(6);

— the governments of the Member States without a derogation shall appoint, in accordance with the procedure set out in Article 50 of the Statute of the ESCB, the President, the Vice-President and the other members of the Executive Board of the ECB. If there are

Member States with a derogation, the number of members of the Executive Board may be smaller than provided for in Article 11.1 of the Statute of the ESCB, but in no circumstances shall it be less than four.

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

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

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

4. At the starting date of the third stage, the Council shall, acting with the unanimity of the Member States without a derogation, on a proposal from the Commission and after consulting the ECB, adopt the conversion rates at which their currencies shall be irrevocably fixed and at which irrevocably fixed rate the ECU shall be substituted for these currencies, and the ECU will become a currency in its own right. This measure shall by itself not modify the external value of the ECU. The Council shall, acting according to the same procedure, also take the other measures necessary for the rapid introduction of the ECU as the single currency of those Member States.

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

Article 124 (ex Article 109m)

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

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

TITLE VIII (ex Title VIa)

EMPLOYMENT

Article 125 (ex Article 109n)

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

Article 126 (ex Article 109o)

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

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

Article 127 (ex Article 109p)

1. The Community shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.

2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Community policies and activities.

Article 128 (ex Article 109q)

1. The European Council shall each year consider the employment situation in the Community and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.

2. On the basis of the conclusions of the European Council, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 130, shall each year draw up guidelines which

the Member States shall take into account in their employment policies. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article 99(2).

3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.

4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, acting by a qualified majority on a recommendation from the Commission, may, if it considers it appropriate in the light of that examination, make recommendations to Member States.

5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Community and on the implementation of the guidelines for employment.

Article 129 (ex Article 109r)

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, may adopt incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.

Those measures shall not include harmonisation of the laws and regulations of the Member States.

Article 130 (ex Article 109s)

The Council, after consulting the European Parliament, shall establish an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. The tasks of the Committee shall be:

- to monitor the employment situation and employment policies in the Member States and the Community;
- without prejudice to Article 207, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article 128.

In fulfilling its mandate, the Committee shall consult management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

TITLE IX (ex Title VII)

COMMON COMMERCIAL POLICY

Article 131 (ex 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 132 (ex Article 112)

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

On a proposal from the Commission, the Council shall, acting by a qualified majority, issue any directives needed for this purpose.

2. The preceding provisions shall not apply to such a drawback of customs duties or charges having equivalent effect nor to such a repayment of indirect taxation including turnover taxes, excise duties and other indirect taxes as is allowed when goods are exported from a Member State to a third country, insofar as such a drawback or repayment does not exceed the amount imposed, directly or indirectly, on the products exported.

Article 133 (ex Article 113)

1. The common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies.

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

3. Where agreements with one or more States or international organisations need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations.

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

The relevant provisions of Article 300 shall apply.

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

5. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may extend the application of paragraphs 1 to 4 to international negotiations and agreements on services and intellectual property insofar as they are not covered by these paragraphs.

Article 134 (ex 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 Member States, the Commission shall recommend the methods for the requisite cooperation between Member States. Failing this, the Commission may authorise Member States to take the necessary protective measures, the conditions and details of which it shall determine.

In case of urgency, Member States shall request authorisation to take the necessary measures themselves from the Commission, which shall take a decision as soon as possible; the Member States concerned shall then notify the measures to the other Member States. The Commission may decide at any time that the Member States concerned shall amend or abolish the measures in question.

In the selection of such measures, priority shall be given to those which cause the least disturbance of the functioning of the common market.

TITLE X (ex Title VIIa)

CUSTOMS COOPERATION

Article 135 (ex Article 116)

Within the scope of application of this Treaty, the Council, acting in accordance with the procedure referred to in Article 251, shall take measures in order to strengthen customs cooperation between Member States and between the latter and the Commission. These measures shall not concern the application of national criminal law or the national administration of justice.

TITLE XI (ex Title VIII)

SOCIAL POLICY, EDUCATION, VOCATIONAL TRAINING AND YOUTH

Chapter 1

Social Provisions

Article 136 (ex Article 117)

The Community and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Community economy.

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

Article 137 (ex Article 118)

1. With a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in the following fields:

- improvement in particular of the working environment to protect workers' health and safety;
- working conditions;
- the information and consultation of workers;
- the integration of persons excluded from the labour market, without prejudice to Article 150;
- equality between men and women with regard to labour market opportunities and treatment at work.

2. To this end, the Council may adopt, by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each

of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The Council shall act in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee and the Committee of the Regions.

The Council, acting in accordance with the same procedure, may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences in order to combat social exclusion.

3. However, the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions in the following areas:

- social security and social protection of workers;
- protection of workers where their employment contract is terminated;
- representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;
- conditions of employment for third-country nationals legally residing in Community territory;
- financial contributions for promotion of employment and job-creation, without prejudice to the provisions relating to the Social Fund.

4. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraphs 2 and 3.

In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 249, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive.

5. The provisions adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with this Treaty.

6. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Article 138 (ex Article 118a)

1. The Commission shall have the task of promoting the consultation of management and labour at Community level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.
2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Community action.
3. If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.
4. On the occasion of such consultation, management and labour may inform the Commission of their wish to initiate the process provided for in Article 139. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article 139 (ex Article 118b)

1. Should management and labour so desire, the dialogue between them at Community level may lead to contractual relations, including agreements.
2. Agreements concluded at Community level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 137, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.

The Council shall act by qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas referred to in Article 137(3), in which case it shall act unanimously.

Article 140 (ex Article 118c)

With a view to achieving the objectives of Article 136 and without prejudice to the other provisions of this Treaty, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this chapter, particularly in matters relating to:

- employment;
- labour law and working conditions;

- basic and advanced vocational training;
- social security;
- prevention of occupational accidents and diseases;
- occupational hygiene;
- the right of association and collective bargaining between employers and workers.

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

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

Article 141 (ex Article 119)

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

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

3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Article 142 (ex Article 119a)

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

Article 143 (ex Article 120)

The Commission shall draw up a report each year on progress in achieving the objectives of Article 136, including the demographic situation in the Community. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

The European Parliament may invite the Commission to draw up reports on particular problems concerning the social situation.

Article 144 (ex 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 39 to 42.

Article 145 (ex Article 122)

The Commission shall include a separate chapter on social developments within the Community in its annual report to the European Parliament.

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

Chapter 2

The European Social Fund

Article 146 (ex Article 123)

In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established in accordance with the provisions set out below; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Community, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.

Article 147 (ex 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 148 (ex Article 125)

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt implementing decisions relating to the European Social Fund.

Chapter 3

Education, vocational training and youth*Article 149* (ex Article 126)

1. The Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

2. Community action shall be aimed at:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;
- encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;
- promoting cooperation between educational establishments;
- developing exchanges of information and experience on issues common to the education systems of the Member States;
- encouraging the development of youth exchanges and of exchanges of socio-educational instructors;
- encouraging the development of distance education.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education, in particular the Council of Europe.

4. In order to contribute to the achievement of the objectives referred to in this Article, the Council:

- acting in accordance with the procedure referred to in Article 251, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States;
- acting by a qualified majority on a proposal from the Commission, shall adopt recommendations.

Article 150 (ex Article 127)

1. The Community shall implement a vocational training policy which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

2. Community action shall aim to:

- facilitate adaptation to industrial changes, in particular through vocational training and retraining;
- improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;
- facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people;
- stimulate cooperation on training between educational or training establishments and firms;
- develop exchanges of information and experience on issues common to the training systems of the Member States.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt measures to contribute to the achievement of the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.

TITLE XII (ex Title IX)

CULTURE

Article 151 (ex Article 128)

1. The Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

2. Action by the Community shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:

- improvement of the knowledge and dissemination of the culture and history of the European peoples;
- conservation and safeguarding of cultural heritage of European significance;
- non-commercial cultural exchanges;
- artistic and literary creation, including in the audiovisual sector.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.

4. The Community shall take cultural aspects into account in its action under other provisions of this Treaty, in particular in order to respect and to promote the diversity of its cultures.

5. In order to contribute to the achievement of the objectives referred to in this Article, the Council:

- acting in accordance with the procedure referred to in Article 251 and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States. The Council shall act unanimously throughout the procedure referred to in Article 251;
- acting unanimously on a proposal from the Commission, shall adopt recommendations.

TITLE XIII (ex Title X)

PUBLIC HEALTH

Article 152 (ex Article 129)

1. A high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities.

Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education.

The Community shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.

2. The Community shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall contribute to the achievement of the objectives referred to in this Article through adopting:

- (a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;
- (b) by way of derogation from Article 37, measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;
- (c) incentive measures designed to protect and improve human health, excluding any harmonisation of the laws and regulations of the Member States.

The Council, acting by a qualified majority on a proposal from the Commission, may also adopt recommendations for the purposes set out in this Article.

5. Community action in the field of public health shall fully respect the responsibilities of the Member States for the organisation and delivery of health services and medical care. In particular, measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.

TITLE XIV (ex Title XI)

CONSUMER PROTECTION

Article 153 (ex Article 129a)

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Community shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

2. Consumer protection requirements shall be taken into account in defining and implementing other Community policies and activities.
3. The Community shall contribute to the attainment of the objectives referred to in paragraph 1 through:
 - (a) measures adopted pursuant to Article 95 in the context of the completion of the internal market;
 - (b) measures which support, supplement and monitor the policy pursued by the Member States.
4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall adopt the measures referred to in paragraph 3(b).
5. Measures adopted pursuant to paragraph 4 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with this Treaty. The Commission shall be notified of them.

TITLE XV (ex Title XII)

TRANS-EUROPEAN NETWORKS

Article 154 (ex Article 129b)

1. To help achieve the objectives referred to in Articles 14 and 158 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the Community shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.
2. Within the framework of a system of open and competitive markets, action by the Community shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Community.

Article 155 (ex Article 129c)

1. In order to achieve the objectives referred to in Article 154, the Community:
 - shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest;
 - shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation;

- may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in the first indent, particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Community may also contribute, through the Cohesion Fund set up pursuant to Article 161, to the financing of specific projects in Member States in the area of transport infrastructure.

The Community's activities shall take into account the potential economic viability of the projects.

2. Member States shall, in liaison with the Commission, coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article 154. The Commission may, in close cooperation with the Member State, take any useful initiative to promote such coordination.

3. The Community may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.

Article 156 (ex Article 129d)

The guidelines and other measures referred to in Article 155(1) shall be adopted by the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.

Guidelines and projects of common interest which relate to the territory of a Member State shall require the approval of the Member State concerned.

TITLE XVI (ex Title XIII)

INDUSTRY

Article 157 (ex Article 130)

1. The Community and the Member States shall ensure that the conditions necessary for the competitiveness of the Community's industry exist.

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

- speeding up the adjustment of industry to structural changes;
- encouraging an environment favourable to initiative and to the development of undertakings throughout the Community, particularly small and medium-sized undertakings;
- encouraging an environment favourable to cooperation between undertakings;

— fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination.

3. The Community shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of this Treaty. The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament and the Economic and Social Committee, may decide on specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1.

This Title shall not provide a basis for the introduction by the Community of any measure which could lead to a distortion of competition.

TITLE XVII (ex Title XIV)

ECONOMIC AND SOCIAL COHESION

Article 158 (ex Article 130a)

In order to promote its overall harmonious development, the Community shall develop and pursue its actions leading to the strengthening of its economic and social cohesion.

In particular, the Community shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, including rural areas.

Article 159 (ex Article 130b)

Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article 158. The formulation and implementation of the Community's policies and actions and the implementation of the internal market shall take into account the objectives set out in Article 158 and shall contribute to their achievement. The Community shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing financial instruments.

The Commission shall submit a report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions every three years on the progress made towards achieving economic and social cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals.

If specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of the other Community policies, such actions may be adopted by the Council acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions.

Article 160 (ex Article 130c)

The European Regional Development Fund is intended to help to redress the main regional imbalances in the Community through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.

Article 161 (ex Article 130d)

Without prejudice to Article 162, the Council, acting unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament and consulting the Economic and Social Committee and the Committee of the Regions, shall define the tasks, priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds. The Council, acting by the same procedure, shall also define the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing financial instruments.

A Cohesion Fund set up by the Council in accordance with the same procedure shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

Article 162 (ex Article 130e)

Implementing decisions relating to the European Regional Development Fund shall be taken by the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.

With regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, and the European Social Fund, Articles 37 and 148 respectively shall continue to apply.

TITLE XVIII (ex Title XV)

RESEARCH AND TECHNOLOGICAL DEVELOPMENT

Article 163 (ex Article 130f)

1. The Community shall have the objective of strengthening the scientific and technological bases of Community industry and encouraging it to become more competitive at international level, while promoting all the research activities deemed necessary by virtue of other Chapters of this Treaty.

2. For this purpose the Community shall, throughout the Community, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality; it shall support their efforts to cooperate with one another, aiming, notably, at enabling undertakings to exploit the internal market potential to the full, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.

3. All Community activities under this Treaty in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with the provisions of this Title.

Article 164 (ex Article 130g)

In pursuing these objectives, the Community shall carry out the following activities, complementing the activities carried out in the Member States:

- (a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;
- (b) promotion of cooperation in the field of Community research, technological development and demonstration with third countries and international organisations;
- (c) dissemination and optimisation of the results of activities in Community research, technological development and demonstration;
- (d) stimulation of the training and mobility of researchers in the Community.

Article 165 (ex Article 130h)

1. The Community and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and Community policy are mutually consistent.

2. In close cooperation with the Member State, the Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Article 166 (ex Article 130i)

1. A multiannual framework programme, setting out all the activities of the Community, shall be adopted by the Council, acting in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee.

The framework programme shall:

- establish the scientific and technological objectives to be achieved by the activities provided for in Article 164 and fix the relevant priorities;
- indicate the broad lines of such activities;
- fix the maximum overall amount and the detailed rules for Community financial participation in the framework programme and the respective shares in each of the activities provided for.

2. The framework programme shall be adapted or supplemented as the situation changes.

3. The framework programme shall be implemented through specific programmes developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, may not exceed the overall maximum amount fixed for the framework programme and each activity.

4. The Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt the specific programmes.

Article 167 (ex Article 130j)

For the implementation of the multiannual framework programme the Council shall:

- determine the rules for the participation of undertakings, research centres and universities;
- lay down the rules governing the dissemination of research results.

Article 168 (ex Article 130k)

In implementing the multiannual framework programme, supplementary programmes may be decided on involving the participation of certain Member States only, which shall finance them subject to possible Community participation.

The Council shall adopt the rules applicable to supplementary programmes, particularly as regards the dissemination of knowledge and access by other Member States.

Article 169 (ex Article 130l)

In implementing the multiannual framework programme the Community may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

Article 170 (ex Article 130m)

In implementing the multiannual framework programme the Community may make provision for cooperation in Community research, technological development and demonstration with third countries or international organisations.

The detailed arrangements for such cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

Article 171 (ex Article 130n)

The Community may set up joint undertakings or any other structure necessary for the efficient execution of Community research, technological development and demonstration programmes.

Article 172 (ex Article 130o)

The Council, acting by qualified majority on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt the provisions referred to in Article 171.

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall adopt the provisions referred to in Articles 167, 168 and 169. Adoption of the supplementary programmes shall require the agreement of the Member States concerned.

Article 173 (ex Article 130p)

At the beginning of each year the Commission shall send a report to the European Parliament and the Council. The report shall include information on research and technological development activities and the dissemination of results during the previous year, and the work programme for the current year.

TITLE XIX (ex Title XVI)

ENVIRONMENT

Article 174 (ex Article 130r)

1. Community policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;

— promoting measures at international level to deal with regional or worldwide environmental problems.

2. Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a Community inspection procedure.

3. In preparing its policy on the environment, the Community shall take account of:

— available scientific and technical data;

— environmental conditions in the various regions of the Community;

— the potential benefits and costs of action or lack of action;

— the economic and social development of the Community as a whole and the balanced development of its regions.

4. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

Article 175 (ex Article 130s)

1. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall decide what action is to be taken by the Community in order to achieve the objectives referred to in Article 174.

2. By way of derogation from the decision-making procedure provided for in paragraph 1 and without prejudice to Article 95, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt:

— provisions primarily of a fiscal nature;

— measures concerning town and country planning, land use with the exception of waste management and measures of a general nature, and management of water resources;

- measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.

The Council may, under the conditions laid down in the preceding subparagraph, define those matters referred to in this paragraph on which decisions are to be taken by a qualified majority.

3. In other areas, general action programmes setting out priority objectives to be attained shall be adopted by the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.

The Council, acting under the terms of paragraph 1 or paragraph 2 according to the case, shall adopt the measures necessary for the implementation of these programmes.

4. Without prejudice to certain measures of a Community nature, the Member States shall finance and implement the environment policy.

5. Without prejudice to the principle that the polluter should pay, if a measure based on the provisions of paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, the Council shall, in the act adopting that measure, lay down appropriate provisions in the form of:

- temporary derogations, and/or
- financial support from the Cohesion Fund set up pursuant to Article 161.

Article 176 (ex Article 130t)

The protective measures adopted pursuant to Article 175 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with this Treaty. They shall be notified to the Commission.

TITLE XX (ex Title XVII)

DEVELOPMENT COOPERATION

Article 177 (ex Article 130u)

1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster:

- the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them;
- the smooth and gradual integration of the developing countries into the world economy;
- the campaign against poverty in the developing countries.

2. Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.

3. The Community and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

Article 178 (ex Article 130v)

The Community shall take account of the objectives referred to in Article 177 in the policies that it implements which are likely to affect developing countries.

Article 179 (ex Article 130w)

1. Without prejudice to the other provisions of this Treaty, the Council, acting in accordance with the procedure referred to in Article 251, shall adopt the measures necessary to further the objectives referred to in Article 177. Such measures may take the form of multi-annual programmes.

2. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

3. The provisions of this Article shall not affect cooperation with the African, Caribbean and Pacific countries in the framework of the ACP-EC Convention.

Article 180 (ex Article 130x)

1. The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Article 181 (ex Article 130y)

Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The previous paragraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

PART FOUR
ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

Article 182 (ex Article 131)

The Member States agree to associate with the Community the non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom. These countries and territories (hereinafter called the 'countries and territories') are listed in Annex II to this Treaty.

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

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

Article 183 (ex 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 187.

Article 184 (ex Article 133)

1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be prohibited in conformity with the prohibition of customs duties between Member States in accordance with the provisions of this Treaty.

2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be prohibited in accordance with the provisions of Article 25.

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

The duties referred to in the preceding subparagraph may not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.

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

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

Article 185 (ex 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 184(1) have been applied, to cause deflections of trade to the detriment of any Member State, the latter may request the Commission to propose to the other Member States the measures needed to remedy the situation.

Article 186 (ex 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 187 (ex Article 136)

The Council, acting unanimously, shall, on the basis of the experience acquired under the association of the countries and territories with the Community and of the principles set out in this Treaty, lay down provisions as regards the detailed rules and the procedure for the association of the countries and territories with the Community.

Article 188 (ex Article 136a)

The provisions of Articles 182 to 187 shall apply to Greenland, subject to the specific provisions for Greenland set out in the Protocol on special arrangements for Greenland, annexed to this Treaty.

PART FIVE
INSTITUTIONS OF THE COMMUNITY

TITLE I
PROVISIONS GOVERNING THE INSTITUTIONS

Chapter 1
The institutions

Section 1
The European Parliament

Article 189 (ex Article 137)

The European Parliament, which shall consist of representatives of the peoples of the States brought together in the Community, shall exercise the powers conferred upon it by this Treaty.

The number of Members of the European Parliament shall not exceed seven hundred.

Article 190 (ex Article 138)

1. The representatives in the European Parliament of the peoples of the States brought together in the Community shall be elected by direct universal suffrage.

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

Belgium	25
Denmark	16
Germany	99
Greece	25
Spain	64
France	87
Ireland	15
Italy	87
Luxembourg	6
Netherlands	31
Austria	21
Portugal	25
Finland	16
Sweden	22
United Kingdom	87.

In the event of amendments to this paragraph, the number of representatives elected in each Member State must ensure appropriate representation of the peoples of the States brought together in the Community.

3. Representatives shall be elected for a term of five years.

4. The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

5. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting unanimously, lay down the regulations and general conditions governing the performance of the duties of its Members.

Article 191 (ex Article 138a)

Political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union.

Article 192 (ex Article 138b)

Insofar as provided in this Treaty, the European Parliament shall participate in the process leading up to the adoption of Community acts by exercising its powers under the procedures laid down in Articles 251 and 252 and by giving its assent or delivering advisory opinions.

The European Parliament may, acting by a majority of its Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing this Treaty.

Article 193 (ex Article 138c)

In the course of its duties, the European Parliament may, at the request of a quarter of its Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by this Treaty on other institutions or bodies, alleged contraventions or maladministration in the implementation of Community law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on the submission of its report.

The detailed provisions governing the exercise of the right of inquiry shall be determined by common accord of the European Parliament, the Council and the Commission.

Article 194 (ex Article 138d)

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and which affects him, her or it directly.

Article 195 (ex Article 138e)

1. The European Parliament shall appoint an Ombudsman empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be appointed after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any body. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.

Article 196 (ex Article 139)

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

The European Parliament may meet in extraordinary session at the request of a majority of its Members or at the request of the Council or of the Commission.

Article 197 (ex Article 140)

The European Parliament shall elect its President and its officers from among its Members.

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

The Commission shall reply orally or in writing to questions put to it by the European Parliament or by its Members.

The Council shall be heard by the European Parliament in accordance with the conditions laid down by the Council in its Rules of Procedure.

Article 198 (ex Article 141)

Save as otherwise provided in this Treaty, the European Parliament shall act by an absolute majority of the votes cast.

The Rules of Procedure shall determine the quorum.

Article 199 (ex Article 142)

The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members.

The proceedings of the European Parliament shall be published in the manner laid down in its Rules of Procedure.

Article 200 (ex Article 143)

The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.

Article 201 (ex Article 144)

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

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the Members of the European Parliament, the Members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 214. In this case, the term of office of the Members of the Commission appointed to replace them shall expire on the date on which the term of office of the Members of the Commission obliged to resign as a body would have expired.

Section 2

The Council

Article 202 (ex 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;
- confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down. The Council may impose certain requirements in respect of the exercise of these powers. The Council may also reserve the right, in specific cases, to exercise directly implementing powers itself. The procedures referred to above must be consonant with principles and rules to be laid down in advance by the Council, acting unanimously on a proposal from the Commission and after obtaining the Opinion of the European Parliament.

Article 203 (ex Article 146)

The Council shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State.

The office of President shall be held in turn by each Member State in the Council for a term of six months in the order decided by the Council acting unanimously.

Article 204 (ex Article 147)

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

Article 205 (ex 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
Greece	5
Spain	8
France	10
Ireland	3
Italy	10
Luxembourg	2
Netherlands	5
Austria	4
Portugal	5
Finland	3
Sweden	4
United Kingdom	10.

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

- 62 votes in favour where this Treaty requires them to be adopted on a proposal from the Commission,
- 62 votes in favour, cast by at least 10 members, in other cases.

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

Article 206 (ex 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 207 (ex Article 151)

1. A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the common foreign and security policy, who shall be assisted by a Deputy Secretary-General responsible for the running of the General

Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council acting unanimously.

The Council shall decide on the organisation of the General Secretariat.

3. The Council shall adopt its Rules of Procedure.

For the purpose of applying Article 255(3), the Council shall elaborate in these Rules the conditions under which the public shall have access to Council documents. For the purpose of this paragraph, the Council shall define the cases in which it is to be regarded as acting in its legislative capacity, with a view to allowing greater access to documents in those cases, while at the same time preserving the effectiveness of its decision-making process. In any event, when the Council acts in its legislative capacity, the results of votes and explanations of vote as well as statements in the minutes shall be made public.

Article 208 (ex 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 209 (ex Article 153)

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

Article 210 (ex Article 154)

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 211 (ex 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 European Parliament in the manner provided for in this Treaty;
- exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.

Article 212 (ex Article 156)

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

Article 213 (ex Article 157)

1. The Commission shall consist of 20 Members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.

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

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

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

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

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

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 216 or deprived of his right to a pension or other benefits in its stead.

Article 214 (ex Article 158)

1. The Members of the Commission shall be appointed, in accordance with the procedure referred to in paragraph 2, for a period of five years, subject, if need be, to Article 201.

Their term of office shall be renewable.

2. The governments of the Member States shall nominate by common accord the person they intend to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

The governments of the Member States shall, by common accord with the nominee for President, nominate the other persons whom they intend to appoint as Members of the Commission.

The President and the other Members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other Members of the Commission shall be appointed by common accord of the governments of the Member States.

Article 215 (ex Article 159)

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 by a new Member appointed by common accord of the governments of the Member States. The Council may, acting unanimously, decide that such a vacancy need not be filled.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article 214(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 216, Members of the Commission shall remain in office until they have been replaced.

Article 216 (ex Article 160)

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

Article 217 (ex Article 161)

The Commission may appoint a Vice-President or two Vice-Presidents from among its Members.

Article 218 (ex Article 162)

1. The Council and the Commission shall consult each other and shall settle by common accord their methods of cooperation.
2. The Commission shall adopt its Rules of Procedure so as to ensure that both it and its departments operate in accordance with the provisions of this Treaty. It shall ensure that these rules are published.

Article 219 (ex Article 163)

The Commission shall work under the political guidance of its President.

The Commission shall act by a majority of the number of Members provided for in Article 213.

A meeting of the Commission shall be valid only if the number of Members laid down in its Rules of Procedure is present.

Section 4

The Court of Justice*Article 220 (ex Article 164)*

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

Article 221 (ex Article 165)

The Court of Justice shall consist of 15 Judges.

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

The Court of Justice shall sit in plenary session when a Member State or a Community institution that is a party to the proceedings so requests.

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 223.

Article 222 (ex Article 166)

The Court of Justice shall be assisted by eight Advocates-General. However, a ninth Advocate-General shall be appointed as from 1 January 1995 until 6 October 2000.

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 220.

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 223.

Article 223 (ex 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 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. Eight and seven Judges shall be replaced alternately.

Every three years there shall be a partial replacement of the Advocates-General. Four 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 re-elected.

Article 224 (ex Article 168)

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

Article 225 (ex Article 168a)

1. A Court of First Instance shall be attached to the Court of Justice with jurisdiction to hear and determine at first instance, subject to a right of appeal to the Court of Justice on points of law only and in accordance with the conditions laid down by the Statute, certain classes of action or proceeding defined in accordance with the conditions laid down in paragraph 2. The Court of First Instance shall not be competent to hear and determine questions referred for a preliminary ruling under Article 234.

2. At the request of the Court of Justice and after consulting the European Parliament and the Commission, the Council, acting unanimously, shall determine the classes of action or proceeding referred to in paragraph 1 and the composition of the Court of First Instance and shall adopt the necessary adjustments and additional provisions to the Statute of the Court of Justice. Unless the Council decides otherwise, the provisions of this Treaty relating to the Court of Justice, in particular the provisions of the Protocol on the Statute of the Court of Justice, shall apply to the Court of First Instance.

3. The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office; they shall be appointed by common accord of the governments of the Member States

for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

4. The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those rules shall require the unanimous approval of the Council.

Article 226 (ex 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 227 (ex 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 228 (ex Article 171)

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

2. If the Commission considers that the Member State concerned has not taken such measures it shall, after giving that State the opportunity to submit its observations, issue a reasoned opinion specifying the points on which the Member State concerned has not complied with the judgment of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgment within the time-limit laid down by the Commission, the latter may bring the case before the Court of Justice. In so doing it shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 227.

Article 229 (ex Article 172)

Regulations adopted jointly by the European Parliament and the Council, and by the Council, pursuant to the provisions of this Treaty, may give the Court of Justice unlimited jurisdiction with regard to the penalties provided for in such regulations.

Article 230 (ex Article 173)

The Court of Justice shall review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the European Parliament, by the Court of Auditors and by the ECB for the purpose of protecting their prerogatives.

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

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

Article 231 (ex 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 232 (ex Article 175)

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

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

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

The Court of Justice shall have jurisdiction, under the same conditions, in actions or proceedings brought by the ECB in the areas falling within the latter's field of competence and in actions or proceedings brought against the latter.

Article 233 (ex Article 176)

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

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 288.

This Article shall also apply to the ECB.

Article 234 (ex 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 and of the ECB;
- (c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.

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

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

Article 235 (ex Article 178)

The Court of Justice shall have jurisdiction in disputes relating to compensation for damage provided for in the second paragraph of Article 288.

Article 236 (ex 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 237 (ex 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 226;
- (b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article 230;
- (c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article 230, and solely on the grounds of non-compliance with the procedure provided for in Article 21(2), (5), (6) and (7) of the Statute of the Bank;
- (d) the fulfilment by national central banks of obligations under this Treaty and the Statute of the ESCB. In this connection the powers of the Council of the ECB in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article 226. If the Court of Justice finds that a national central bank has failed to fulfil an obligation under this Treaty, that bank shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

Article 238 (ex 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 239 (ex 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 240 (ex 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 241 (ex Article 184)

Notwithstanding the expiry of the period laid down in the fifth paragraph of Article 230, any party may, in proceedings in which a regulation adopted jointly by the European Parliament and the Council, or a regulation of the Council, of the Commission, or of the ECB is at issue, plead the grounds specified in the second paragraph of Article 230 in order to invoke before the Court of Justice the inapplicability of that regulation.

Article 242 (ex 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 243 (ex Article 186)

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

Article 244 (ex Article 187)

The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 256.

Article 245 (ex Article 188)

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

The Council may, acting unanimously at the request of the Court of Justice and after consulting the Commission and the European Parliament, amend the provisions of Title III of the Statute.

The Court of Justice shall adopt its Rules of Procedure. These shall require the unanimous approval of the Council.

Section 5

The Court of Auditors*Article 246 (ex Article 188a)*

The Court of Auditors shall carry out the audit.

Article 247 (ex Article 188b)

1. The Court of Auditors shall consist of 15 Members.
2. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.
3. The Members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the European Parliament.

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.

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

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

5. The Members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

6. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7.

The vacancy thus caused shall be filled for the remainder of the Member's term of office.

Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been replaced.

7. A Member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

8. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the Members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

9. The provisions of the Protocol on the privileges and immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the Members of the Court of Auditors.

Article 248 (ex Article 188c)

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 insofar as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Communities*.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community, on the premises of any body which manages revenue or expenditure on behalf of the Community and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Community, any bodies managing revenue or expenditure on behalf of the Community, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Community expenditure and revenue, the Court's rights of access to information held by the Bank shall be governed by an agreement between the Court, the Bank and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit of Community expenditure and revenue managed by the Bank.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

Chapter 2

Provisions common to several institutions

Article 249 (ex Article 189)

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

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

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

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

Recommendations and opinions shall have no binding force.

Article 250 (ex Article 189a)

1. Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal, subject to Article 251(4) and (5).
2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Community act.

Article 251 (ex Article 189b)

1. Where reference is made in this Treaty to this Article for the adoption of an act, the following procedure shall apply.

2. The Commission shall submit a proposal to the European Parliament and the Council.

The Council, acting by a qualified majority after obtaining the opinion of the European Parliament,

- if it approves all the amendments contained in the European Parliament's opinion, may adopt the proposed act thus amended;
- if the European Parliament does not propose any amendments, may adopt the proposed act;
- shall otherwise adopt a common position and communicate it to the European Parliament. The Council shall inform the European Parliament fully of the reasons which led it to adopt its common position. The Commission shall inform the European Parliament fully of its position.

If, within three months of such communication, the European Parliament:

- (a) approves the common position or has not taken a decision, the act in question shall be deemed to have been adopted in accordance with that common position;
- (b) rejects, by an absolute majority of its component members, the common position, the proposed act shall be deemed not to have been adopted;
- (c) proposes amendments to the common position by an absolute majority of its component members, the amended text shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

3. If, within three months of the matter being referred to it, the Council, acting by a qualified majority, approves all the amendments of the European Parliament, the act in question shall be deemed to have been adopted in the form of the common position thus amended; however, the Council shall act unanimously on the amendments on which the

Commission has delivered a negative opinion. If the Council does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

4. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of representatives of the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council. In fulfilling this task, the Conciliation Committee shall address the common position on the basis of the amendments proposed by the European Parliament.

5. If, within six weeks of its being convened, the Conciliation Committee approves a joint text, the European Parliament, acting by an absolute majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If either of the two institutions fails to approve the proposed act within that period, it shall be deemed not to have been adopted.

6. Where the Conciliation Committee does not approve a joint text, the proposed act shall be deemed not to have been adopted.

7. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Article 252 (ex Article 189c)

Where reference is made in this Treaty to this Article for the adoption of an act, the following procedure shall apply:

- (a) The Council, acting by a qualified majority on a proposal from the Commission and after obtaining the opinion of the European Parliament, shall adopt a common position.
- (b) The Council's common position shall be communicated to the European Parliament. The Council and the Commission shall inform the European Parliament fully of the reasons which led the Council to adopt its common position and also of the Commission's position.

If, within three months of such communication, the European Parliament approves this common position or has not taken a decision within that period, the Council shall definitively adopt the act in question in accordance with the common position.

- (c) The European Parliament may, within the period of three months referred to in point (b), by an absolute majority of its component Members, propose amendments to the Council's

common position. The European Parliament may also, by the same majority, reject the Council's common position. The result of the proceedings shall be transmitted to the Council and the Commission.

If the European Parliament has rejected the Council's common position, unanimity shall be required for the Council to act on a second reading.

- (d) The Commission shall, within a period of one month, re-examine the proposal on the basis of which the Council adopted its common position, by taking into account the amendments proposed by the European Parliament.

The Commission shall forward to the Council, at the same time as its re-examined proposal, the amendments of the European Parliament which it has not accepted, and shall express its opinion on them. The Council may adopt these amendments unanimously.

- (e) The Council, acting by a qualified majority, shall adopt the proposal as re-examined by the Commission.

Unanimity shall be required for the Council to amend the proposal as re-examined by the Commission.

- (f) In the cases referred to in points (c), (d) and (e), the Council shall be required to act within a period of three months. If no decision is taken within this period, the Commission proposal shall be deemed not to have been adopted.

- (g) The periods referred to in points (b) and (f) may be extended by a maximum of one month by common accord between the Council and the European Parliament.

Article 253 (ex Article 190)

Regulations, directives and decisions adopted jointly by the European Parliament and the Council, and such acts adopted by the Council or the Commission, shall state the reasons on which they are based and shall refer to any proposals or opinions which were required to be obtained pursuant to this Treaty.

Article 254 (ex Article 191)

1. Regulations, directives and decisions adopted in accordance with the procedure referred to in Article 251 shall be signed by the President of the European Parliament and by the President of the Council and published in the *Official Journal of the European Communities*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

2. Regulations of the Council and of the Commission, as well as directives of those institutions which are addressed to all Member States, shall be published in the *Official Journal of the European Communities*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

3. Other directives, and decisions, shall be notified to those to whom they are addressed and shall take effect upon such notification.

Article 255 (ex Article 191a)

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European Parliament, Council and Commission documents, subject to the principles and the conditions to be defined in accordance with paragraphs 2 and 3.
2. General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the Council, acting in accordance with the procedure referred to in Article 251 within two years of the entry into force of the Treaty of Amsterdam.
3. Each institution referred to above shall elaborate in its own Rules of Procedure specific provisions regarding access to its documents.

Article 256 (ex 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 257 (ex 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 258 (ex Article 194)

The number of members of the Economic and Social Committee shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24.

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

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.

The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.

Article 259 (ex 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 260 (ex 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.

The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.

Article 261 (ex Article 197)

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

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

Subcommittees may also be established within the Committee to prepare on specific questions or in specific fields, draft opinions to be submitted to the Committee for its consideration.

The Rules of Procedure shall lay down the methods of composition and the terms of reference of the specialised sections and of the subcommittees.

Article 262 (ex 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. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

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

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

The Committee may be consulted by the European Parliament.

Chapter 4

The Committee of the Regions

Article 263 (ex Article 198a)

A Committee consisting of representatives of regional and local bodies, hereinafter referred to as 'the Committee of the Regions', is hereby established with advisory status.

The number of members of the Committee of the Regions shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24.

The members of the Committee and an equal number of alternate members shall be appointed for four years by the Council acting unanimously on proposals from the respective Member States. Their term of office shall be renewable. No member of the Committee shall at the same time be a Member of the European Parliament.

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of Community.

Article 264 (ex Article 198b)

The Committee of the Regions shall elect its chairman and officers from among its members for a term of two years.

It shall adopt its Rules of Procedure.

The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.

Article 265 (ex Article 198c)

The Committee of the Regions shall be consulted by the Council or by the Commission where this Treaty so provides and in all other cases, in particular those which concern cross-border cooperation, in which one of these two institutions considers it appropriate.

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

Where the Economic and Social Committee is consulted pursuant to Article 262, the Committee of the Regions shall be informed by the Council or the Commission of the request for an opinion. Where it considers that specific regional interests are involved, the Committee of the Regions may issue an opinion on the matter.

The Committee of the Regions may be consulted by the European Parliament.

It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

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

Chapter 5

The European Investment Bank

Article 266 (ex Article 198d)

The European Investment Bank shall have legal personality.

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

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

Article 267 (ex Article 198e)

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.

In carrying out its task, the Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Community financial instruments.

TITLE II

FINANCIAL PROVISIONS

Article 268 (ex 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.

Administrative expenditure occasioned for the institutions by the provisions of the Treaty on European Union relating to common foreign and security policy and to cooperation in the fields of justice and home affairs shall be charged to the budget. The operational expenditure occasioned by the implementation of the said provisions may, under the conditions referred to therein, be charged to the budget.

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

Article 269 (ex Article 201)

Without prejudice to other revenue, the budget shall be financed wholly from own resources.

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall lay down provisions relating to the system of own resources of the Community, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Article 270 (ex Article 201a)

With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Community act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Community's own resources arising under provisions laid down by the Council pursuant to Article 269.

Article 271 (ex Article 202)

The expenditure shown in the budget shall be authorised for one financial year, unless the regulations made pursuant to Article 279 provide otherwise.

In accordance with conditions to be laid down pursuant to Article 279, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 279.

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

Article 272 (ex 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 European Parliament.

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

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

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

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

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

- (a) the Council may, acting by a qualified majority, modify any of the amendments adopted by the European Parliament;
- (b) with regard to the proposed modifications:
 - where a modification proposed by the European Parliament does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted;
 - where a modification proposed by the European Parliament has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected;
 - where, 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 being placed before it, the Council has not modified any of the amendments adopted by the European Parliament and if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally adopted. The Council shall inform the European Parliament that it has not modified any of the amendments and that the proposed modifications have been accepted.

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

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

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

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

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

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

- the trend, in terms of volume, of the gross national product within the Community;
- the average variation in the budgets of the Member States;

and

- the trend of the cost of living during the preceding financial year.

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

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

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

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

Article 273 (ex 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 279; this

arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one-twelfth of those provided for in the draft budget in course of preparation.

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

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

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

Article 274 (ex Article 205)

The Commission shall implement the budget, in accordance with the provisions of the regulations made pursuant to Article 279, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management.

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

Within the budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 279, transfer appropriations from one chapter to another or from one subdivision to another.

Article 275 (ex Article 205a)

The Commission shall submit annually to the Council and to the European Parliament the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

Article 276 (ex Article 206)

1. The European Parliament, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 275, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in Article 248(1), second subparagraph and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.
3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.

Article 277 (ex 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 279.

Article 278 (ex 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 279 (ex Article 209)

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

- (a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Community's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;
- (c) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection.

Article 280 (ex Article 209a)

1. The Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Community through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States.
2. Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests.
3. Without prejudice to other provisions of this Treaty, the Member States shall coordinate their action aimed at protecting the financial interests of the Community against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.
4. The Council, acting in accordance with the procedure referred to in Article 251, after consulting the Court of Auditors, shall adopt the necessary measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Community with a view to affording effective and equivalent protection in the Member States. These measures shall not concern the application of national criminal law or the national administration of justice.
5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this Article.

PART SIX

GENERAL AND FINAL PROVISIONS

Article 281 (ex Article 210)

The Community shall have legal personality.

Article 282 (ex 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 283 (ex Article 212)

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

Article 284 (ex 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 285 (ex Article 213a)

1. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the Council, acting in accordance with the procedure referred to in Article 251, shall adopt measures for the production of statistics where necessary for the performance of the activities of the Community.

2. The production of Community statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.

Article 286 (ex Article 213b)

1. From 1 January 1999, Community acts on the protection of individuals with regard to the processing of personal data and the free movement of such data shall apply to the institutions and bodies set up by, or on the basis of, this Treaty.

2. Before the date referred to in paragraph 1, the Council, acting in accordance with the procedure referred to in Article 251, shall establish an independent supervisory body responsible for monitoring the application of such Community acts to Community institutions and bodies and shall adopt any other relevant provisions as appropriate.

Article 287 (ex 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 288 (ex 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 preceding paragraph shall apply under the same conditions to damage caused by the ECB or by its servants in the performance of their duties.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.

Article 289 (ex Article 216)

The seat of the institutions of the Community shall be determined by common accord of the Governments of the Member States.

Article 290 (ex 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 291 (ex Article 218)

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Communities. The same shall apply to the European Central Bank, the European Monetary Institute, and the European Investment Bank.

Article 292 (ex 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 293 (ex 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 48, the retention of legal personality in the event of transfer of their seat from one country to another, and the possibility of mergers between companies or firms governed by the laws of different countries;
- the simplification of formalities governing the reciprocal recognition and enforcement of judgments of courts or tribunals and of arbitration awards.

Article 294 (ex Article 221)

Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of Article 48, without prejudice to the application of the other provisions of this Treaty.

Article 295 (ex Article 222)

This Treaty shall in no way prejudice the rules in Member States governing the system of property ownership.

Article 296 (ex 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. The Council may, acting unanimously on a proposal from the Commission, make changes to the list, which it drew up on 15 April 1958, of the products to which the provisions of paragraph 1(b) apply.

Article 297 (ex 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, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article 298 (ex Article 225)

If measures taken in the circumstances referred to in Articles 296 and 297 have the effect of distorting the conditions of competition in the common market, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in the Treaty.

By way of derogation from the procedure laid down in Articles 226 and 227, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 296 and 297. The Court of Justice shall give its ruling in camera.

Article 299 (ex Article 227)

1. This Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. The provisions of this Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands.

However, taking account of the structural social and economic situation of the French overseas departments, the Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall adopt specific measures aimed, in particular, at laying down the conditions of application of the present Treaty to those regions, including common policies.

The Council shall, when adopting the relevant measures referred to in the second subparagraph, take into account areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Community programmes.

The Council shall adopt the measures referred to in the second subparagraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Community legal order, including the internal market and common policies.

3. The special arrangements for association set out in Part Four of this Treaty shall apply to the overseas countries and territories listed in Annex II to this Treaty.

This Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in the aforementioned list.

4. The provisions of this Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. The provisions of this Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol No 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding the preceding paragraphs:
- (a) this Treaty shall not apply to the Faeroe Islands;
 - (b) this Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;
 - (c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

Article 300 (ex Article 228)

1. Where this Treaty provides for the conclusion of agreements between the Community and one or more States or international organisations, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Commission shall conduct these negotiations in consultation with special committees appointed by the Council to assist it in this task and within the framework of such directives as the Council may issue to it.

In exercising the powers conferred upon it by this paragraph, the Council shall act by a qualified majority, except in the cases where the first subparagraph of paragraph 2 provides that the Council shall act unanimously.

2. Subject to the powers vested in the Commission in this field, the signing, which may be accompanied by a decision on provisional application before entry into force, and the conclusion of the agreements shall be decided on by the Council, acting by a qualified majority on a proposal from the Commission. The Council shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of internal rules and for the agreements referred to in Article 310.

By way of derogation from the rules laid down in paragraph 3, the same procedures shall apply for a decision to suspend the application of an agreement, and for the purpose of establishing the positions to be adopted on behalf of the Community in a body set up by an agreement based on Article 310, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.

The European Parliament shall be immediately and fully informed on any decision under this paragraph concerning the provisional application or the suspension of agreements, or the establishment of the Community position in a body set up by an agreement based on Article 310.

3. The Council shall conclude agreements after consulting the European Parliament, except for the agreements referred to in Article 133(3), including cases where the agreement covers a field for which the procedure referred to in Article 251 or that referred to in Article 252 is required for the adoption of internal rules. The European Parliament shall deliver its opinion

within a time-limit which the Council may lay down according to the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

By way of derogation from the previous subparagraph, agreements referred to in Article 310, other agreements establishing a specific institutional framework by organising cooperation procedures, agreements having important budgetary implications for the Community and agreements entailing amendment of an act adopted under the procedure referred to in Article 251 shall be concluded after the assent of the European Parliament has been obtained.

The Council and the European Parliament may, in an urgent situation, agree upon a time-limit for the assent.

4. When concluding an agreement, the Council may, by way of derogation from paragraph 2, authorise the Commission to approve modifications on behalf of the Community where the agreement provides for them to be adopted by a simplified procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.

5. When the Council envisages concluding an agreement which calls for amendments to this Treaty, the amendments must first be adopted in accordance with the procedure laid down in Article 48 of the Treaty on European Union.

6. The Council, the Commission or a Member State may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 48 of the Treaty on European Union.

7. Agreements concluded under the conditions set out in this Article shall be binding on the institutions of the Community and on Member States.

Article 301 (ex Article 228a)

Where it is provided, in a common position or in a joint action adopted according to the provisions of the Treaty on European Union relating to the common foreign and security policy, for an action by the Community to interrupt or to reduce, in part or completely, economic relations with one or more third countries, the Council shall take the necessary urgent measures. The Council shall act by a qualified majority on a proposal from the Commission.

Article 302 (ex Article 229)

It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations and of its specialised agencies.

The Commission shall also maintain such relations as are appropriate with all international organisations.

Article 303 (ex Article 230)

The Community shall establish all appropriate forms of cooperation with the Council of Europe.

Article 304 (ex Article 231)

The Community shall establish close cooperation with the Organisation for Economic Cooperation and Development, the details of which shall be determined by common accord.

Article 305 (ex 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 306 (ex 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 307 (ex Article 234)

The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of this Treaty.

To the extent that such agreements are not compatible with this Treaty, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under this Treaty by each Member State form an integral part of the establishment of the Community and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantages by all the other Member States.

Article 308 (ex 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 European Parliament, take the appropriate measures.

Article 309 (ex Article 236)

1. Where a decision has been taken to suspend the voting rights of the representative of the government of a Member State in accordance with Article 7(2) of the Treaty on European Union, these voting rights shall also be suspended with regard to this Treaty.

2. Moreover, where the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1) of the Treaty on European Union has been determined in accordance with Article 7(1) of that Treaty, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

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

3. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken in accordance with paragraph 2 in response to changes in the situation which led to their being imposed.

4. When taking decisions referred to in paragraphs 2 and 3, the Council shall act without taking into account the votes of the representative of the government of the Member State in question. By way of derogation from Article 205(2) a qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2).

This paragraph shall also apply in the event of voting rights being suspended in accordance with paragraph 1. In such cases, a decision requiring unanimity shall be taken without the vote of the representative of the government of the Member State in question.

Article 310 (ex Article 238)

The Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.

Article 311 (ex Article 239)

The protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof.

Article 312 (ex Article 240)

This Treaty is concluded for an unlimited period.

FINAL PROVISIONS

Article 313 (ex 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 15 days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

Article 314 (ex 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.

Pursuant to the Accession Treaties, the Danish, English, Finnish, Greek, Irish, Portuguese, Spanish and Swedish versions of this Treaty shall also be authentic.

In witness whereof, the undersigned Plenipotentiaries have signed this Treaty.

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

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

ANNEX I

LIST

referred to in Article 32 of the Treaty

1	2
Number in the Brussels nomenclature	Description of products
CHAPTER 1	Live animals
CHAPTER 2	Meat and edible meat offal
CHAPTER 3	Fish, crustaceans and molluscs
CHAPTER 4	Dairy produce; birds' eggs; natural honey
CHAPTER 5	
05.04	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof
05.15	Animal products not elsewhere specified or included; dead animals of Chapter 1 or Chapter 3, unfit for human consumption
CHAPTER 6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
CHAPTER 7	Edible vegetables and certain roots and tubers
CHAPTER 8	Edible fruit and nuts; peel of melons or citrus fruit
CHAPTER 9	Coffee, tea and spices, excluding maté (heading No 09.03)
CHAPTER 10	Cereals
CHAPTER 11	Products of the milling industry; malt and starches; gluten; inulin
CHAPTER 12	Oil seeds and oleaginous fruit; miscellaneous grains, seeds and fruit; industrial and medical plants; straw and fodder
CHAPTER 13	
ex 13.03	Pectin
CHAPTER 15	
15.01	Lard and other rendered pig fat; rendered poultry fat
15.02	Unrendered fats of bovine cattle, sheep or goats; tallow (including 'premier jus') produced from those fats
15.03	Lard stearin, oleostearin and tallow stearin; lard oil, oleo-oil and tallow oil, not emulsified or mixed or prepared in any way

1	2
Number in the Brussels nomenclature	Description of products
CHAPTER 15 (continued)	
15.04	Fats and oil, of fish and marine mammals, whether or not refined
15.07	Fixed vegetable oils, fluid or solid, crude, refined or purified
15.12	Animal or vegetable fats and oils, hydrogenated, whether or not refined, but not further prepared
15.13	Margarine, imitation lard and other prepared edible fats
15.17	Residues resulting from the treatment of fatty substances or animal or vegetable waxes
CHAPTER 16	Preparations of meat, of fish, of crustaceans or molluscs
CHAPTER 17	
17.01	Beet sugar and cane sugar, solid
17.02	Other sugars; sugar syrups; artificial honey (whether or not mixed with natural honey); caramel
17.03	Molasses, whether or not decolourised
17.05 (*)	Flavoured or coloured sugars, syrups and molasses, but not including fruit juices containing added sugar in any proportion
CHAPTER 18	
18.01	Cocoa beans, whole or broken, raw or roasted
18.02	Cocoa sheels, husks, skins and waste
CHAPTER 20	Preparations of vegetables, fruit or other parts of plants
CHAPTER 22	
22.04	Grape must, in fermentation or with fermentation arrested otherwise than by the addition of alcohol
22.05	Wine of fresh grapes; grape must with fermentation arrested by the addition of alcohol
22.07	Other fermented beverages (for example, cider, perry and mead)

(*) Heading added by Article 1 of Regulation No 7a of the Council of the European Economic Community, of 18 December 1959 (OJ No 7, 30. 1. 1961, p. 71 — Special edition (English edition) 1959-1962, p. 68).

1	2
Number in the Brussels nomenclature	Description of products
CHAPTER 22 (continued)	
ex 22.08 (*) ex 22.09 (*)	Ethyl alcohol or neutral spirits, whether or not denatured, of any strength, obtained from agricultural products listed in Annex I to the Treaty, excluding liqueurs and other spirituous beverages and compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages
22.10 (*)	Vinegar and substitutes for vinegar
CHAPTER 23	Residues and waste from the food industries; prepared animal fodder
CHAPTER 24 24.01	Unmanufactured tobacco, tobacco refuse
CHAPTER 45 45.01	Natural cork, unworked, crushed, granulated or ground; waste cork
CHAPTER 54 54.01	Flax, raw or processed but not spun; flax tow and waste (including pulled or garnetted rags)
CHAPTER 57 57.01	True hemp (<i>Cannabis sativa</i>), raw or processed but not spun; tow and waste of true hemp (including pulled or garnetted rags or ropes)

(*) Heading added by Article 1 of Regulation No 7a of the Council of the European Economic Community, of 18 December 1959 (OJ No 7, 30. 1. 1961, p. 71 — Special edition (English edition) 1959-1962, p. 68).

*ANNEX II***OVERSEAS COUNTRIES AND TERRITORIES**

to which the provisions of Part Four of the Treaty apply

- Greenland,
 - New Caledonia and Dependencies,
 - French Polynesia,
 - French Southern and Antarctic Territories,
 - Wallis and Futuna Islands,
 - Mayotte,
 - Saint Pierre and Miquelon,
 - Aruba,
 - Netherlands Antilles:
 - Bonaire,
 - Curaçao,
 - Saba,
 - Sint Eustatius,
 - Sint Maarten.
 - Anguilla,
 - Cayman Islands,
 - Falkland Islands,
 - South Georgia and the South Sandwich Islands,
 - Montserrat,
 - Pitcairn,
 - Saint Helena and Dependencies,
 - British Antarctic Territory,
 - British Indian Ocean Territory,
 - Turks and Caicos Islands,
 - British Virgin Islands,
 - Bermuda.
-

European Union

Consolidated Treaties

Treaty on European Union

Treaty establishing the European Community

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COUNCIL DECISION
of 22 January 2001
on the establishment of the Military Staff of the European Union
(2001/80/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, in particular Article 28(1) thereof,

Having regard to the Treaty establishing the European Community, in particular Article 207(2) thereof,

Whereas:

- (1) In the framework of the strengthening of the common foreign and security policy (CFSP) and in particular of the common European policy on security and defence provided for in Article 17 of the Treaty on European Union, the European Council meeting in Nice on 7-11 December 2000 reached agreement on the establishment of the Military Staff of the European Union, setting out its mission and functions.
- (2) Following the guidelines of the European Council the Military Staff should be made ready to start its work,

HAS DECIDED AS FOLLOWS:

Article 1

1. Military personnel will be seconded from Member States to the General Secretariat of the Council in order to form the Military Staff of the European Union (EUMS).
2. The Military Staff will be part of the General Secretariat of the Council.

Article 2

The mission and functions of the Military Staff are defined in Annex V of the Presidency's report approved by the Nice European Council, which is reproduced in the Annex to this Decision.

Article 3

All members of the Military Staff shall be nationals of Member States of the European Union.

Article 4

1. Members of the Military Staff shall be subject to rules which will be established in a Council Decision.
2. Until the entry into force of the Decision mentioned in paragraph 1, Council Decision 2000/178/CFSP of 28 February 2000 on the rules applicable to national experts in the military field on secondment to the General Secretariat of the Council during the interim period ⁽¹⁾ shall remain in force.

Article 5

This Decision shall take effect from the date of its adoption. It shall apply as from a date established by the SG/HR upon consultation of the PSC and of the iMB/Military Committee and in principle before the end of June 2001.

Until the date of application of this Decision, the Director General of the Military Staff (DGEUMS), who will take up its functions as from 1 March 2001 ⁽²⁾, shall act as head of the military experts seconded from Member States to the Council Secretariat ⁽³⁾.

Article 6

This Decision shall be published in the Official Journal.

Done at Brussels, 22 January 2001.

For the Council

The President

A. LINDH

⁽¹⁾ OJ L 57, 2.3.2000, p. 1.

⁽²⁾ Council Decision of 22 December 2000.

⁽³⁾ Council Decision 2000/145/CFSP of 14 February 2000 on the secondment of national experts in the military field to the General Secretariat of the Council during an interim period (OJ L 49, 22.2.2000, p. 3).

ANNEX

EUROPEAN UNION MILITARY STAFF ORGANISATION (EUMS)**1. Introduction**

At Helsinki, the EU Member States decided to establish within the Council, new permanent political and military bodies enabling the EU to assume its responsibilities for the full range of conflict prevention and crisis management tasks defined in the EU Treaty, the Petersberg tasks. As provided in the Helsinki report, the EUMS, 'within the Council structures provides military expertise and support to the CESDP, including the conduct of EU-led military crisis management operations'.

For this purpose, the terms of reference of the European Union Military Staff (EUMS) are defined as follows:

2. Mission

The Military Staff is to perform 'early warning, situation assessment and strategic planning for Petersberg tasks including identification of European national and multinational forces' and to implement policies and decisions as directed by the European Union Military Committee (EUMC).

3. Role and tasks

- It is the source of the EU's military expertise.
- It assures the link between the EUMC on the one hand and the military resources available to the EU on the other, and it provides military expertise to EU bodies as directed by the EUMC.
- It provides an early warning capability. It plans, assesses and makes recommendations regarding the concept of crisis management and the general military strategy and implements the decisions and guidance of the EUMC.
- It supports the EUMC regarding situation assessment and military aspects of strategic planning ⁽¹⁾, over the full range of Petersberg tasks, for all cases of EU-led operations, whether or not the EU draws on NATO assets and capabilities.
- It contributes to the process of elaboration, assessment and review of the capability goals taking into account the need, for those Member States concerned, to ensure coherence with NATO's defence planning process (DPP) and the planning and review process (PARP) of the partnership for peace (PfP) in accordance with agreed procedures.
- It has the responsibility to monitor, assess and make recommendations regarding the forces and capabilities made available to the EU by the Member States, on training, exercises and interoperability.

4. Functions

- It performs three main operational functions: early warning, situation assessment and strategic planning.
- Under the direction of the EUMC it provides military expertise to EU bodies and, in particular, to the Secretary-General/High Representative.
- It monitors potential crises by relying on appropriate national and multinational intelligence capabilities.
- It supplies the Situation Centre with military information and receives its output.
- It carries out the military aspects of strategic advance planning for Petersberg missions.
- It identifies and lists European national and multinational forces for EU-led operations coordinating with NATO.
- It contributes to the development and preparation (including training and exercises) of national and multinational forces made available by the Member States to the EU. The modalities of the relation with NATO are defined in the relevant documents.
- It organises and coordinates the procedures with national and multinational HQs including those NATO HQs available to the EU, ensuring, as far as possible, compatibility with NATO procedures.

⁽¹⁾ Preliminary definitions:

Strategic planning: planning activities that start as soon as a crisis emerges and end when the EU political authorities approve a military strategic option or a set of military strategic options. The strategic process encompasses military situation assessment, definition of a POL/MIL framework and development of military strategic options.

Military strategic option: a possible military action designed to achieve the POL/MIL objectives outlined in the POL/MIL framework. A military strategic option will describe the outline military solution, the required resource and constraints and recommendations on the choice of the operations commander and OHQ.

- It programmes, plans, conducts and evaluates the military aspect of the EU's crisis management procedures, including the exercising of EU/NATO procedures.
 - It participates in the financial estimation of operations and exercises.
 - It liaises with the national HQs and the multinational HQs of the multinational forces.
 - It establishes permanent relations with NATO according to 'EU/NATO Permanent arrangements' and appropriate relations with identified correspondents within the UN and OSCE, subject to an agreement from these organisations.
- (a) Additional functions in crisis management situations
- It requests and processes specific information from the intelligence organisations and other relevant information from all available sources.
 - It supports the EUMC in its contributions to Initial Planning Guidance and Planning Directives of the Political and Security Committee (PSC).
 - It develops and prioritises military strategic options as the basis for the military advice of the EUMC to the PSC by:
 - defining initial broad options;
 - drawing as appropriate on planning support from external sources which will analyse and further develop these options in more detail,
 - evaluating the results of this more detailed work and commissioning any further work that might be necessary,
 - presenting an overall assessment, with an indication of priorities and recommendations as appropriate, to the EUMC.
 - It can also contribute to the non-military aspects of the military options.
 - It identifies in coordination with national planning staffs and, as appropriate, NATO, the forces that might participate in possible EU-led operations.
 - It assists the operation commander in technical exchanges with third countries offering military contributions to an EU-led operation, and in the preparation of the force generation conference.
 - It continues to monitor crisis situations.
- (b) Additional functions during operations
- The EUMS, acting under the direction of the EUMC, continuously monitors all the military aspects of operations. It conducts strategic analysis in liaison with the designated operation commander to support the EUMC in its advisory role to the PSC in charge of the strategic direction.
 - In the light of political and operational developments, it provides new options to the EUMC as a basis for EUMC's military advice to the PSC.

5. Organisation

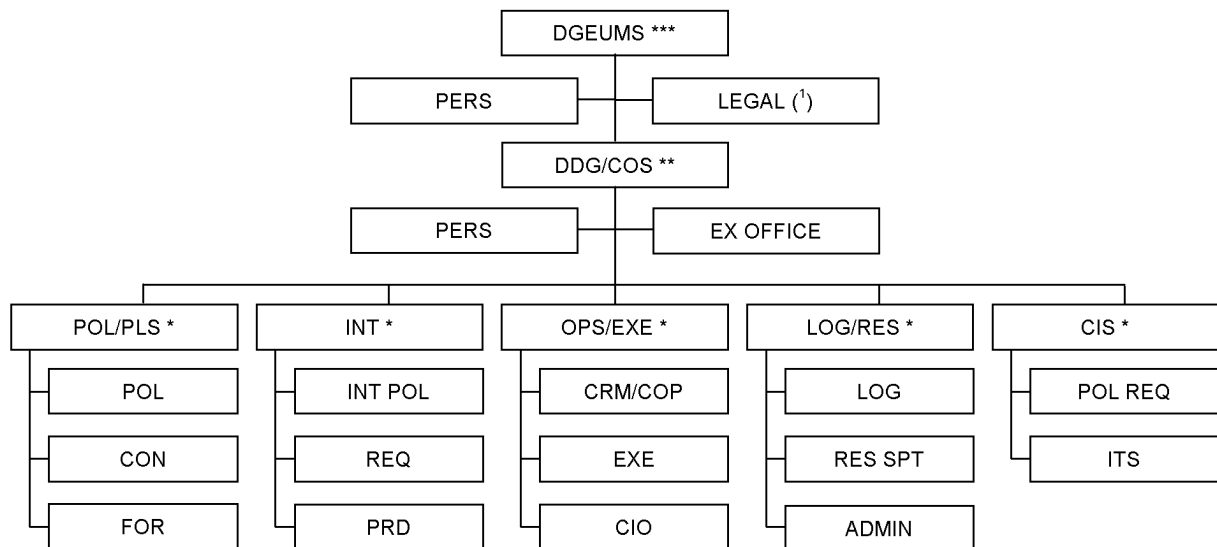
- It works under the military direction of the EUMC to which it reports.
- The EUMS is a Council Secretariat department directly attached to the SG/HR; it is composed of personnel seconded from the Member States acting in an international capacity under the statute to be established by the Council.
- EUMS is headed by the DGEUMS, a three-star flag officer, and works under the direction of the EUMC.
- In order to cope with the full spectrum of Petersberg tasks, whether or not the EU has recourse to NATO resources, the EUMS is organised as in Annex 'A'.
- In crisis management situations or exercises, the EUMS could set up Crisis Action Teams (CAT), drawing upon its own expertise, manpower and infrastructure. In addition, it could, if necessary, draw upon outside manpower for temporary augmentation to be requested from the EU Member States by the EUMC.

6. Relations with third countries

- The relations between the EUMS and the non-EU European NATO members and other countries, which are candidates for accession to the EU will be defined in the document on the relations of the EU with third countries.
-

ANNEX A

OUTLINE ORGANISATION OF EUMS



(1) Member of the Council Legal Service.

ABBREVIATIONS**A**

ADMIN Administration Branch

C

CEUMC Chairman of the European Union Military Committee

CIO CIMIC and Information Operations Branch

CIS Communications and Information Systems Division

CMC SPT Support to Chairman of the European Union Military Committee

CON Concepts Branch

CRM/COP Crisis Management/Current Operations Branch

D

DDG/COS Deputy Director General and Chief of Staff of the European Union Military Staff

DGEUMS Director General of the European Union Military Staff

E

EUMC European Union Military Committee

EUMS European Union Military Staff

EXE Exercises Branch

EX OFFICE Executive Office

F

FOR Force Preparedness Branch

I

INT Intelligence Division

INT POL Intelligence Policy Branch

ITS Information Technology and Security Branch

L

LEGAL Legal Adviser

LOG Logistics Branch

LOG/RES Logistics and Resources Division

O

OPS/EXE Operations and Exercises Division

P

PERS Personal Staff

POL Policy Branch

POL/PLS Policy and Plans Division

POL/REQ Policy and Requirements Branch

PRD Production Branch

R

REQ Requirements Branch

RES/SPT Resources Support Branch

COUNCIL DECISION
of 22 January 2001
setting up the Military Committee of the European Union

(2001/79/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, in particular Article 28(1) thereof,

Having regard to the Treaty establishing the European Community, in particular Article 207 thereof,

Recalling Article 25 of the Treaty on European Union,

Whereas:

- (1) In the framework of the strengthening of the common foreign and Security Policy (CFSP) and in particular of the common European policy on security and defence provided for in Article 17 of the Treaty on European Union, the European Council meeting in Nice on 7 to 11 December 2000 reached agreement on the establishment of the Military Committee of the European Union, setting out its mission and functions including those of its chairman.
- (2) Following the guidelines of the European Council this Committee should be made ready to start its work,

HAS DECIDED AS FOLLOWS:

Article 1

A Military Committee of the European Union (EUMC) (hereinafter the Committee) composed of the Member States' Chiefs of Defence, represented by their military representatives, is set up.

It will meet at the level of Chiefs of Defence as and when necessary.

Article 2

The mission and functions of the Committee are defined in Annex IV to the Presidency's report approved by the Nice European Council, which is reproduced in the Annex to this Decision.

Article 3

1. The Chairman of the Committee (hereinafter the Chairman) shall be appointed by the Council on the recommendation of the Committee meeting at the level of the Chiefs of Defence.

2. The term of office of the Chairman is three years, unless the Council decides otherwise. His mission and functions are also defined in the above mentioned annex.

Article 4

This Decision shall take effect from the date of its adoption.

Article 5

1. Without prejudice to the provisions of Article 3(1), this Decision shall apply from the date on which the first Chairman is appointed, not later than the date of application of the Decision on the establishment of the Military Staff of the European Union ⁽¹⁾ and in principle before the end of June 2001.

2. The Interim Military Body set up by Decision 2000/144/CFSP ⁽²⁾ will continue to carry out its tasks until the date at which this Decision applies.

Article 6

This Decision shall be published in the Official Journal.

Done at Brussels, 22 January 2001.

For the Council

The President

A. LINDH

⁽¹⁾ Council Decision 2001/80/CFSP (see page 7 of this Official Journal).
⁽²⁾ Council Decision 2000/144/CFSP of 14 February 2000 setting up the Interim Military Body (OJ L 49, 22.2.2000, p. 2).

ANNEX

EUROPEAN UNION MILITARY COMMITTEE (EUMC)**1. Introduction**

At Helsinki, the European Council decided to establish within the Council, new permanent political and military bodies enabling the EU to assume its responsibilities for the full range of conflict prevention and crisis management tasks defined in the EU Treaty, the Petersberg tasks.

As provided in the Helsinki report, the European Union Military Committee (EUMC), 'established within the Council', is composed of the Chiefs of Defence (CHODs) represented by their military representatives (Milreps). The EUMC meets at the level of CHODs as and when necessary. This Committee gives military advice and makes recommendations to the Political and Security Committee (PSC), as well as provides military direction to the European Union Military Staff (EUMS). The Chairman of the EUMC (CEUMC) attends meetings of the Council when decisions with defence implications are to be taken.

The EUMC is the highest military body established within the Council.

For this purpose, the terms of reference of the EUMC are outlined as follows:

2. Mission

The EUMC is responsible for providing the PSC with military advice and recommendations on all military matters within the EU. It exercises military direction of all military activities within the EU framework.

3. Functions

It is the source of military advice based on consensus.

It is the forum for military consultation and cooperation between the EU Member States in the field of conflict prevention and crisis management.

It provides military advice and makes recommendations to the PSC, at the latter's request or on its own initiative, acting within guidelines forwarded by the PSC, particularly with regard to:

- the development of the overall concept of crisis management in its military aspects,
- the military aspects relating to the political control and strategic direction of crisis management operations and situations,
- the risk assessment of potential crises,
- the military dimension of a crisis situation and its implications, in particular during its subsequent management; for this purpose, it receives the output from the Situation Centre,
- the elaboration, the assessment and the review of capability objectives according to agreed procedures,
- the EU's military relationship with non-EU European NATO Members, the other candidates for accession to the EU, other States and other organisations, including NATO,
- the financial estimation for operations and exercises.

(a) In crisis management situations

Upon the PSC's request, it issues an Initiating Directive to the Director General of the EUMS (DGEUMS) to draw up and present strategic military options.

It evaluates the strategic military options developed by the EUMS and forwards them to the PSC together with its evaluation and military advice.

On the basis of the military option selected by the Council, it authorises an Initial Planning Directive for the Operation Commander.

Based upon the EUMS evaluation, it provides advice and recommendation to the PSC:

- on the Concept of Operations (Conops) developed by the Operation Commander,
- on the draft Operation Plan (OPLAN) drawn up by the Operation Commander.

It gives advice to the PSC on the termination option for an operation.

(b) During an operation

The EUMC monitors the proper execution of military operations conducted under the responsibility of the Operation Commander.

The EUMC members sit or are represented in the Committee of Contributors.

4. Chairman of the EUMC (CEUMC)

The EUMC has a permanent Chairman whose responsibilities are described hereafter.

The CEUMC is a Four-star flag officer on appointment, preferably a former Chief of Defence of an EU Member State.

He is selected by the CHODs of the Member States according to approved procedures and is appointed by the Council on the recommendation of the EUMC meeting at CHODs level.

His term of office is in principle three years, except in exceptional circumstances.

His authority is derived from the EUMC to which he is responsible. Acting in an international capacity, the CEUMC represents the EUMC at the PSC and the Council, as appropriate.

As the Chairman of the EUMC, he:

- chairs the EUMC meetings at Milreps and CHODs levels,
- is the spokesman of the EUMC and, as such:
 - participates as appropriate in the PSC with the right to contribute to discussions and attends the Council meetings when decisions with defence implications are to be taken, and
 - performs the function of military adviser to the SG/HR on all military matters, in particular, to ensure consistency within the EU Crisis Management Structure,
- conducts the works of the EUMC impartially and in order to reflect consensus,
- acts on behalf of the EUMC in issuing directives and guidance to the DGEUMS,
- acts as the primary point of contact (POC) with the Operation Commander during the EU's military operations,
- liaises with the Presidency in the development and implementation of its work programme.

The CEUMC is supported by his personal staff and assisted by the EUMS, especially regarding the administrative support within the General Secretariat of the Council.

When absent the CEUMC is replaced by one of the following:

- the permanent DCEUMC, if it is so decided to create and fill the post,
- the Presidency representative, or
- the dean.

5. Miscellaneous

The relations to be established between the EUMC and NATO military authorities are defined in the document on the EU/NATO permanent arrangements. The relations between the EUMC and the non-EU European NATO members and other countries, which are candidates for accession to the EU are defined in the document on the relations of the EU with third countries.

The EUMC is supported by a military working group (EUMCWG), by the EUMS and by other departments and services, as appropriate.

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL DECISION
of 22 January 2001
setting up the Political and Security Committee
(2001/78/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty on European Union and in particular Article 28(1),

Article 1

A Political and Security Committee (PSC) (hereinafter the Committee) shall be established as the standing formation of the Committee referred to in Article 25 of the Treaty.

Having regard to the Treaty establishing the European Community and in particular Article 207 thereof,

Article 2

The role, modalities and functions of the Committee are defined in the Annex, which reproduces Annex III to the Presidency's report approved by the Nice European Council.

Recalling Article 25 of the Treaty on European Union,

Whereas:

Article 3

This Decision shall take effect from the date of its adoption.

(1) The European Council in Helsinki agreed in principle to set up a Political and Security Committee and, on the basis of these conclusions, an interim Political and Security Committee was set up by Council Decision 2000/143/CFSP ⁽¹⁾.

Article 4

This Decision shall be published in the Official Journal.

(2) The European Council in Nice of 7 to 11 December 2000 reached agreement on the establishment of the permanent Political and Security Committee, setting out its role, modalities and functions.

Done at Brussels, 22 January 2001.

(3) Following the guidelines of the Nice European Council, this Committee should be made ready to start its work.

For the Council

The President

A. LINDH

(4) The principle of single representation of Member States to the Union should be fully respected,

⁽¹⁾ Council Decision 2000/143/CFSP of 14 February 2000 setting up the Interim Political and Security Committee (OJ L 49, 22.2.2000, p. 1).

ANNEX

POLITICAL AND SECURITY COMMITTEE

The approach adopted at Helsinki makes the PSC the linchpin of the European security and defence policy (ESDP) and of the common foreign and security policy (CFSP): 'The PSC will deal with all aspects of the CFSP, including the CESDP...'. Without prejudice to Article 207 of the Treaty establishing the European Community, the PSC has a central role to play in the definition of and follow-up to the EU's response to a crisis.

The PSC will deal with all the tasks defined in Article 25 of the Treaty on European Union (TEU). It may convene in Political Director formation.

After consulting the Presidency and without prejudice to Article 18 of the TEU, the Secretary-General/High Representative for the CFSP may chair the PSC, especially in the event of a crisis.

1. In particular the PSC will:

- (a) keep track of the international situation in the areas falling within the common foreign and security policy, help define policies by drawing up 'opinions' for the Council, either at the request of the Council or on its own initiative, and monitor implementation of agreed policies, all of this without prejudice to Article 207 of the Treaty establishing the European Community and to the powers of the Presidency and of the Commission;
- (b) examine the areas of GAC draft conclusions in which it is involved;
- (c) provide guidelines for other Committees on matters falling within the CFSP;
- (d) maintain a privileged link with the Secretary-General/High Representative (SG/HR) and the special representatives;
- (e) send guidelines to the Military Committee; receive the opinions and recommendations of the Military Committee. The Chairman of the Military Committee (EUMC), who liaises with the European Union Military Staff (EUMS), takes part, where necessary, in PSC meetings;
- (f) receive information, recommendations and opinions from the Committee for Civilian Aspects of Crisis Management and send it guidelines on matters falling within the CFSP;
- (g) coordinate, supervise and monitor discussions on CFSP issues in various Working Parties, to which it may send guidelines and whose reports it must examine;
- (h) lead the political dialogue in its own capacity and in the forms laid down in the Treaty;
- (i) provide a privileged forum for dialogue with the ESDP with the fifteen and the six as well as with NATO in accordance with arrangements set out in the relevant documents;
- (j) under the auspices of the Council, take responsibility for the political direction of the development of military capabilities, taking into account the type of crisis to which the Union wishes to respond. As part of the development of military capabilities, the PSC will receive the opinion of the Military Committee assisted by the European Military Staff.

2. Furthermore, in the event of a crisis the PSC is the Council body which deals with crisis situations and examines all the options that might be considered as the Union's response within the single institutional framework and without prejudice to the decision-making and implementation procedures of each pillar. Thus the Council, whose preparatory work is carried out by Coreper, and the Commission alone have powers, each within their own areas of competence and in accordance with procedures laid down by the Treaties, to take legally-binding decisions. The Commission exercises its responsibility, including its power of initiative under the Treaties. Coreper exercises the role conferred on it by Article 207 of the Treaty establishing the European Community and by Article 19 of the Council's Rules of Procedure. To that end, it will be informed in good time by the PSC.

In a crisis situation, close coordination between these bodies is especially necessary and will be ensured in particular by:

- (a) the participation, where necessary, of the Chairman of the PSC in Coreper meetings;
- (b) the role of the Foreign Relations Counsellors whose task it is to maintain effective permanent coordination between CFSP discussions and those conducted in other pillars (Annex to the Council conclusions of 11 May 1992).

To prepare the EU's response to a crisis, it is for the PSC to propose to the Council the political objectives to be pursued by the Union and to recommend a cohesive set of options aimed at contributing to the settlement of the crisis. In particular it may draw up an opinion recommending to the Council that it adopt a joint action. Without prejudice to the role of the Commission, it supervises the implementation of the measures adopted and assesses their effects. The Commission informs the PSC of the measures it has adopted or is envisaging. The Member States inform the PSC of the measures they have adopted or are envisaging at the national level.

The PSC exercises 'political control and strategic direction' of the EU's military response to the crisis. To that end, on the basis of the opinions and recommendations of the Military Committee, it evaluates in particular the essential elements (strategic military options including the chain of command, operation concept, operation plan) to be submitted to the Council.

The PSC plays a major role in enhancing consultations, in particular with NATO and the third States involved.

On the basis of the proceedings of the PSC, the Secretary-General/High Representative directs the activities of the Situation Centre. The latter supports the PSC and provides it with intelligence in conditions appropriate to crisis management.

The following arrangements will be put in place to enable the PSC to ensure full 'political control and strategic direction' of a military crisis-management operation:

- (a) with a view to launching an operation the PSC sends the Council a recommendation based on the opinions of the Military Committee in accordance with the usual Council preparation procedures. On that basis the Council decides to launch the operation within the framework of a joint action;
 - (b) in accordance with Articles 18 and 26 of the TEU, the joint action will determine, in particular, the role of the Secretary-General/High Representative in the implementation of the measures falling within the 'political control and strategic direction' exercised by the PSC. For such measures the Secretary-General/High Representative acts with the PSC's assent. Should a new Council decision be deemed appropriate, the simplified written procedure could be used (Article 12(4) of the Council's Rules of Procedure);
 - (c) during the operation, the Council will be kept informed through PSC reports presented by the Secretary-General/High Representative in his capacity as Chairman of the PSC.
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CONSOLIDATED VERSION
OF THE
TREATY ON EUROPEAN UNION

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II. PROTOCOLS (text not reproduced)

Note: The references to Treaty articles, titles and sections contained in the protocols are adapted in accordance with the tables of equivalence set out in the Annex to the Treaty of Amsterdam.

Protocol annexed to the Treaty on European Union:

— Protocol (No 1) on Article 17 of the Treaty on European Union (1997)

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

— Protocol (No 2) integrating the Schengen acquis into the framework of the European Union (1997)

— Protocol (No 3) on the application of certain aspects of Article 14 of the Treaty establishing the European Community to the United Kingdom and to Ireland (1997)

— Protocol (No 4) on the position of the United Kingdom and Ireland (1997)

— Protocol (No 5) on the position of Denmark (1997)

Protocols annexed to the Treaty on European Union and to the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community:

- Protocol (No 6) annexed to the Treaty on European Union and to the Treaties establishing the European Communities (1992)
- Protocol (No 7) on the institutions with the prospect of enlargement of the European Union (1997)
- Protocol (No 8) on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol (1997)
- Protocol (No 9) on the role of national parliaments in the European Union (1997)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HIS MAJESTY THE KING OF THE BELGIANS:

Mark EYSKENS, Minister for Foreign Affairs,
Philippe MAYSTADT, Minister for Finance;

HER MAJESTY THE QUEEN OF DENMARK:

Uffe ELLEMANN-JENSEN, Minister for Foreign Affairs,
Anders FOGH RASMUSSEN, Minister for Economic Affairs;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Hans-Dietrich GENSCHER, Federal Minister for Foreign Affairs,
Theodor WAIGEL, Federal Minister for Finance;

THE PRESIDENT OF THE HELLENIC REPUBLIC:

Antonios SAMARAS, Minister for Foreign Affairs,
Efthymios CHRISTODOULOU, Minister for Economic Affairs;

HIS MAJESTY THE KING OF SPAIN:

Francisco FERNÁNDEZ ORDÓÑEZ, Minister for Foreign Affairs,
Carlos SOLCHAGA CATALÁN, Minister for Economic Affairs and Finance;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Roland DUMAS, Minister for Foreign Affairs,
Pierre BÉRÉGOVOY, Minister for Economic and Financial Affairs and the Budget;

THE PRESIDENT OF IRELAND:

Gerard COLLINS, Minister for Foreign Affairs,
Bertie AHERN, Minister for Finance;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Gianni DE MICHELIS, Minister for Foreign Affairs,
Guido CARLI, Minister for the Treasury;

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG:

Jacques F. POOS, Deputy Prime Minister, Minister for Foreign Affairs,
Jean-Claude JUNCKER, Minister for Finance;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Hans VAN DEN BROEK, Minister for Foreign Affairs,
Willem KOK, Minister for Finance;

THE PRESIDENT OF THE PORTUGUESE REPUBLIC:

João de Deus PINHEIRO, Minister for Foreign Affairs,
Jorge BRAGA DE MACEDO, Minister for Finance;

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND:

The Rt. Hon. Douglas HURD, Secretary of State for Foreign and Commonwealth Affairs,
The Hon. Francis MAUDE, Financial Secretary to the Treasury;

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

TITLE I
COMMON PROVISIONS

Article 1 (ex Article A)

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

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

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

Article 2 (ex Article B)

The Union shall set itself the following objectives:

- to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of this Treaty;
- to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence, in accordance with the provisions of Article 17;
- to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union;
- to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime;
- to maintain in full the *acquis communautaire* and build on it with a view to considering to what extent the policies and forms of cooperation introduced by this Treaty may need to be revised with the aim of ensuring the effectiveness of the mechanisms and the institutions of the Community.

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

Article 3 (ex Article C)

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

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

Article 4 (ex Article D)

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

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

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

Article 5 (ex Article E)

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

Article 6 (ex Article F)

1. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.
2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.
3. The Union shall respect the national identities of its Member States.
4. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

Article 7 (ex Article F.1)

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

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

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

3. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 2 in response to changes in the situation which led to their being imposed.

4. For the purposes of this Article, the Council shall act without taking into account the vote of the representative of the government of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 1. A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 2.

5. For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its members.

TITLE II

PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY WITH A VIEW TO ESTABLISHING THE EUROPEAN COMMUNITY*Article 8 (ex Article G)*

(not reproduced)

TITLE III

PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN COAL AND STEEL COMMUNITY*Article 9 (ex Article H)*

(not reproduced)

TITLE IV

PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN
ATOMIC ENERGY COMMUNITY

Article 10 (ex Article I)

(not reproduced)

TITLE V

PROVISIONS ON A COMMON FOREIGN AND SECURITY POLICY

Article 11 (ex Article J.1)

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

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

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

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

The Council shall ensure that these principles are complied with.

Article 12 (ex Article J.2)

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

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

Article 13 (ex Article J.3)

1. The European Council shall define the principles of and general guidelines for the common foreign and security policy, including for matters with defence implications.
2. The European Council shall decide on common strategies to be implemented by the Union in areas where the Member States have important interests in common.

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

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

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

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

Article 14 (ex Article J.4)

1. The Council shall adopt joint actions. Joint actions shall address specific situations where operational action by the Union is deemed to be required. They shall lay down their objectives, scope, the means to be made available to the Union, if necessary their duration, and the conditions for their implementation.
2. If there is a change in circumstances having a substantial effect on a question subject to joint action, the Council shall review the principles and objectives of that action and take the necessary decisions. As long as the Council has not acted, the joint action shall stand.

3. Joint actions shall commit the Member States in the positions they adopt and in the conduct of their activity.

4. The Council may request the Commission to submit to it any appropriate proposals relating to the common foreign and security policy to ensure the implementation of a joint action.

5. Whenever there is any plan to adopt a national position or take national action pursuant to a joint action, information shall be provided in time to allow, if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of Council decisions.

6. In cases of imperative need arising from changes in the situation and failing a Council decision, Member States may take the necessary measures as a matter of urgency having regard to the general objectives of the joint action. The Member State concerned shall inform the Council immediately of any such measures.

7. Should there be any major difficulties in implementing a joint action, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the joint action or impair its effectiveness.

Article 15 (ex Article J.5)

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

Article 16 (ex Article J.6)

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

Article 17 (ex Article J.7)

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

The Western European Union (WEU) is an integral part of the development of the Union providing the Union with access to an operational capability notably in the context of paragraph 2. It supports the Union in framing the defence aspects of the common foreign and security policy as set out in this Article. The Union shall accordingly foster closer institutional relations with the WEU with a view to the possibility of the integration of the WEU into the Union, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

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

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

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

3. The Union will avail itself of the WEU to elaborate and implement decisions and actions of the Union which have defence implications.

The competence of the European Council to establish guidelines in accordance with Article 13 shall also obtain in respect of the WEU for those matters for which the Union avails itself of the WEU.

When the Union avails itself of the WEU to elaborate and implement decisions of the Union on the tasks referred to in paragraph 2 all Member States of the Union shall be entitled to participate fully in the tasks in question. The Council, in agreement with the institutions of the WEU, shall adopt the necessary practical arrangements to allow all Member States contributing to the tasks in question to participate fully and on an equal footing in planning and decision-taking in the WEU.

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

4. The provisions of this Article shall not prevent the development of closer cooperation between two or more Member States on a bilateral level, in the framework of the WEU and the Atlantic Alliance, provided such cooperation does not run counter to or impede that provided for in this Title.

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

Article 18 (ex Article J.8)

1. The Presidency shall represent the Union in matters coming within the common foreign and security policy.
2. The Presidency shall be responsible for the implementation of decisions taken under this Title; in that capacity it shall in principle express the position of the Union in international organisations and international conferences.
3. The Presidency shall be assisted by the Secretary-General of the Council who shall exercise the function of High Representative for the common foreign and security policy.
4. The Commission shall be fully associated in the tasks referred to in paragraphs 1 and 2. The Presidency shall be assisted in those tasks if need be by the next Member State to hold the Presidency.
5. The Council may, whenever it deems it necessary, appoint a special representative with a mandate in relation to particular policy issues.

Article 19 (ex Article J.9)

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

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

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

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

Article 20 (ex Article J.10)

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

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

Article 21 (ex Article J.11)

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

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

Article 22 (ex Article J.12)

1. Any Member State or the Commission may refer to the Council any question relating to the common foreign and security policy and may submit proposals to the Council.
2. In cases requiring a rapid decision, the Presidency, of its own motion, or at the request of the Commission or a Member State, shall convene an extraordinary Council meeting within forty-eight hours or, in an emergency, within a shorter period.

Article 23 (ex Article J.13)

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

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

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

- when adopting joint actions, common positions or taking any other decision on the basis of a common strategy;
- when adopting any decision implementing a joint action or a common position.

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

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

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

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

Article 24 (ex Article J.14)

When it is necessary to conclude an agreement with one or more States or international organisations in implementation of this Title, the Council, acting unanimously, may authorise the Presidency, assisted by the Commission as appropriate, to open negotiations to that effect. Such agreements shall be concluded by the Council acting unanimously on a recommendation from the Presidency. No agreement shall be binding on a Member State whose representative in the Council states that it has to comply with the requirements of its own constitutional procedure; the other members of the Council may agree that the agreement shall apply provisionally to them.

The provisions of this Article shall also apply to matters falling under Title VI.

Article 25 (ex Article J.15)

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

Article 26 (ex Article J.16)

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

Article 27 (ex Article J.17)

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

Article 28 (ex Article J.18)

1. Articles 189, 190, 196 to 199, 203, 204, 206 to 209, 213 to 219, 255 and 290 of the Treaty establishing the European Community shall apply to the provisions relating to the areas referred to in this Title.
2. Administrative expenditure which the provisions relating to the areas referred to in this Title entail for the institutions shall be charged to the budget of the European Communities.
3. Operational expenditure to which the implementation of those provisions gives rise shall also be charged to the budget of the European Communities, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.

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

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

TITLE VI

PROVISIONS ON POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article 29 (ex Article K.1)

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

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

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

- closer cooperation between judicial and other competent authorities of the Member States in accordance with the provisions of Articles 31(a) to (d) and 32;
- approximation, where necessary, of rules on criminal matters in the Member States, in accordance with the provisions of Article 31(e).

Article 30 (ex Article K.2)

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

Article 31 (ex Article K.3)

Common action on judicial cooperation in criminal matters shall include:

- (a) facilitating and accelerating cooperation between competent ministries and judicial or equivalent authorities of the Member States in relation to proceedings and the enforcement of decisions;
- (b) facilitating extradition between Member States;
- (c) ensuring compatibility in rules applicable in the Member States, as may be necessary to improve such cooperation;
- (d) preventing conflicts of jurisdiction between Member States;
- (e) progressively adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the fields of organised crime, terrorism and illicit drug trafficking.

Article 32 (ex Article K.4)

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

Article 33 (ex Article K.5)

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

Article 34 (ex Article K.6)

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

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

- (a) adopt common positions defining the approach of the Union to a particular matter;
- (b) adopt framework decisions for the purpose of approximation of the laws and regulations of the Member States. Framework decisions shall be binding upon the Member States as to the result to be achieved but shall leave to the national authorities the choice of form and methods. They shall not entail direct effect;

- (c) adopt decisions for any other purpose consistent with the objectives of this Title, excluding any approximation of the laws and regulations of the Member States. These decisions shall be binding and shall not entail direct effect; the Council, acting by a qualified majority, shall adopt measures necessary to implement those decisions at the level of the Union;
- (d) establish conventions which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements. Member States shall begin the procedures applicable within a time limit to be set by the Council.

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

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

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

Article 35 (ex Article K.7)

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

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

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

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

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

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

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

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

Article 36 (ex Article K.8)

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

- give opinions for the attention of the Council, either at the Council's request or on its own initiative;
- contribute, without prejudice to Article 207 of the Treaty establishing the European Community, to the preparation of the Council's discussions in the areas referred to in Article 29.

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

Article 37 (ex Article K.9)

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

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

Article 38 (ex Article K.10)

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

Article 39 (ex Article K.11)

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

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

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

Article 40 (ex Article K.12)

1. Member States which intend to establish closer cooperation between themselves may be authorised, subject to Articles 43 and 44, to make use of the institutions, procedures and mechanisms laid down by the Treaties provided that the cooperation proposed:

- (a) respects the powers of the European Community, and the objectives laid down by this Title;
- (b) has the aim of enabling the Union to develop more rapidly into an area of freedom, security and justice.

2. The authorisation referred to in paragraph 1 shall be granted by the Council, acting by a qualified majority at the request of the Member States concerned and after inviting the Commission to present its opinion; the request shall also be forwarded to the European Parliament.

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

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

3. Any Member State which wishes to become a party to cooperation set up in accordance with this Article shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of receipt of that notification, possibly accompanied by a recommendation for such specific arrangements as it may deem necessary for that Member State to become a party to the cooperation in question. Within four months of the date of that notification, the Council shall decide on the request and on such specific arrangements as it may deem necessary. The decision shall be deemed to be taken unless the Council, acting by a qualified majority, decides to hold it in abeyance; in this case, the Council shall state the reasons for its decision and set a deadline for reexamining it. For the purposes of this paragraph, the Council shall act under the conditions set out in Article 44.

4. The provisions of Articles 29 to 41 shall apply to the closer cooperation provided for by this Article, save as otherwise provided for in this Article and in Articles 43 and 44.

The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice of the European Communities and the exercise of those powers shall apply to paragraphs 1, 2 and 3.

5. This Article is without prejudice to the provisions of the Protocol integrating the Schengen acquis into the framework of the European Union.

Article 41 (ex Article K.13)

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

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

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

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

Article 42 (ex Article K.14)

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

TITLE VII (ex Title VIa)

PROVISIONS ON CLOSER COOPERATION

Article 43 (ex Article K.15)

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

- (a) is aimed at furthering the objectives of the Union and at protecting and serving its interests;
- (b) respects the principles of the said Treaties and the single institutional framework of the Union;
- (c) is only used as a last resort, where the objectives of the said Treaties could not be attained by applying the relevant procedures laid down therein;
- (d) concerns at least a majority of Member States;
- (e) does not affect the 'acquis communautaire' and the measures adopted under the other provisions of the said Treaties;
- (f) does not affect the competences, rights, obligations and interests of those Member States which do not participate therein;
- (g) is open to all Member States and allows them to become parties to the cooperation at any time, provided that they comply with the basic decision and with the decisions taken within that framework;
- (h) complies with the specific additional criteria laid down in Article 11 of the Treaty establishing the European Community and Article 40 of this Treaty, depending on the area concerned, and is authorised by the Council in accordance with the procedures laid down therein.

2. Member States shall apply, as far as they are concerned, the acts and decisions adopted for the implementation of the cooperation in which they participate. Member States not participating in such cooperation shall not impede the implementation thereof by the participating Member States.

Article 44 (ex Article K.16)

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

2. Expenditure resulting from implementation of the cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless the Council, acting unanimously, decides otherwise.

Article 45 (ex Article K.17)

The Council and the Commission shall regularly inform the European Parliament of the development of closer cooperation established on the basis of this Title.

TITLE VIII (ex Title VII)

FINAL PROVISIONS

Article 46 (ex Article L)

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

- (a) provisions amending the Treaty establishing the European Economic Community with a view to establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community;
- (b) provisions of Title VI, under the conditions provided for by Article 35;
- (c) provisions of Title VII, under the conditions provided for by Article 11 of the Treaty establishing the European Community and Article 40 of this Treaty;
- (d) Article 6(2) with regard to action of the institutions, insofar as the Court has jurisdiction under the Treaties establishing the European Communities and under this Treaty;
- (e) Articles 46 to 53.

Article 47 (ex Article M)

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

Article 48 (ex Article N)

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

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

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

Article 49 (ex Article O)

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

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

Article 50 (ex Article P)

1. Articles 2 to 7 and 10 to 19 of the Treaty establishing a Single Council and a Single Commission of the European Communities, signed in Brussels on 8 April 1965, are hereby repealed.

2. Article 2, Article 3(2) and Title III of the Single European Act signed in Luxembourg on 17 February 1986 and in The Hague on 28 February 1986 are hereby repealed.

Article 51 (ex Article Q)

This Treaty is concluded for an unlimited period.

Article 52 (ex Article R)

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

Article 53 (ex Article S)

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

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

In witness whereof the undersigned Plenipotentiaries have signed this Treaty.

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

Mark EYSKENS
 Uffe ELLEMANN-JENSEN
 Hans-Dietrich GENSCHER
 Antonios SAMARAS
 Francisco FERNÁNDEZ ORDÓÑEZ
 Roland DUMAS
 Gerard COLLINS
 Gianni DE MICHELIS
 Jacques F. POOS
 Hans VAN DEN BROEK
 João de Deus PINHEIRO
 Douglas HURD

Philippe MAYSTADT
 Anders FOGH RASMUSSEN
 Theodor WAIGEL
 Efthymios CHRISTODOULOU
 Carlos SOLCHAGA CATALÁN
 Pierre BÉRÉGOVOY
 Bertie AHERN
 Guido CARLI
 Jean-Claude JUNCKER
 Willem KOK
 Jorge BRAGA DE MACEDO
 Francis MAUDE

TREATY OF NICE

AMENDING THE TREATY ON EUROPEAN UNION,
THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES
AND CERTAIN RELATED ACTS

(2001/C 80/01)

HIS MAJESTY THE KING OF THE BELGIANS,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF FINLAND,

HIS MAJESTY THE KING OF SWEDEN,

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

RECALLING the historic importance of the ending of the division of the European continent,

DESIRING to complete the process started by the Treaty of Amsterdam of preparing the institutions of the European Union to function in an enlarged Union,

DETERMINED on this basis to press ahead with the accession negotiations in order to bring them to a successful conclusion, in accordance with the procedure laid down in the Treaty on European Union,

HAVE RESOLVED to amend the Treaty on European Union, the Treaties establishing the European Communities and certain related acts,

and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Mr. Louis MICHEL,
Deputy Prime Minister and Minister for Foreign Affairs;

HER MAJESTY THE QUEEN OF DENMARK:

Mr. Mogens LYKKETOFT,
Minister for Foreign Affairs;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Mr. Joseph FISCHER,
Federal Minister for Foreign Affairs and Deputy Federal Chancellor;

THE PRESIDENT OF THE HELLENIC REPUBLIC:

Mr. Georgios PAPANDREOU,
Minister for Foreign Affairs;

HIS MAJESTY THE KING OF SPAIN:

Mr. Josep PIQUÉ I CAMPS,
Minister for Foreign Affairs;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr. Hubert VÉDRINE,
Minister for Foreign Affairs;

THE PRESIDENT OF IRELAND:

Mr. Brian COWEN,
Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr. Lamberto DINI,
Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG:

Ms. Lydie POLFER,
Deputy Prime Minister, Minister for Foreign Affairs and Foreign Trade;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr. Jozias Johannes VAN AARTSEN,
Minister for Foreign Affairs;

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA:

Ms. Benita FERRERO-WALDNER,
Federal Minister for Foreign Affairs;

THE PRESIDENT OF THE PORTUGUESE REPUBLIC:

Mr. Jaime GAMA,
Ministro de Estado, Minister for Foreign Affairs;

THE PRESIDENT OF THE REPUBLIC OF FINLAND:

Mr. Erkki TUOMIOJA,
Minister for Foreign Affairs;

HIS MAJESTY THE KING OF SWEDEN:

Ms. Anna LINDH,
Minister for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

Mr. Robin COOK,
Secretary of State for Foreign and Commonwealth Affairs;

WHO, having exchanged their full powers found in good and due form,

HAVE AGREED AS FOLLOWS:

PART ONE
SUBSTANTIVE AMENDMENTS

Article 1

The Treaty on European Union shall be amended in accordance with the provisions of this Article.

1. Article 7 shall be replaced by the following:

'Article 7

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

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

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

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

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

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

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

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

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

2. Article 17 shall be replaced by the following:

'Article 17

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

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

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

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

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

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

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

3. In Article 23(2), first subparagraph, the following third indent shall be added:

— when appointing a special representative in accordance with Article 18(5).'

4. Article 24 shall be replaced by the following:

'Article 24

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

2. The Council shall act unanimously when the agreement covers an issue for which unanimity is required for the adoption of internal decisions.

3. When the agreement is envisaged in order to implement a joint action or common position, the Council shall act by a qualified majority in accordance with Article 23(2).

4. The provisions of this Article shall also apply to matters falling under Title VI. When the agreement covers an issue for which a qualified majority is required for the adoption of internal decisions or measures, the Council shall act by a qualified majority in accordance with Article 34(3).

5. No agreement shall be binding on a Member State whose representative in the Council states that it has to comply with the requirements of its own constitutional procedure; the other members of the Council may agree that the agreement shall nevertheless apply provisionally.

6. Agreements concluded under the conditions set out by this Article shall be binding on the institutions of the Union.'

5. Article 25 shall be replaced by the following:

'Article 25

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

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

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

6. The following Articles shall be inserted:

'Article 27a

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

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

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

Article 27b

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

Article 27c

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

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

Article 27d

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

Article 27e

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

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

7. In Article 29, second paragraph, the second indent shall be replaced by the following:

‘— closer cooperation between judicial and other competent authorities of the Member States, including cooperation through the European Judicial Cooperation Unit (“Eurojust”), in accordance with the provisions of Articles 31 and 32;’

8. Article 31 shall be replaced by the following:

‘Article 31

1. Common action on judicial cooperation in criminal matters shall include:

(a) facilitating and accelerating cooperation between competent ministries and judicial or equivalent authorities of the Member States, including, where appropriate, cooperation through Eurojust, in relation to proceedings and the enforcement of decisions;

(b) facilitating extradition between Member States;

- (c) ensuring compatibility in rules applicable in the Member States, as may be necessary to improve such cooperation;
- (d) preventing conflicts of jurisdiction between Member States;
- (e) progressively adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the fields of organised crime, terrorism and illicit drug trafficking.

2. The Council shall encourage cooperation through Eurojust by:

- (a) enabling Eurojust to facilitate proper coordination between Member States' national prosecuting authorities;
- (b) promoting support by Eurojust for criminal investigations in cases of serious cross-border crime, particularly in the case of organised crime, taking account, in particular, of analyses carried out by Europol;
- (c) facilitating close cooperation between Eurojust and the European Judicial Network, particularly, in order to facilitate the execution of letters rogatory and the implementation of extradition requests.'

9. Article 40 shall be replaced by the following Articles 40, 40a and 40b:

Article 40

1. Enhanced cooperation in any of the areas referred to in this Title shall have the aim of enabling the Union to develop more rapidly into an area of freedom, security and justice, while respecting the powers of the European Community and the objectives laid down in this Title.
2. Articles 29 to 39 and Articles 40a to 41 shall apply to the enhanced cooperation provided for by this Article, save as otherwise provided in Article 40a and in Articles 43 to 45.
3. The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice and the exercise of those powers shall apply to this Article and to Articles 40a and 40b.

Article 40a

1. Member States which intend to establish enhanced cooperation between themselves under Article 40 shall address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so. Those Member States may then submit an initiative to the Council designed to obtain authorisation for the enhanced cooperation concerned.
2. The authorisation referred to in paragraph 1 shall be granted, in compliance with Articles 43 to 45, by the Council, acting by a qualified majority, on a proposal from the Commission or on the initiative of at least eight Member States, and after consulting the European Parliament. The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community.

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

Article 40b

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

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

10. The heading of Title VII shall be replaced by the following: 'Provisions on enhanced cooperation'.

11. Article 43 shall be replaced by the following:

'Article 43

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

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

(i) does not affect the provisions of the Protocol integrating the Schengen *acquis* into the framework of the European Union;

(j) is open to all the Member States, in accordance with Article 43b.'

12. The following Articles shall be inserted:

'Article 43a

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

Article 43b

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

13. Article 44 shall be replaced by the following Articles 44 and 44a:

'Article 44

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

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

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

Article 44a

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

14. Article 45 shall be replaced by the following:

'Article 45

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

15. Article 46 shall be replaced by the following:

'Article 46

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

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

Article 2

The Treaty establishing the European Community shall be amended in accordance with the provisions of this Article.

1. Article 11 shall be replaced by the following Articles 11 and 11a:

'Article 11

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

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

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

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

Article 11a

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

2. In Article 13, the current text shall become paragraph 1 and the following paragraph 2 shall be added:

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

3. Article 18 shall be replaced by the following:

Article 18

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.

2. If action by the Community should prove necessary to attain this objective and this Treaty has not provided the necessary powers, the Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1. The Council shall act in accordance with the procedure referred to in Article 251.

3. Paragraph 2 shall not apply to provisions on passports, identity cards, residence permits or any other such document or to provisions on social security or social protection.'

4. In Article 67, the following paragraph shall be added:

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

— the measures provided for in Article 63(1) and (2)(a) provided that the Council has previously adopted, in accordance with paragraph 1 of this Article, Community legislation defining the common rules and basic principles governing these issues;

— the measures provided for in Article 65 with the exception of aspects relating to family law.'

5. Article 100 shall be replaced by the following:

'Article 100

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

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

6. Article 111(4) shall be replaced by the following:

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

7. Article 123(4) shall be replaced by the following:

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

8. Article 133 shall be replaced by the following:

'Article 133

1. The common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies.

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

3. Where agreements with one or more States or international organisations need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Community policies and rules.

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

The relevant provisions of Article 300 shall apply.

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

5. Paragraphs 1 to 4 shall also apply to the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, insofar as those agreements are not covered by the said paragraphs and without prejudice to paragraph 6.

By way of derogation from paragraph 4, the Council shall act unanimously when negotiating and concluding an agreement in one of the fields referred to in the first subparagraph, where that agreement includes provisions for which unanimity is required for the adoption of internal rules or where it relates to a field in which the Community has not yet exercised the powers conferred upon it by this Treaty by adopting internal rules.

The Council shall act unanimously with respect to the negotiation and conclusion of a horizontal agreement insofar as it also concerns the preceding subparagraph or the second subparagraph of paragraph 6.

This paragraph shall not affect the right of the Member States to maintain and conclude agreements with third countries or international organisations insofar as such agreements comply with Community law and other relevant international agreements.

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

In this regard, by way of derogation from the first subparagraph of paragraph 5, agreements relating to trade in cultural and audiovisual services, educational services, and social and human health services, shall fall within the shared competence of the Community and its Member States. Consequently, in addition to a Community decision taken in accordance with the relevant provisions of Article 300, the negotiation of such agreements shall require the common accord of the Member States. Agreements thus negotiated shall be concluded jointly by the Community and the Member States.

The negotiation and conclusion of international agreements in the field of transport shall continue to be governed by the provisions of Title V and Article 300.

7. Without prejudice to the first subparagraph of paragraph 6, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may extend the application of paragraphs 1 to 4 to international negotiations and agreements on intellectual property insofar as they are not covered by paragraph 5.'

9. Article 137 shall be replaced by the following:

'Article 137

1. With a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in the following fields:

- (a) improvement in particular of the working environment to protect workers' health and safety;
- (b) working conditions;
- (c) social security and social protection of workers;
- (d) protection of workers where their employment contract is terminated;
- (e) the information and consultation of workers;
- (f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;
- (g) conditions of employment for third-country nationals legally residing in Community territory;
- (h) the integration of persons excluded from the labour market, without prejudice to Article 150;
- (i) equality between men and women with regard to labour market opportunities and treatment at work;
- (j) the combating of social exclusion;
- (k) the modernisation of social protection systems without prejudice to point (c).

2. To this end, the Council:

- (a) may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;
- (b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The Council shall act in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee and the Committee of the Regions, except in the fields referred to in paragraph 1(c), (d), (f) and (g) of this Article, where the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament and the said Committees. The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament, may decide to render the procedure referred to in Article 251 applicable to paragraph 1(d), (f) and (g) of this Article.

3. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraph 2.

In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 249, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive.

4. The provisions adopted pursuant to this Article:

- shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof;
- shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with this Treaty.

5. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.'

10. In Article 139(2), the second subparagraph shall be replaced by the following:

'The Council shall act by a qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article 137(2). In that case, it shall act unanimously.'

11 Article 144 shall be replaced by the following:

'Article 144

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

- to monitor the social situation and the development of social protection policies in the Member States and the Community;
- to promote exchanges of information, experience and good practice between Member States and with the Commission;
- without prejudice to Article 207, to prepare reports, formulate opinions or undertake other work within its fields of competence, at the request of either the Council or the Commission or on its own initiative.

In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour.

Each Member State and the Commission shall appoint two members of the Committee.'

12. Article 157(3) shall be replaced by the following:

'3. The Community shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of this Treaty. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, may decide on specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1.

This Title shall not provide a basis for the introduction by the Community of any measure which could lead to a distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons.'

13. In Article 159, the third paragraph shall be replaced by the following:

'If specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of the other Community policies, such actions may be adopted by the Council acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions.'

14. In Article 161, the following third paragraph shall be added:

'From 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission after obtaining the assent of the European Parliament and after consulting the Economic and Social Committee and the Committee of the Regions if, by that date, the multiannual financial perspective applicable from 1 January 2007 and the Interinstitutional Agreement relating thereto have been adopted. If such is not the case, the procedure laid down by this paragraph shall apply from the date of their adoption.'

15. Article 175(2) shall be replaced by the following:

'2. By way of derogation from the decision-making procedure provided for in paragraph 1 and without prejudice to Article 95, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt:

(a) provisions primarily of a fiscal nature;

(b) measures affecting:

— town and country planning;

— quantitative management of water resources or affecting, directly or indirectly, the availability of those resources;

— land use, with the exception of waste management;

(c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.

The Council may, under the conditions laid down in the first subparagraph, define those matters referred to in this paragraph on which decisions are to be taken by a qualified majority.'

16. In Part Three, the following Title shall be added:

'Title XXI

ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES

Article 181a

1. Without prejudice to the other provisions of this Treaty, and in particular those of Title XX, the Community shall carry out, within its spheres of competence, economic, financial and technical cooperation measures with third countries. Such measures shall be complementary to those carried out by the Member States and consistent with the development policy of the Community.

Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to the objective of respecting human rights and fundamental freedoms.

2. The Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall adopt the measures necessary for the implementation of paragraph 1. The Council shall act unanimously for the association agreements referred to in Article 310 and for the agreements to be concluded with the States which are candidates for accession to the Union.

3. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The first subparagraph shall be without prejudice to the Member States' competence to negotiate in international bodies and to conclude international agreements.'

17. In Article 189, the second paragraph shall be replaced by the following:

'The number of Members of the European Parliament shall not exceed 732.'

18. Article 190(5) shall be replaced by the following:

'5. The European Parliament, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.'

19. In Article 191, the following second paragraph shall be added:

'The Council, acting in accordance with the procedure referred to in Article 251, shall lay down the regulations governing political parties at European level and in particular the rules regarding their funding.'

20. Article 207(2) shall be replaced by the following:

'2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the common foreign and security policy, who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council, acting by a qualified majority.

The Council shall decide on the organisation of the General Secretariat.'

21. Article 210 shall be replaced by the following:

'Article 210

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

22. Article 214(2) shall be replaced by the following:

'2. The Council, meeting in the composition of Heads of State or Government and acting by a qualified majority, shall nominate the person it intends to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

The Council, acting by a qualified majority and by common accord with the nominee for President, shall adopt the list of the other persons whom it intends to appoint as Members of the Commission, drawn up in accordance with the proposals made by each Member State.

The President and the other Members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other Members of the Commission shall be appointed by the Council, acting by a qualified majority.'

23. Article 215 shall be replaced by the following:

'Article 215

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

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the Member's term of office by a new Member appointed by the Council, acting by a qualified majority. The Council may, acting unanimously, decide that such a vacancy need not be filled.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article 214(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 216, Members of the Commission shall remain in office until they have been replaced or until the Council has decided that the vacancy need not be filled, as provided for in the second paragraph of this Article.'

24. Article 217 shall be replaced by the following:

'Article 217

1. The Commission shall work under the political guidance of its President, who shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality.

2. The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.

3. After obtaining the approval of the College, the President shall appoint Vice-Presidents from among its Members.

4. A Member of the Commission shall resign if the President so requests, after obtaining the approval of the College.'

25. In Article 219, the first paragraph shall be deleted.

26. Article 220 shall be replaced by the following:

'Article 220

The Court of Justice and the Court of First Instance, each within its jurisdiction, shall ensure that in the interpretation and application of this Treaty the law is observed.

In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 225a in order to exercise, in certain specific areas, the judicial competence laid down in this Treaty.'

27. Article 221 shall be replaced by the following:

'Article 221

The Court of Justice shall consist of one judge per Member State.

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice.

When provided for in the Statute, the Court of Justice may also sit as a full Court.'

28. Article 222 shall be replaced by the following:

'Article 222

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice, require his involvement.'

29. Article 223 shall be replaced by the following:

'Article 223

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice.

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

Retiring Judges and Advocates-General may be reappointed.

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

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council, acting by a qualified majority.'

30. Article 224 shall be replaced by the following:

'Article 224

The Court of First Instance shall comprise at least one judge per Member State. The number of Judges shall be determined by the Statute of the Court of Justice. The Statute may provide for the Court of First Instance to be assisted by Advocates-General.

The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

The Judges shall elect the President of the Court of First Instance from among their number for a term of three years. He may be re-elected.

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service.

The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the Statute of the Court of Justice provides otherwise, the provisions of this Treaty relating to the Court of Justice shall apply to the Court of First Instance.'

31. Article 225 shall be replaced by the following:

'Article 225

1. The Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 230, 232, 235, 236 and 238, with the exception of those assigned to a judicial panel and those reserved in the Statute for the Court of Justice. The Statute may provide for the Court of First Instance to have jurisdiction for other classes of action or proceeding.

Decisions given by the Court of First Instance under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the judicial panels set up under Article 225a.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 234, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.'

32. The following Article shall be inserted:

'Article 225a

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

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

33. The following Article shall be inserted:

'Article 229a

Without prejudice to the other provisions of this Treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may adopt provisions to confer jurisdiction, to the extent that it shall determine, on the Court of Justice in disputes relating to the application of acts adopted on the basis of this Treaty which create Community industrial property rights. The Council shall recommend those provisions to the Member States for adoption in accordance with their respective constitutional requirements.'

34. In Article 230, the second and third paragraphs shall be replaced by the following:

'It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors and by the ECB for the purpose of protecting their prerogatives.'

35. Article 245 shall be replaced by the following:

'Article 245

The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the Court of Justice, may amend the provisions of the Statute, with the exception of Title I.'

36. Article 247 shall be amended as follows:

(a) Paragraph 1 shall be replaced by the following:

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

(b) Paragraph 3 shall be replaced by the following:

'3. The Members of the Court of Auditors shall be appointed for a term of six years. The Council, acting by a qualified majority after consulting the European Parliament, shall adopt the list of Members drawn up in accordance with the proposals made by each Member State. The term of office of the Members of the Court of Auditors shall be renewable.

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

37. Article 248 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'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 insofar as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Union*. This statement may be supplemented by specific assessments for each major area of Community activity.;

(b) paragraph 4 shall be replaced by the following:

'4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

The Court of Auditors shall draw up its Rules of Procedure. Those rules shall require the approval of the Council, acting by a qualified majority.'

38. In Article 254(1) and (2), the words *Official Journal of the European Communities* shall be replaced by *Official Journal of the European Union*.

39. Article 257 shall be replaced by the following:

'Article 257

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

The Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest.'

40. Article 258 shall be replaced by the following:

'Article 258

The number of members of the Economic and Social Committee shall not exceed 350.

The number of members of the Committee shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.

The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.'

41. In Article 259, paragraph 1 shall be replaced by the following:

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

42. Article 263 shall be replaced by the following:

'Article 263

A Committee, hereinafter referred to as "the Committee of the Regions", consisting of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly, is hereby established with advisory status.

The number of members of the Committee of the Regions shall not exceed 350.

The number of members of the Committee shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24

The members of the Committee and an equal number of alternate members shall be appointed for four years, on proposals from the respective Member States. Their term of office shall be renewable. The Council, acting by a qualified majority, shall adopt the list of members and alternate members drawn up in accordance with the proposals made by each Member State. When the mandate referred to in the first paragraph on the basis of which they were proposed comes to an end, the term of office of members of the Committee shall terminate automatically and they shall then be replaced for the remainder of the said term of office in accordance with the same procedure. No member of the Committee shall at the same time be a Member of the European Parliament.

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.'

43. Article 266 shall be replaced by the following:

'Article 266

The European Investment Bank shall have legal personality.

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

The Statute of the European Investment Bank is laid down in a Protocol annexed to this Treaty. The Council, acting unanimously, at the request of the European Investment Bank and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the European Investment Bank, may amend Articles 4, 11 and 12 and Article 18(5) of the Statute of the Bank.'

44. Article 279 shall be replaced by the following:

'Article 279

1. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

- (a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection.

From 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors.

2. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Community's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements.'

45. Article 290 shall be replaced by the following:

'Article 290

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the Statute of the Court of Justice, be determined by the Council, acting unanimously.'

46. Article 300 shall be amended as follows:

- (a) in paragraph 2, the second and third subparagraphs shall be replaced by the following:

'By way of derogation from the rules laid down in paragraph 3, the same procedures shall apply for a decision to suspend the application of an agreement, and for the purpose of establishing the positions to be adopted on behalf of the Community in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.'

The European Parliament shall be immediately and fully informed of any decision under this paragraph concerning the provisional application or the suspension of agreements, or the establishment of the Community position in a body set up by an agreement.'

- (b) paragraph 6 shall be replaced by the following:

'6. The European Parliament, the Council, the Commission or a Member State may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 48 of the Treaty on European Union.'

47. Article 309 shall be amended as follows:

- (a) in paragraph 1, the terms 'Article 7(2)' shall be replaced by 'Article 7(3)';
- (b) in paragraph 2, the terms 'Article 7(1)' shall be replaced by 'Article 7(2)'.

Article 3

The Treaty establishing the European Atomic Energy Community shall be amended in accordance with the provisions of this Article.

1. In Article 107, the second paragraph shall be replaced by the following:

'The number of Members of the European Parliament shall not exceed 732.'

2. Article 108(5) shall be replaced by the following:

'5. The European Parliament, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.'

3. Article 121(2) shall be replaced by the following:

'2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the common foreign and security policy, who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council, acting by a qualified majority.

The Council shall decide on the organisation of the General Secretariat.'

4. Article 127(2) shall be replaced by the following:

'2. The Council, meeting in the composition of Heads of State or Government and acting by a qualified majority, shall nominate the person it intends to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

The Council, acting by a qualified majority and by common accord with the nominee for President, shall adopt the list of the other persons whom it intends to appoint as Members of the Commission, drawn up in accordance with the proposals made by each Member State.

The President and the other Members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other Members of the Commission shall be appointed by the Council, acting by a qualified majority.'

5. Article 128 shall be replaced by the following:

'Article 128

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

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the Member's term of office by a new Member appointed by the Council, acting by a qualified majority. The Council may, acting unanimously, decide that such a vacancy need not be filled.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article 127(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 129, Members of the Commission shall remain in office until they have been replaced or until the Council has decided that the vacancy need not be filled, as provided for in the second paragraph of this Article.'

6. Article 130 shall be replaced by the following:

'Article 130

1. The Commission shall work under the political guidance of its President, who shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality.
2. The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.
3. After obtaining the approval of the College, the President shall appoint Vice-Presidents from among its Members.
4. A Member of the Commission shall resign if the President so requests, after obtaining the approval of the College.'

7. In Article 132, the first paragraph shall be deleted.

8. Article 136 shall be replaced by the following:

'Article 136

The Court of Justice and the Court of First Instance, each within its jurisdiction, shall ensure that in the interpretation and application of this Treaty the law is observed.

In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 140b in order to exercise, in certain specific areas, the judicial competence laid down in this Treaty.'

9. Article 137 shall be replaced by the following:

'Article 137

The Court of Justice shall consist of one judge per Member State.

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice.

When provided for in the Statute, the Court of Justice may also sit as a full Court.'

10. Article 138 shall be replaced by the following:

'Article 138

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice, require his involvement.'

11. Article 139 shall be replaced by the following:

'Article 139

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice.

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

Retiring Judges and Advocates-General may be reappointed.

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

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council, acting by a qualified majority.'

12. Article 140 shall be replaced by the following:

'Article 140

The Court of First Instance shall comprise at least one judge per Member State. The number of Judges shall be determined by the Statute of the Court of Justice. The Statute may provide for the Court of First Instance to be assisted by Advocates-General.

The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

The Judges shall elect the President of the Court of First Instance from among their number for a term of three years. He may be re-elected.

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service.

The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the Statute of the Court of Justice provides otherwise, the provisions of this Treaty relating to the Court of Justice shall apply to the Court of First Instance.'

13. Article 140a shall be replaced by the following:

'Article 140a

1. The Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 146, 148, 151, 152 and 153 with the exception of those assigned to a judicial panel and those reserved in the Statute for the Court of Justice. The Statute may provide for the Court of First Instance to have jurisdiction for other classes of action or proceeding.

Decisions given by the Court of First Instance under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the judicial panels set up under Article 140b.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 150, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.'

14. The following Article shall be inserted:

'Article 140b

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

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

15. In Article 146, the second and third paragraphs shall be replaced by the following:

'It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors for the purpose of protecting its prerogatives.'

16. Article 160 shall be replaced by the following:

'Article 160

The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the Court of Justice, may amend the provisions of the Statute, with the exception of Title I.'

17. Article 160b shall be amended as follows:

(a) Paragraph 1 shall be replaced by the following:

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

(b) Paragraph 3 shall be replaced by the following:

'3. The Members of the Court of Auditors shall be appointed for a term of six years. The Council, acting by a qualified majority after consulting the European Parliament, shall adopt the list of Members drawn up in accordance with the proposals made by each Member State. The term of office of the Members of the Court of Auditors shall be renewable.

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

18. Article 160c shall be amended as follows:

(a) Paragraph 1 shall be replaced by the following:

'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 insofar as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Union*. This statement may be supplemented by specific assessments for each major area of Community activity.'

(b) Paragraph 4 shall be replaced by the following:

'4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

The Court of Auditors shall draw up its Rules of Procedure. Those rules shall require the approval of the Council, acting by a qualified majority.'

19. In Article 163, the first paragraph shall be replaced by the following:

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

20. Article 165 shall be replaced by the following:

Article 165

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

The Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest.'

21. Article 166 shall be replaced by the following:

'Article 166

The number of members of the Economic and Social Committee shall not exceed 350.

The number of members of the Committee shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.

The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.'

22. Article 167(1) shall be replaced by the following:

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

23. Article 183 shall be replaced by the following:

'Article 183

1. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

- (a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection.

From 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors.

2. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Community's own resources shall be made available to the Commission and determine the measures to be applied, if need be, to meet cash requirements.'

24. Article 190 shall be replaced by the following:

'Article 190

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the Statute of the Court of Justice, be determined by the Council, acting unanimously.'

25. Article 204 shall be amended as follows:

(a) in paragraph 1, the terms 'Article F.1(2)' shall be replaced by 'Article 7(3)';

(b) in paragraph 2, the terms 'Article F.1' shall be replaced by 'Article 6(1)' and the terms 'Article F.1(1)' shall be replaced by 'Article 7(2)'.

Article 4

The Treaty establishing the European Coal and Steel Community shall be amended in accordance with the provisions of this Article.

1. Article 10(2) shall be replaced by the following:

'2. The Council, meeting in the composition of Heads of State or Government and acting by a qualified majority, shall nominate the person it intends to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

The Council, acting by a qualified majority and by common accord with the nominee for President, shall adopt the list of the other persons whom it intends to appoint as Members of the Commission, drawn up in accordance with the proposals made by each Member State.

The President and the other Members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other Members of the Commission shall be appointed by the Council, acting by a qualified majority.'

2. Article 11 shall be replaced by the following:

'Article 11

1. The Commission shall work under the political guidance of its President, who shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality.

2. The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.

3. After obtaining the approval of the College, the President shall appoint Vice-Presidents from among its Members.

4. A Member of the Commission shall resign if the President so requests, after obtaining the approval of the College.'

3. Article 12 shall be replaced by the following:

'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.

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the Member's term of office by a new Member appointed by the Council acting by a qualified majority. The Council may, acting unanimously, decide that such a vacancy need not be filled.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article 10(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 12a, Members of the Commission shall remain in office until they have been replaced or until the Council has decided that the vacancy need not be filled, as provided for in the second paragraph of this Article.'

4. In Article 13, the first paragraph shall be deleted.

5. In Article 20, the second paragraph shall be replaced by the following:

'The number of Members of the European Parliament shall not exceed 732.'

6. Article 21(5) shall be replaced by the following:

'5. The European Parliament, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.'

7. Article 30(2) shall be replaced by the following:

'2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the common foreign and security policy, who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council, acting by a qualified majority.

The Council shall decide on the organisation of the General Secretariat.'

8. Article 31 shall be replaced by the following:

'Article 31

The Court of Justice and the Court of First Instance, each within its jurisdiction, shall ensure that in the interpretation and application of this Treaty the law is observed.

In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 32e in order to exercise, in certain specific areas, the judicial competence laid down in this Treaty.'

9. Article 32 shall be replaced by the following:

'Article 32

The Court of Justice shall consist of one judge per Member State.

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice.

When provided for in the Statute, the Court of Justice may also sit as a full Court.'

10. Article 32a shall be replaced by the following:

'Article 32a

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice, require his involvement.'

11. Article 32b shall be replaced by the following:

'Article 32b

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice.

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

Retiring Judges and Advocates-General may be reappointed.

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

The Court of Justice shall establish its Rules of Procedure. These shall require the approval of the Council, acting by a qualified majority.'

12. Article 32c shall be replaced by the following:

'Article 32c

The Court of First Instance shall comprise at least one judge per Member State. The number of Judges shall be determined by the Statute of the Court of Justice. The Statute may provide for the Court of First Instance to be assisted by Advocates-General.

The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

The Judges shall elect the President of the Court of First Instance from among their number for a term of three years. He may be re-elected.

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service.

The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the Statute of the Court of Justice provides otherwise, the provisions of this Treaty relating to the Court of Justice shall apply to the Court of First Instance.'

13. Article 32d shall be replaced by the following:

'Article 32d

1. The Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 33, 34, 35, 36, 38, 40 and 42, with the exception of those assigned to a judicial panel and those reserved in the Statute for the Court of Justice. The Statute may provide for the Court of First Instance to have jurisdiction for other classes of action or proceeding.

Decisions given by the Court of First Instance under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the judicial panels set up under Article 32e.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 41, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.'

14. The following Article shall be inserted:

'Article 32e

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

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

15. Article 33 shall be amended as follows:

(a) the first paragraph shall be replaced by the following:

'The Court of Justice shall have jurisdiction in actions brought by a Member State, by the European Parliament or by the Council to have decisions or recommendations of the Commission declared void on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers. The Court of Justice may not, however, examine the evaluation of the situation, resulting from economic facts or circumstances, in the light of which the Commission took its decisions or made its recommendations, save where the Commission is alleged to have misused its powers or to have manifestly failed to observe the provisions of this Treaty or any rule of law relating to its application.'

(b) the fourth paragraph shall be replaced by the following:

'The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors for the purpose of protecting its prerogatives.'

16. Article 45 shall be replaced by the following:

'Article 45

The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the Court of Justice, may amend the provisions of the Statute.'

17. Article 45b, shall be amended as follows:

(a) Paragraph 1 shall be replaced by the following:

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

(b) Paragraph 3 shall be replaced by the following:

'3. The Members of the Court of Auditors shall be appointed for a term of six years. The Council, acting by a qualified majority after consulting the European Parliament, shall adopt the list of Members drawn up in accordance with the proposals made by each Member State. The term of office of the Members of the Court of Auditors shall be renewable.

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

18. Article 45c shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'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 insofar as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Union*. This statement may be supplemented by specific assessment for each major area of Community activity.';

(b) Paragraph 4 shall be replaced by the following:

'4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

The Court of Auditors shall draw up its Rules of Procedure. Those rules shall require the approval of the Council, acting by a qualified majority.'

19. Article 96 shall be amended as follows:

- (a) in paragraph 1, the terms 'Article F.1(2)' shall be replaced by 'Article 7(3)';
- (b) in paragraph 2, the terms 'Article F(1)' shall be replaced by 'Article 6(1)' and the terms 'Article F.1(1)' shall be replaced by 'Article 7(2)'.

Article 5

The Protocol on the Statute of the European System of Central Banks and of the European Central Bank shall be amended in accordance with the provisions of this Article.

In Article 10, the following paragraph shall be added:

'10.6 Article 10.2 may be amended by the Council meeting in the composition of the Heads of State or Government, acting unanimously either on a recommendation from the ECB and after consulting the European Parliament and the Commission, or on a recommendation from the Commission and after consulting the European Parliament and the ECB. The Council shall recommend such amendments to the Member States for adoption. These amendments shall enter into force after having been ratified by all the Member States in accordance with their respective constitutional requirements.

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

Article 6

The Protocol on the privileges and immunities of the European Communities shall be amended in accordance with the provisions of this Article.

Article 21 shall be replaced by the following:

'Article 21

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

PART TWO
TRANSITIONAL AND FINAL PROVISIONS

Article 7

The Protocols on the Statute of the Court of Justice annexed to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community are hereby repealed and replaced by the Protocol on the Statute of the Court of Justice annexed by this Treaty to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community.

Article 8

Articles 1 to 20, Article 44, Article 45, Article 46, second and third paragraphs, Articles 47 to 49 and Articles 51, 52, 54 and 55 of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community are hereby repealed.

Article 9

Without prejudice to the Articles of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community which remain in force, the provisions of the Protocol on the Statute of the Court of Justice annexed by this Treaty to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community shall apply when the Court of Justice exercises its powers pursuant to the provisions of the Treaty establishing the European Coal and Steel Community.

Article 10

Council Decision 88/591/ECSC, EEC, Euratom of 24 October 1988 establishing a Court of First Instance of the European Communities, as amended, is hereby repealed, with the exception of Article 3 insofar as the Court of First Instance exercises, pursuant to the said Article, the jurisdiction conferred on the Court of Justice by the Treaty establishing the European Coal and Steel Community.

Article 11

This Treaty is concluded for an unlimited period.

Article 12

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

2. This Treaty shall enter into force on the first day of the second month following that in which the instrument of ratification is deposited by the last signatory State to fulfil that formality.

Article 13

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

En fe de lo cual, los plenipotenciarios abajo firmantes suscriben el presente Tratado.

Til bekræftelse heraf har undertegnede befuldmægtigede underskrevet denne traktat.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschrift unter diesen Vertrag gesetzt.

Εις πίστωση των ανωτέρω, οι υπογεγραμμένοι πληρεξούσιοι υπέγραψαν την παρούσα συνθήκη.

In witness whereof the undersigned Plenipotentiaries have signed this Treaty.

En foi de quoi, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent traité.

Dá fhianú sin, chuir na Lánchumhachtaigh thíos-síniú a lámh leis an gConradh seo.

In fede di che, i plenipotenziari sottoscritti hanno apposto le loro firme in calce al presente trattato.

Ten blijke waarvan de ondergetekende gevolmachtigden hun handtekening onder dit Verdrag hebben geplaatst.

Em fé do que, os plenipotenciários abaixo assinados apuseram as suas assinaturas no presente Tratado.

Tämän vakuudeksi alla mainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän sopimuksen.

Till bevis härpå har undertecknade befullmäktigade undertecknat detta fördrag.

Hecho en Niza, el veintiséis de febrero de dos mil uno.

Udfærdiget i Nice, den seksogtyvende februar to tusind og et.

Geschehen zu Nizza am sechsundzwanzigsten Februar zweitausendeins.

Έγινε στη Νίκαια, στις είκοσι έξι Φεβρουαρίου του έτους δύο χιλιάδες ένα.

Done at Nice this twenty-sixth day of February in the year two thousand and one.

Fait à Nice, le vingt-six février de l'an deux mil un.

Arna dhéanamh in Nice ar an séú lá is fiche d'Fheabhra sa bhliain dhá mhíle is a haon.

Fatto a Nizza, addì ventisei febbraio duemilauno.


Gedaan te Nice, de zesentwintigste februari tweeduizend en een.

Feito em Nice, em vinte e seis de Fevereiro de dois mil e um.

Tehty Nizzassa kahdentenäkymmenentenäkuudentena helmikuuta 2001.

Utfärdat i Nice den tjugosjätte februari år tjugohundraett.

Pour Sa Majesté le Roi des Belges
Voor Zijne Majesteit de Koning der Belgen
Für Seine Majestät den König der Belgier



Cette signature engage également la Communauté française, la Communauté flamande, la Communauté germanophone, la Région wallonne, la Région flamande et la Région de Bruxelles-Capitale.

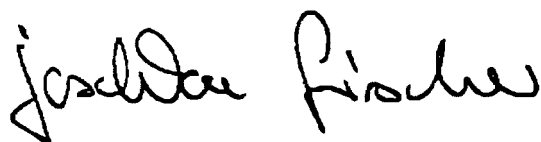
Deze handtekening verbindt eveneens de Vlaamse Gemeenschap, de Franse Gemeenschap, de Duitstalige Gemeenschap, het Vlaamse Gewest, het Waalse Gewest en het Brussels Hoofdstedelijk Gewest.

Diese Unterschrift bindet zugleich die Deutschsprachige Gemeinschaft, die Flämische Gemeinschaft, die Französische Gemeinschaft, die Wallonische Region, die Flämische Region und die Region Brüssel-Hauptstadt.

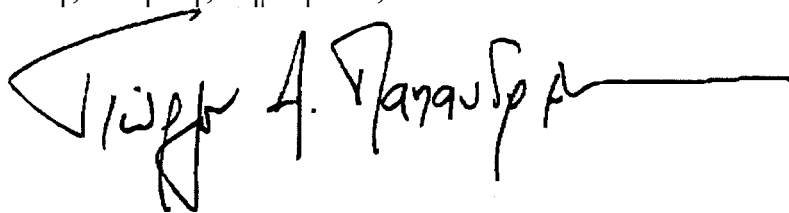
For Hendes Majestæt Danmarks Dronning



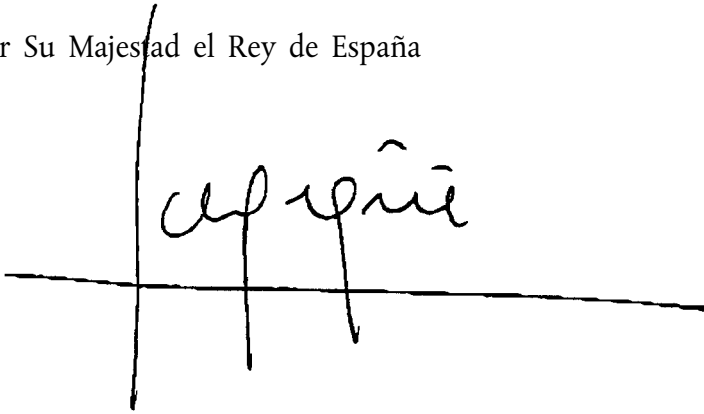
Für den Präsidenten der Bundesrepublik Deutschland



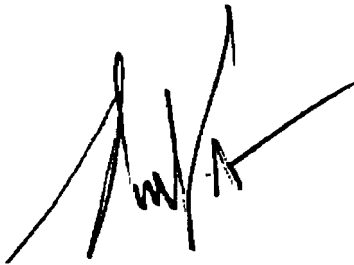
Για τον Πρόεδρο της Ελληνικής Δημοκρατίας



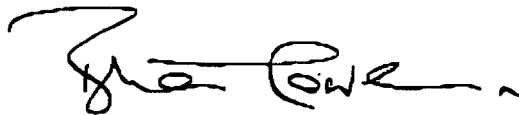
Por Su Majestad el Rey de España

A handwritten signature in black ink, appearing to be 'J. Carlos', written over a horizontal line. The signature is written in a cursive style with a vertical line extending upwards from the start.

Pour le Président de la République française

A handwritten signature in black ink, appearing to be 'J. Chirac', written in a cursive style.

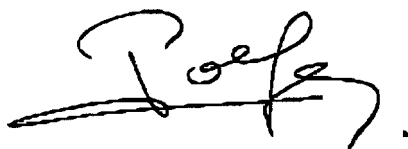
Thar ceann Uachtarán na hÉireann
For the President of Ireland

A handwritten signature in black ink, appearing to be 'Mary McAleese', written in a cursive style.

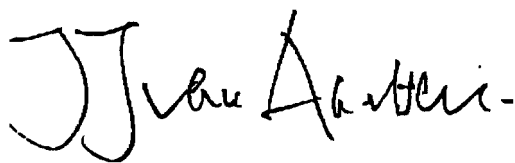
Per il Presidente della Repubblica italiana

A handwritten signature in black ink, appearing to be 'C. Scalfaro', written in a cursive style.

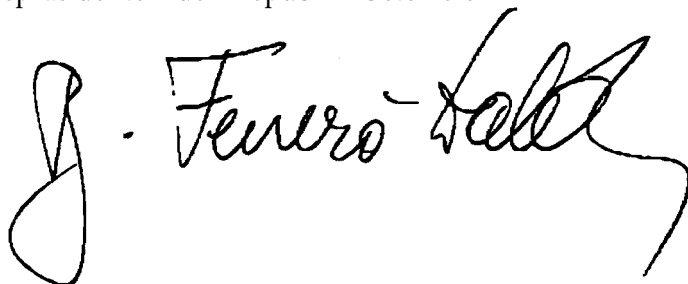
Pour Son Altesse Royale le Grand-Duc de Luxembourg

A handwritten signature in black ink, appearing to read "Poefgen". The signature is written in a cursive style with a long horizontal stroke at the bottom.

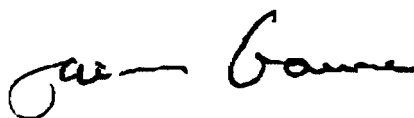
Voor Hare Majesteit de Koningin der Nederlanden

A handwritten signature in black ink, appearing to read "J. J. van Aartsen". The signature is written in a cursive style with a long horizontal stroke at the bottom.

Für den Bundespräsidenten der Republik Österreich

A handwritten signature in black ink, appearing to read "J. Ferrero-Valle". The signature is written in a cursive style with a long horizontal stroke at the bottom.

Pelo Presidente da República Portuguesa

A handwritten signature in black ink, appearing to read "J. Balsemão". The signature is written in a cursive style with a long horizontal stroke at the bottom.

Suomen Tasavallan Presidentin puolesta
För Republiken Finlands President

Handwritten signature in black ink, appearing to read "Eino Tuomioja".

För Hans Majestät Konungen av Sverige

Handwritten signature in black ink, consisting of stylized loops and a vertical line.

For Her Majesty the Queen of the United Kingdom
of Great Britain and Northern Ireland

Handwritten signature in black ink, appearing to read "Robin Cook".

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PROTOCOLS

A. PROTOCOL ANNEXED TO THE TREATY ON EUROPEAN UNION AND TO THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES

Protocol on the enlargement of the European Union

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaties establishing the European Communities:

Article 1

Repeal of the Protocol on the institutions

The Protocol on the institutions with the prospect of enlargement of the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities, is hereby repealed.

Article 2

Provisions concerning the European Parliament

1. On 1 January 2004 and with effect from the start of the 2004-2009 term, in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community, the first subparagraph shall be replaced by the following:

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

Belgium	22
Denmark	13
Germany	99
Greece	22
Spain	50
France	72
Ireland	12
Italy	72
Luxembourg	6
Netherlands	25
Austria	17
Portugal	22
Finland	13
Sweden	18
United Kingdom	72

2. Subject to paragraph 3, the total number of representatives in the European Parliament for the 2004-2009 term shall be equal to the number of representatives specified in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community plus the number of representatives of the new Member States resulting from the accession treaties signed by 1 January 2004 at the latest.

3. If the total number of members referred to in paragraph 2 is less than 732, a pro rata correction shall be applied to the number of representatives to be elected in each Member State, so that the total number is as close as possible to 732, without such a correction leading to the number of representatives to be elected in each Member State being higher than that provided for in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community for the 1999-2004 term.

The Council shall adopt a decision to that effect.

4. By way of derogation from the second paragraph of Article 189 of the Treaty establishing the European Community and from the second paragraph of Article 107 of the Treaty establishing the European Atomic Energy Community, in the event of the entry into force of accession treaties after the adoption of the Council decision provided for in the second subparagraph of paragraph 3 of this Article, the number of members of the European Parliament may temporarily exceed 732 for the period for which that decision applies. The same correction as that referred to in the first subparagraph of paragraph 3 of this Article shall be applied to the number of representatives to be elected in the Member States in question.

Article 3

Provisions concerning the weighting of votes in the Council

1. On 1 January 2005:

(a) in Article 205 of the Treaty establishing the European Community and in Article 118 of the Treaty establishing the European Atomic Energy Community:

(i) paragraph 2 shall be replaced by the following:

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

Belgium	12
Denmark	7
Germany	29
Greece	12
Spain	27
France	29
Ireland	7
Italy	29
Luxembourg	4
Netherlands	13
Austria	10
Portugal	12
Finland	7
Sweden	10
United Kingdom	29

Acts of the Council shall require for their adoption at least 169 votes in favour cast by a majority of the members where this Treaty requires them to be adopted on a proposal from the Commission.

In other cases, for their adoption acts of the Council shall require at least 169 votes in favour, cast by at least two-thirds of the members.'

(ii) the following paragraph 4 shall be added:

'4. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.'

(b) In Article 23(2) of the Treaty on European Union, the third subparagraph shall be replaced by the following text:

'The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community. For their adoption, decisions shall require at least 169 votes in favour cast by at least two-thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.'

(c) In Article 34 of the Treaty on European Union, paragraph 3 shall be replaced by the following:

'3. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 205(2) of the Treaty establishing the European Community, and for their adoption acts of the Council shall require at least 169 votes in favour, cast by at least two-thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.'

2. At the time of each accession, the threshold referred to in the second subparagraph of Article 205(2) of the Treaty establishing the European Community and in the second subparagraph of Article 118(2) of the Treaty establishing the European Atomic Energy Community shall be calculated in such a way that the qualified majority threshold expressed in votes does not exceed the threshold resulting from the table in the Declaration on the enlargement of the European Union, included in the Final Act of the Conference which adopted the Treaty of Nice.

Article 4

Provisions concerning the Commission

1. On 1 January 2005 and with effect from when the first Commission following that date takes up its duties, Article 213(1) of the Treaty establishing the European Community and Article 126(1) of the Treaty establishing the European Atomic Energy Community shall be replaced by the following:

'1. The Members of the Commission shall be chosen on the grounds of their general competence and their independence shall be beyond doubt.

The Commission shall include one national of each of the Member States.

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

2. When the Union consists of 27 Member States, Article 213(1) of the Treaty establishing the European Community and Article 126(1) of the Treaty establishing the European Atomic Energy Community shall be replaced by the following:

‘1. The Members of the Commission shall be chosen on the grounds of their general competence and their independence shall be beyond doubt.

The number of Members of the Commission shall be less than the number of Member States. The Members of the Commission shall be chosen according to a rotation system based on the principle of equality, the implementing arrangements for which shall be adopted by the Council, acting unanimously.

The number of Members of the Commission shall be set by the Council, acting unanimously.’

This amendment shall apply as from the date on which the first Commission following the date of accession of the twenty-seventh Member State of the Union takes up its duties.

3. The Council, acting unanimously after signing the treaty of accession of the twenty-seventh Member State of the Union, shall adopt:

- the number of Members of the Commission;
- the implementing arrangements for a rotation system based on the principle of equality containing all the criteria and rules necessary for determining the composition of successive colleges automatically on the basis of the following principles:
 - (a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as Members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;
 - (b) subject to point (a), each successive college shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States of the Union.

4. Any State which accedes to the Union shall be entitled, at the time of its accession, to have one of its nationals as a Member of the Commission until paragraph 2 applies.

B. PROTOCOL ANNEXED TO THE TREATY ON EUROPEAN UNION, TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY AND TO THE TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY

Protocol on the Statute of the Court of Justice

THE HIGH CONTRACTING PARTIES

DESIRING to lay down the Statute of the Court of Justice provided for in Article 245 of the Treaty establishing the European Community and in Article 160 of the Treaty establishing the European Atomic Energy Community,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty establishing the European Community and the Treaty establishing the European Atomic Energy Community:

Article 1

The Court of Justice shall be constituted and shall function in accordance with the provisions of the Treaty on European Union (EU Treaty), of the Treaty establishing the European Community (EC Treaty), of the Treaty establishing the European Atomic Energy Community (EAEC Treaty) and of this Statute.

TITLE I

JUDGES AND ADVOCATES-GENERAL

Article 2

Before taking up his duties each Judge shall, in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 3

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court, sitting as a full Court, may waive the immunity.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the court competent to judge the members of the highest national judiciary.

Articles 12 to 15 and Article 18 of the Protocol on the privileges and immunities of the European Communities shall apply to the Judges, Advocates-General, Registrar and Assistant Rapporteurs of the Court, without prejudice to the provisions relating to immunity from legal proceedings of Judges which are set out in the preceding paragraphs.

Article 4

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court.

Article 5

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

Article 6

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations.

The Registrar of the Court shall communicate the decision of the Court to the President of the European Parliament and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

Article 7

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

Article 8

The provisions of Articles 2 to 7 shall apply to the Advocates-General.

TITLE II

ORGANISATION*Article 9*

When, every three years, the Judges are partially replaced, eight and seven Judges shall be replaced alternately.

When, every three years, the Advocates-General are partially replaced, four Advocates-General shall be replaced on each occasion.

Article 10

The Registrar shall take an oath before the Court to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 11

The Court shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court.

Article 12

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

Article 13

On a proposal from the Court, the Council may, acting unanimously, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the Rules of Procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

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

Article 14

The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court has its seat.

Article 15

The Court shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

Article 16

The Court shall form chambers consisting of three and five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The Grand Chamber shall consist of eleven Judges. It shall be presided over by the President of the Court. The Presidents of the chambers of five Judges and other Judges appointed in accordance with the conditions laid down in the Rules of Procedure shall also form part of the Grand Chamber.

The Court shall sit in a Grand Chamber when a Member State or an institution of the Communities that is party to the proceedings so requests.

The Court shall sit as a full Court where cases are brought before it pursuant to Article 195(2), Article 213(2), Article 216 or Article 247(7) of the EC Treaty or Article 107d(2), Article 126(2), Article 129 or Article 160b(7) of the EAEC Treaty.

Moreover, where it considers that a case before it is of exceptional importance, the Court may decide, after hearing the Advocate-General, to refer the case to the full Court.

Article 17

Decisions of the Court shall be valid only when an uneven number of its members is sitting in the deliberations.

Decisions of the chambers consisting of either three or five Judges shall be valid only if they are taken by three Judges.

Decisions of the Grand Chamber shall be valid only if nine Judges are sitting.

Decisions of the full Court shall be valid only if eleven Judges are sitting.

In the event of one of the Judges of a chamber being prevented from attending, a Judge of another chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure.

Article 18

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court.

A party may not apply for a change in the composition of the Court or of one of its chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the chamber of a Judge of the nationality of that party.

TITLE III

PROCEDURE*Article 19*

The Member States and the institutions of the Communities shall be represented before the Court by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer.

The States, other than the Member States, which are parties to the Agreement on the European Economic Area and also the EFTA Surveillance Authority referred to in that Agreement shall be represented in same manner.

Other parties must be represented by a lawyer.

Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the Rules of Procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the Rules of Procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers.

Article 20

The procedure before the Court shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Communities whose decisions are in dispute, of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the Rules of Procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

Where it considers that the case raises no new point of law, the Court may decide, after hearing the Advocate-General, that the case shall be determined without a submission from the Advocate-General.

Article 21

A case shall be brought before the Court by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party or names of the parties against whom the application is made, the subject-matter of the dispute, the form of order sought and a brief statement of the pleas in law on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 232 of the EC Treaty and Article 148 of the EAEC Treaty, by documentary evidence of the date on which an institution was, in accordance with those Articles, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time-limit for bringing proceedings.

Article 22

A case governed by Article 18 of the EAEC Treaty shall be brought before the Court by an appeal addressed to the Registrar. The appeal shall contain the name and permanent address of the applicant and the description of the signatory, a reference to the decision against which the appeal is brought, the names of the respondents, the subject-matter of the dispute, the submissions and a brief statement of the grounds on which the appeal is based.

The appeal shall be accompanied by a certified copy of the decision of the Arbitration Committee which is contested.

If the Court rejects the appeal, the decision of the Arbitration Committee shall become final.

If the Court annuls the decision of the Arbitration Committee, the matter may be re-opened, where appropriate, on the initiative of one of the parties in the case, before the Arbitration Committee. The latter shall conform to any decisions on points of law given by the Court.

Article 23

In the cases governed by Article 35(1) of the EU Treaty, by Article 234 of the EC Treaty and by Article 150 of the EAEC Treaty, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and also to the Council or to the European Central Bank if the act the validity or interpretation of which is in dispute originates from one of them, and to the European Parliament and the Council if the act the validity or interpretation of which is in dispute was adopted jointly by those two institutions.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the European Parliament, the Council and the European Central Bank, shall be entitled to submit statements of case or written observations to the Court.

In the cases governed by Article 234 of the EC Treaty, the decision of the national court or tribunal shall, moreover, be notified by the Registrar of the Court to the States, other than the Member States, which are parties to the Agreement on the European Economic Area and also to the EFTA Surveillance Authority referred to in that Agreement which may, within two months of notification, where one of the fields of application of that Agreement is concerned, submit statements of case or written observations to the Court.

Article 24

The Court may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions not being parties to the case to supply all information which the Court considers necessary for the proceedings.

Article 25

The Court may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of giving an expert opinion.

Article 26

Witnesses may be heard under conditions laid down in the Rules of Procedure.

Article 27

With respect to defaulting witnesses the Court shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the Rules of Procedure.

Article 28

Witnesses and experts may be heard on oath taken in the form laid down in the Rules of Procedure or in the manner laid down by the law of the country of the witness or expert.

Article 29

The Court may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the Rules of Procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

Article 30

A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court, the Member State concerned shall prosecute the offender before its competent court.

Article 31

The hearing in court shall be public, unless the Court, of its own motion or on application by the parties, decides otherwise for serious reasons.

Article 32

During the hearings the Court may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court only through their representatives.

Article 33

Minutes shall be made of each hearing and signed by the President and the Registrar.

Article 34

The case list shall be established by the President.

Article 35

The deliberations of the Court shall be and shall remain secret.

Article 36

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

Article 37

Judgments shall be signed by the President and the Registrar. They shall be read in open court.

Article 38

The Court shall adjudicate upon costs.

Article 39

The President of the Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the Rules of Procedure, adjudicate upon applications to suspend execution, as provided for in Article 242 of the EC Treaty and Article 157 of the EAEC Treaty, or to prescribe interim measures in pursuance of Article 243 of the EC Treaty or Article 158 of the EAEC Treaty, or to suspend enforcement in accordance with the fourth paragraph of Article 256 of the EC Treaty or the third paragraph of Article 164 of the EAEC Treaty.

Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the Rules of Procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

Article 40

Member States and institutions of the Communities may intervene in cases before the Court.

The same right shall be open to any other person establishing an interest in the result of any case submitted to the Court, save in cases between Member States, between institutions of the Communities or between Member States and institutions of the Communities.

Without prejudice to the second paragraph, the States, other than the Member States, which are parties to the Agreement on the European Economic Area, and also the EFTA Surveillance Authority referred to in that Agreement, may intervene in cases before the Court where one of the fields of application that Agreement is concerned.

An application to intervene shall be limited to supporting the form of order sought by one of the parties.

Article 41

Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court decides otherwise.

Article 42

Member States, institutions of the Communities and any other natural or legal persons may, in cases and under conditions to be determined by the Rules of Procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

Article 43

If the meaning or scope of a judgment is in doubt, the Court shall construe it on application by any party or any institution of the Communities establishing an interest therein.

Article 44

An application for revision of a judgment may be made to the Court only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognising that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of 10 years from the date of the judgment.

Article 45

Periods of grace based on considerations of distance shall be determined by the Rules of Procedure.

No right shall be prejudiced in consequence of the expiry of a time-limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.

Article 46

Proceedings against the Communities in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Communities. In the latter event the proceedings must be instituted within the period of two months provided for in Article 230 of the EC Treaty and Article 146 of the EAEC Treaty; the provisions of the second paragraph of Article 232 of the EC Treaty and the second paragraph of Article 148 of the EAEC Treaty, respectively, shall apply where appropriate.

TITLE IV

THE COURT OF FIRST INSTANCE OF THE EUROPEAN COMMUNITIES

Article 47

Articles 2 to 8, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the Court of First Instance and its members. The oath referred to in Article 2 shall be taken before the Court of Justice and the decisions referred to in Articles 3, 4 and 6 shall be adopted by that Court after hearing the Court of First Instance.

The fourth paragraph of Article 3 and Articles 10, 11 and 14 shall apply to the Registrar of the Court of First Instance *mutatis mutandis*.

Article 48

The Court of First Instance shall consist of 15 Judges.

Article 49

The members of the Court of First Instance may be called upon to perform the task of an Advocate-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on certain cases brought before the Court of First Instance in order to assist the Court of First Instance in the performance of its task.

The criteria for selecting such cases, as well as the procedures for designating the Advocates-General, shall be laid down in the Rules of Procedure of the Court of First Instance.

A member called upon to perform the task of Advocate-General in a case may not take part in the judgment of the case.

Article 50

The Court of First Instance shall sit in chambers of three or five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The composition of the chambers and the assignment of cases to them shall be governed by the Rules of Procedure. In certain cases governed by the Rules of Procedure, the Court of First Instance may sit as a full court or be constituted by a single Judge.

The Rules of Procedure may also provide that the Court of First Instance may sit in a Grand Chamber in cases and under the conditions specified therein.

Article 51

By way of exception to the rule laid down in Article 225(1) of the EC Treaty and Article 140a(1) of the EAEC Treaty, the Court of Justice shall have jurisdiction in actions brought by the Member States, by the institutions of the Communities and by the European Central Bank.

Article 52

The President of the Court of Justice and the President of the Court of First Instance shall determine, by common accord, the conditions under which officials and other servants attached to the Court of Justice shall render their services to the Court of First Instance to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the Court of First Instance under the authority of the President of the Court of First Instance.

Article 53

The procedure before the Court of First Instance shall be governed by Title III.

Such further and more detailed provisions as may be necessary shall be laid down in its Rules of Procedure. The Rules of Procedure may derogate from the fourth paragraph of Article 40 and from Article 41 in order to take account of the specific features of litigation in the field of intellectual property.

Notwithstanding the fourth paragraph of Article 20, the Advocate-General may make his reasoned submissions in writing.

Article 54

Where an application or other procedural document addressed to the Court of First Instance is lodged by mistake with the Registrar of the Court of Justice, it shall be transmitted immediately by that Registrar to the Registrar of the Court of First Instance; likewise, where an application or other procedural document addressed to the Court of Justice is lodged by mistake with the Registrar of the Court of First Instance, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice.

Where the Court of First Instance finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it shall refer that action to the Court of Justice; likewise, where the Court of Justice finds that an action falls within the jurisdiction of the Court of First Instance, it shall refer that action to the Court of First Instance, whereupon that Court may not decline jurisdiction.

Where the Court of Justice and the Court of First Instance are seised of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the Court of First Instance may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice shall have delivered judgment. Where applications are made for the same act to be declared void, the Court of First Instance may also decline jurisdiction in order that the Court of Justice may rule on such applications. In the cases referred to in this paragraph, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the Court of First Instance shall continue.

Article 55

Final decisions of the Court of First Instance, decisions disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, shall be notified by the Registrar of the Court of First Instance to all parties as well as all Member States and the institutions of the Communities even if they did not intervene in the case before the Court of First Instance.

Article 56

An appeal may be brought before the Court of Justice, within two months of the notification of the decision appealed against, against final decisions of the Court of First Instance and decisions of that Court disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Communities may bring such an appeal only where the decision of the Court of First Instance directly affects them.

With the exception of cases relating to disputes between the Communities and their servants, an appeal may also be brought by Member States and institutions of the Communities which did not intervene in the proceedings before the Court of First Instance. Such Member States and institutions shall be in the same position as Member States or institutions which intervened at first instance.

Article 57

Any person whose application to intervene has been dismissed by the Court of First Instance may appeal to the Court of Justice within two weeks from the notification of the decision dismissing the application.

The parties to the proceedings may appeal to the Court of Justice against any decision of the Court of First Instance made pursuant to Article 242 or Article 243 or the fourth paragraph of Article 256 of the EC Treaty or Article 157 or Article 158 or the third paragraph of Article 164 of the EAEC Treaty within two months from their notification.

The appeal referred to in the first two paragraphs of this Article shall be heard and determined under the procedure referred to in Article 39.

Article 58

An appeal to the Court of Justice shall be limited to points of law. It shall lie on the grounds of lack of competence of the Court of First Instance, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Court of First Instance.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 59

Where an appeal is brought against a decision of the Court of First Instance, the procedure before the Court of Justice shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure, the Court of Justice, having heard the Advocate-General and the parties, may dispense with the oral procedure.

Article 60

Without prejudice to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, an appeal shall not have suspensory effect.

By way of derogation from Article 244 of the EC Treaty and Article 159 of the EAEC Treaty, decisions of the Court of First Instance declaring a regulation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 56 of this Statute or, if an appeal shall have been brought within that period, as from the date of dismissal of the appeal, without prejudice, however, to the right of a party to apply to the Court of Justice, pursuant to Articles 242 and 243 of the EC Treaty or Articles 157 and 158 of the EAEC Treaty, for the suspension of the effects of the regulation which has been declared void or for the prescription of any other interim measure.

Article 61

If the appeal is well founded, the Court of Justice shall quash the decision of the Court of First Instance. It may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the Court of First Instance for judgment.

Where a case is referred back to the Court of First Instance, that Court shall be bound by the decision of the Court of Justice on points of law.

When an appeal brought by a Member State or an institution of the Communities, which did not intervene in the proceedings before the Court of First Instance, is well founded, the Court of Justice may, if it considers this necessary, state which of the effects of the decision of the Court of First Instance which has been quashed shall be considered as definitive in respect of the parties to the litigation.

Article 62

In the cases provided for in Article 225(2) and (3) of the EC Treaty and Article 140a(2) and (3) of the EAEC Treaty, where the First Advocate-General considers that there is a serious risk of the unity or consistency of Community law being affected, he may propose that the Court of Justice review the decision of the Court of First Instance.

The proposal must be made within one month of delivery of the decision by the Court of First Instance. Within one month of receiving the proposal made by the First Advocate-General, the Court of Justice shall decide whether or not the decision should be reviewed.

TITLE V

FINAL PROVISIONS*Article 63*

The Rules of Procedure of the Court of Justice and of the Court of First Instance shall contain any provisions necessary for applying and, where required, supplementing this Statute.

Article 64

Until the rules governing the language arrangements applicable at the Court of Justice and the Court of First Instance have been adopted in this Statute, the provisions of the Rules of Procedure of the Court of Justice and of the Rules of Procedure of the Court of First Instance governing language arrangements shall continue to apply. Those provisions may only be amended or repealed in accordance with the procedure laid down for amending this Statute.

**C. PROTOCOLS ANNEXED TO THE TREATY ESTABLISHING THE EUROPEAN
COMMUNITY**

**Protocol on the financial consequences of the expiry of the ECSC Treaty and
on the research fund for coal and steel**

THE HIGH CONTRACTING PARTIES,

DESIRING to settle certain questions relating to the expiry of the Treaty establishing the European Coal and Steel Community (ECSC);

WISHING to confer ownership of the ECSC funds on the European Community;

TAKING ACCOUNT of the desire to use these funds for research in sectors related to the coal and steel industry and therefore the necessity to provide for certain special rules in this regard;

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing the European Community:

Article 1

1. All assets and liabilities of the ECSC, as they exist on 23 July 2002, shall be transferred to the European Community on 24 July 2002.

2. The net worth of these assets and liabilities, as they appear in the balance sheet of the ECSC of 23 July 2002, subject to any increase or decrease which may occur as a result of the liquidation operations, shall be considered as assets intended for research in the sectors related to the coal and steel industry, referred to as the 'ECSC in liquidation'. On completion of the liquidation they shall be referred to as the 'Assets of the Research Fund for Coal and Steel'.

3. The revenue from these assets, referred to as the 'Research Fund for Coal and Steel', shall be used exclusively for research, outside the research framework programme, in the sectors related to the coal and steel industry in accordance with the provisions of this Protocol and of acts adopted on the basis hereof.

Article 2

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall adopt all the necessary provisions for the implementation of this Protocol, including essential principles and proper decision-making procedures, in particular for the adoption of multi-annual financial guidelines for managing the assets of the Research Fund for Coal and Steel and technical guidelines for the research programme of the Research Fund for Coal and Steel.

Article 3

Except as otherwise provided in this Protocol and in the acts adopted on the basis hereof, the provisions of the Treaty establishing the European Community shall apply.

Article 4

This Protocol shall apply from 24 July 2002.

Protocol on Article 67 of the Treaty establishing the European Community

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provision, which shall be annexed to the Treaty establishing the European Community:

Sole Article

From 1 May 2004, the Council shall act by a qualified majority, on a proposal from the Commission and after consulting the European Parliament, in order to adopt the measures referred to in Article 66 of the Treaty establishing the European Community.

FINAL ACT

The CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES convened in Brussels on 14 February 2000 to adopt by common accord the amendments to be made to the Treaty on European Union, the Treaties establishing respectively the European Community, the European Atomic Energy Community and the European Coal and Steel Community and certain related Acts has adopted the following texts:

I. Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts

II. Protocols

- A. Protocol annexed to the Treaty on European Union and to the Treaties establishing the European Communities:
 - Protocol on the enlargement of the European Union
- B. Protocol annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community:
 - Protocol on the Statute of the Court of Justice
- C. Protocols annexed to the Treaty establishing the European Community:
 - Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel
 - Protocol on Article 67 of the Treaty establishing the European Community

The Conference adopted the following declarations annexed to this Final Act:

1. Declaration on the European security and defence policy
2. Declaration on Article 31(2) of the Treaty on European Union
3. Declaration on Article 10 of the Treaty establishing the European Community
4. Declaration on the third paragraph of Article 21 of the Treaty establishing the European Community
5. Declaration on Article 67 of the Treaty establishing the European Community
6. Declaration on Article 100 of the Treaty establishing the European Community
7. Declaration on Article 111 of the Treaty establishing the European Community
8. Declaration on Article 137 of the Treaty establishing the European Community

9. Declaration on Article 175 of the Treaty establishing the European Community
10. Declaration on Article 181a of the Treaty establishing the European Community
11. Declaration on Article 191 of the Treaty establishing the European Community
12. Declaration on Article 225 of the Treaty establishing the European Community
13. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community
14. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community
15. Declaration on Article 225(3) of the Treaty establishing the European Community
16. Declaration on Article 225a of the Treaty establishing the European Community
17. Declaration on Article 229a of the Treaty establishing the European Community
18. Declaration on the Court of Auditors
19. Declaration on Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank
20. Declaration on the enlargement of the European Union
21. Declaration on the qualified majority threshold and the number of votes for a blocking minority in an enlarged Union
22. Declaration on the venue for European Councils
23. Declaration on the future of the Union
24. Declaration on Article 2 of the Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel

The Conference took note of the following declarations annexed to this Final Act:

1. Declaration by Luxembourg
2. Declaration by Greece, Spain and Portugal on Article 161 of the Treaty establishing the European Community
3. Declaration by Denmark, Germany, the Netherlands and Austria on Article 161 of the Treaty establishing the European Community

Hecho en Niza, el veintiséis de febrero de dos mil uno.

Udfærdiget i Nice, den seksogtyvende februar to tusind og et.

Geschehen zu Nizza am sechszwanzigsten Februar zweitausendeins.

Έγινε στη Νίκαια, στις είκοσι έξι Φεβρουαρίου του έτους δύο χιλιάδες ένα.

Done at Nice this twenty-sixth day of February in the year two thousand and one.

Fait à Nice, le vingt-six février de l'an deux mil un.

Arna dhéanamh in Nice ar an séú lá is fiche d'Fheabhra sa bhliain dhá mhíle is a haon.

Fatto a Nizza, addì ventisei febbraio duemilauno.

Gedaan te Nice, de zesentwintigste februari tweeduizend en een.

Feito em Nice, em vinte e seis de Fevereiro de dois mil e um.

Tehty Nizzassa kahdentenäkymmenentenäkuudentena helmikuuta 2001.

Utfærdat i Nice den tjugosjätte februari år tjugohundraett.

Pour Sa Majesté le Roi des Belges
Voor Zijne Majesteit de Koning der Belgen
Für Seine Majestät den König der Belgier



Cette signature engage également la Communauté française, la Communauté flamande, la Communauté germanophone, la Région wallonne, la Région flamande et la Région de Bruxelles-Capitale.

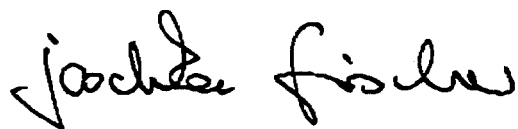
Deze handtekening verbindt eveneens de Vlaamse Gemeenschap, de Franse Gemeenschap, de Duitstalige Gemeenschap, het Vlaamse Gewest, het Waalse Gewest en het Brussels Hoofdstedelijk Gewest.

Diese Unterschrift bindet zugleich die Deutschsprachige Gemeinschaft, die Flämische Gemeinschaft, die Französische Gemeinschaft, die Wallonische Region, die Flämische Region und die Region Brüssel-Hauptstadt.

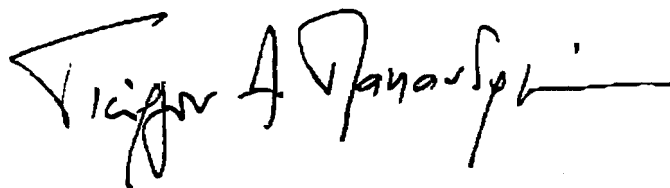
For Hendes Majestæt Danmarks Dronning



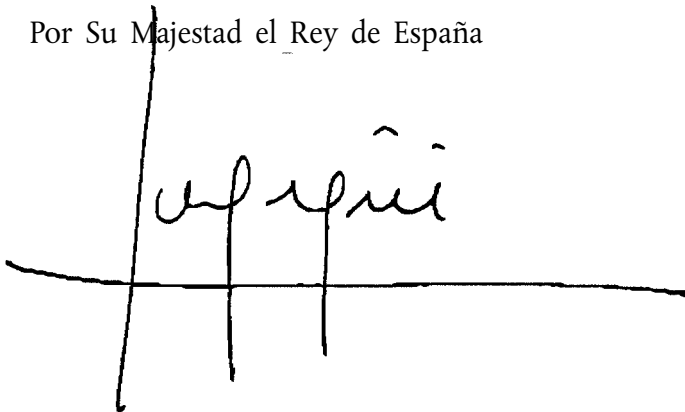
Für den Präsidenten der Bundesrepublik Deutschland



Για τον Πρόεδρο της Ελληνικής Δημοκρατίας



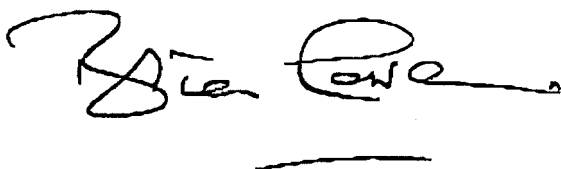
Por Su Majestad el Rey de España

A handwritten signature in black ink, appearing to be 'Juan Carlos I', written over a horizontal line.

Pour le Président de la République française

A handwritten signature in black ink, appearing to be 'Jacques Chirac', written over a horizontal line.

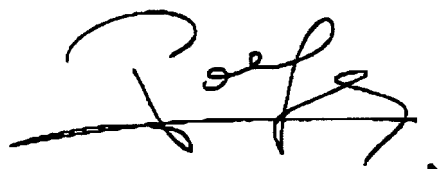
Thar ceann Uachtarán na hÉireann
For the President of Ireland

A handwritten signature in black ink, appearing to be 'B. J. Brady', written over a horizontal line.

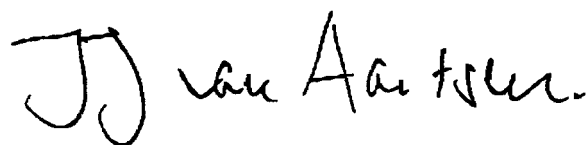
Per il Presidente della Repubblica italiana

A handwritten signature in black ink, appearing to be 'Scalfaro', written over a horizontal line.

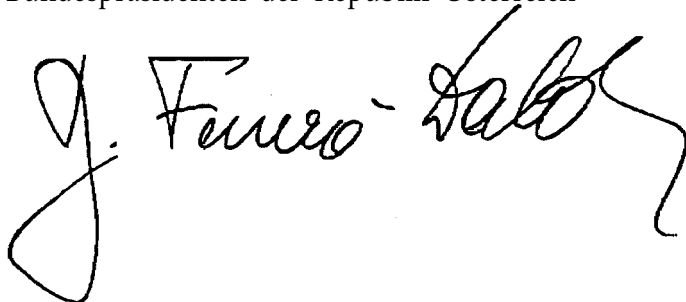
Pour Son Altesse Royale le Grand-Duc de Luxembourg

A handwritten signature in black ink, appearing to be 'Jean', written in a cursive style.

Voor Hare Majesteit de Koningin der Nederlanden

A handwritten signature in black ink, appearing to be 'J.J. van Aartsen', written in a cursive style.

Für den Bundespräsidenten der Republik Österreich

A handwritten signature in black ink, appearing to be 'J. Frensch-Balt', written in a cursive style.

Pelo Presidente da República Portuguesa

A handwritten signature in black ink, appearing to be 'Jai - Game', written in a cursive style.

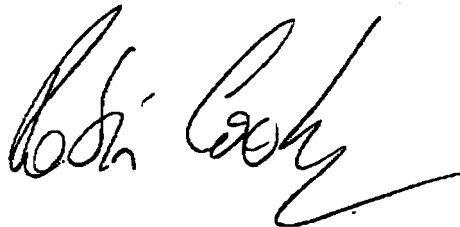
Suomen Tasavallan Presidentin puolesta
För Republiken Finlands President

A handwritten signature in black ink, appearing to read 'E. Tuomioja', written in a cursive style.

För Hans Majestät Konungen av Sverige

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a vertical line.

For Her Majesty the Queen of the United Kingdom
of Great Britain and Northern Ireland

A handwritten signature in black ink, appearing to read 'Bob Cash', written in a cursive style.

DECLARATIONS ADOPTED BY THE CONFERENCE

1. Declaration on the European security and defence policy

In accordance with the texts approved by the European Council in Nice concerning the European security and defence policy (Presidency report and Annexes), the objective for the European Union is for that policy to become operational quickly. A decision to that end will be taken by the European Council as soon as possible in 2001 and no later than at its meeting in Laeken/Brussels, on the basis of the existing provisions of the Treaty on European Union. Consequently, the entry into force of the Treaty of Nice does not constitute a precondition.

2. Declaration on Article 31(2) of the Treaty on European Union

The Conference recalls that:

- the decision to set up a unit composed of national prosecutors, magistrates or police officers of equivalent competence, detached from each Member State (Eurojust), having the task of facilitating proper coordination between national prosecuting authorities and of supporting criminal investigations in organised crime cases, was provided for in the Presidency conclusions of the European Council at Tampere on 15 and 16 October 1999;
- the European Judicial Network was set up by Joint Action 98/428/JHA adopted by the Council on 29 June 1998 (OJ L 191, 7.7.1998, p. 4).

3. Declaration on Article 10 of the Treaty establishing the European Community

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

4. Declaration on the third paragraph of Article 21 of the Treaty establishing the European Community

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

5. Declaration on Article 67 of the Treaty establishing the European Community

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

- will decide, from 1 May 2004, to act in accordance with the procedure referred to in Article 251 in order to adopt the measures referred to in Article 62(3) and Article 63(3)(b);
- will decide to act in accordance with the procedure referred to in Article 251 in order to adopt the measures referred to in Article 62(2)(a) from the date on which agreement is reached on the scope of the measures concerning the crossing by persons of the external borders of the Member States.

The Council will, moreover, endeavour to make the procedure referred to in Article 251 applicable from 1 May 2004 or as soon as possible thereafter to the other areas covered by Title IV or to parts of them.

6. Declaration on Article 100 of the Treaty establishing the European Community

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

7. Declaration on Article 111 of the Treaty establishing the European Community

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

8. Declaration on Article 137 of the Treaty establishing the European Community

The Conference agrees that any expenditure incurred by virtue of Article 137 is to be charged to heading 3 of the financial perspective.

9. Declaration on Article 175 of the Treaty establishing the European Community

The High Contracting Parties are determined to see the European Union play a leading role in promoting environmental protection in the Union and in international efforts pursuing the same objective at global level. Full use should be made of all possibilities offered by the Treaty with a view to pursuing this objective, including the use of incentives and instruments which are market-oriented and intended to promote sustainable development.

10. Declaration on Article 181a of the Treaty establishing the European Community

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

11. Declaration on Article 191 of the Treaty establishing the European Community

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

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

The provisions on the funding for political parties shall apply, on the same basis, to all the political forces represented in the European Parliament.

12. Declaration on Article 225 of the Treaty establishing the European Community

The Conference calls on the Court of Justice and the Commission to give overall consideration as soon as possible to the division of jurisdiction between the Court of Justice and the Court of First Instance, in particular in the area of direct actions, and to submit suitable proposals for examination by the competent bodies as soon as the Treaty of Nice enters into force.

13. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community

The Conference considers that the essential provisions of the review procedure in Article 225(2) and (3) should be defined in the Statute of the Court of Justice. Those provisions should in particular specify:

- the role of the parties in proceedings before the Court of Justice, in order to safeguard their rights;
- the effect of the review procedure on the enforceability of the decision of the Court of First Instance;
- the effect of the Court of Justice decision on the dispute between the parties.

14. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community

The Conference considers that when the Council adopts the provisions of the Statute which are necessary to implement Article 225(2) and (3), it should put a procedure in place to ensure that the practical operation of those provisions is evaluated no later than three years after the entry into force of the Treaty of Nice.

15. Declaration on Article 225(3) of the Treaty establishing the European Community

The Conference considers that, in exceptional cases in which the Court of Justice decides to review a decision of the Court of First Instance on a question referred for a preliminary ruling, it should act under an emergency procedure.

16. Declaration on Article 225a of the Treaty establishing the European Community

The Conference asks the Court of Justice and the Commission to prepare as swiftly as possible a draft decision establishing a judicial panel which has jurisdiction to deliver judgments at first instance on disputes between the Community and its servants.

17. Declaration on Article 229a of the Treaty establishing the European Community

The Conference considers that Article 229a does not prejudge the choice of the judicial framework which may be set up to deal with disputes relating to the application of acts adopted on the basis of the Treaty establishing the European Community which create Community industrial property rights.

18. Declaration on the Court of Auditors

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

19. Declaration on Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank

The Conference expects that a recommendation within the meaning of Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank will be presented as soon as possible.

20. Declaration on the enlargement of the European Union ⁽¹⁾

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

⁽¹⁾ The tables in this declaration take account only of those candidate countries with which accession negotiations have actually started.

1. THE EUROPEAN PARLIAMENT

Member States	EP seats
Germany	99
United Kingdom	72
France	72
Italy	72
Spain	50
Poland	50
Romania	33
Netherlands	25
Greece	22
Czech Republic	20
Belgium	22
Hungary	20
Portugal	22
Sweden	18
Bulgaria	17
Austria	17
Slovakia	13
Denmark	13
Finland	13
Ireland	12
Lithuania	12
Latvia	8
Slovenia	7
Estonia	6
Cyprus	6
Luxembourg	6
Malta	5
Total	732

2. THE WEIGHTING OF VOTES IN THE COUNCIL

Members of the Council	Weighted votes
Germany	29
United Kingdom	29
France	29
Italy	29
Spain	27
Poland	27
Romania	14
Netherlands	13
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	10
Bulgaria	10
Austria	10
Slovakia	7
Denmark	7
Finland	7
Ireland	7
Lithuania	7
Latvia	4
Slovenia	4
Estonia	4
Cyprus	4
Luxembourg	4
Malta	3
Total	345

Acts of the Council shall require for their adoption at least 258 votes in favour, cast by a majority of members, where this Treaty requires them to be adopted on a proposal from the Commission.

In other cases, for their adoption acts of the Council shall require at least 258 votes in favour cast by at least two-thirds of the members.

When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.

3. THE ECONOMIC AND SOCIAL COMMITTEE

Member States	Members
Germany	24
United Kingdom	24
France	24
Italy	24
Spain	21
Poland	21
Romania	15
Netherlands	12
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	12
Bulgaria	12
Austria	12
Slovakia	9
Denmark	9
Finland	9
Ireland	9
Lithuania	9
Latvia	7
Slovenia	7
Estonia	7
Cyprus	6
Luxembourg	6
Malta	5
Total	344

4. THE COMMITTEE OF THE REGIONS

Member States	Members
Germany	24
United Kingdom	24
France	24
Italy	24
Spain	21
Poland	21
Romania	15
Netherlands	12
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	12
Bulgaria	12
Austria	12
Slovakia	9
Denmark	9
Finland	9
Ireland	9
Lithuania	9
Latvia	7
Slovenia	7
Estonia	7
Cyprus	6
Luxembourg	6
Malta	5
Total	344

21. Declaration on the qualified majority threshold and the number of votes for a blocking minority in an enlarged Union

Insofar as all the candidate countries listed in the Declaration on the enlargement of the European Union have not yet acceded to the Union when the new vote weightings take effect (1 January 2005), the threshold for a qualified majority will move, according to the pace of accessions, from a percentage below the current one to a maximum of 73,4 %. When all the candidate countries mentioned above have acceded, the blocking minority, in a Union of 27, will be raised to 91 votes, and the qualified majority threshold resulting from the table given in the Declaration on enlargement of the European Union will be automatically adjusted accordingly.

22. Declaration on the venue for European Councils

As from 2002, one European Council meeting per Presidency will be held in Brussels. When the Union comprises 18 members, all European Council meetings will be held in Brussels.

23. Declaration on the future of the Union

1. Important reforms have been decided in Nice. The Conference welcomes the successful conclusion of the Conference of Representatives of the Governments of the Member States and commits the Member States to pursue the early ratification of the Treaty of Nice.
2. It agrees that the conclusion of the Conference of Representatives of the Governments of the Member States opens the way for enlargement of the European Union and underlines that, with ratification of the Treaty of Nice, the European Union will have completed the institutional changes necessary for the accession of new Member States.
3. Having thus opened the way to enlargement, the Conference calls for a deeper and wider debate about the future of the European Union. In 2001, the Swedish and Belgian Presidencies, in cooperation with the Commission and involving the European Parliament, will encourage wide-ranging discussions with all interested parties: representatives of national parliaments and all those reflecting public opinion, namely political, economic and university circles, representatives of civil society, etc. The candidate States will be associated with this process in ways to be defined.
4. Following a report to be drawn up for the European Council in Göteborg in June 2001, the European Council, at its meeting in Laeken/Brussels in December 2001, will agree on a declaration containing appropriate initiatives for the continuation of this process.
5. The process should address, inter alia, the following questions:
 - how to establish and monitor a more precise delimitation of powers between the European Union and the Member States, reflecting the principle of subsidiarity;
 - the status of the Charter of Fundamental Rights of the European Union, proclaimed in Nice, in accordance with the conclusions of the European Council in Cologne;

- a simplification of the Treaties with a view to making them clearer and better understood without changing their meaning;
 - the role of national parliaments in the European architecture.
6. Addressing the abovementioned issues, the Conference recognises the need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, in order to bring them closer to the citizens of the Member States.
 7. After these preparatory steps, the Conference agrees that a new Conference of the Representatives of the Governments of the Member States will be convened in 2004, to address the abovementioned items with a view to making corresponding changes to the Treaties.
 8. The Conference of Member States shall not constitute any form of obstacle or pre-condition to the enlargement process. Moreover, those candidate States which have concluded accession negotiations with the Union will be invited to participate in the Conference. Those candidate States which have not concluded their accession negotiations will be invited as observers.

24. Declaration on Article 2 of the Protocol on the financial consequences of the expiry of the ECSC Treaty and on the research fund for coal and steel

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

DECLARATIONS OF WHICH THE CONFERENCE TOOK NOTE

1. Declaration by Luxembourg

Without prejudice to the Decision of 8 April 1965 and the provisions and possibilities contained therein regarding the seats of institutions, bodies and departments to be set up, the Luxembourg Government undertakes not to claim the seat of the Boards of Appeal of the Office for Harmonisation in the Internal Market (trade marks and designs), which will remain in Alicante, even if those Boards were to become judicial panels within the meaning of Article 220 of the Treaty establishing the European Community.

2. Declaration by Greece, Spain and Portugal on Article 161 of the Treaty establishing the European Community

Greece, Spain and Portugal have agreed to the move to a qualified majority in Article 161 of the Treaty establishing the European Community on the basis that the word 'multiannual' in the third paragraph means that the financial perspective applicable from 1 January 2007 and the Interinstitutional Agreement relating thereto will have the same duration as the current financial perspective.

3. Declaration by Denmark, Germany, the Netherlands and Austria on Article 161 of the Treaty establishing the European Community

With regard to the Declaration by Greece, Spain and Portugal on Article 161 of the Treaty establishing the European Community, Denmark, Germany, the Netherlands and Austria declare that that Declaration is without prejudice to actions of the European Commission, in particular with respect to its right of initiative.
