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COMMISSION  
DES  
COMMUNAUTÉS EUROPÉENNES

Bruxelles, le 10-décembre 1991.

Secrétariat général

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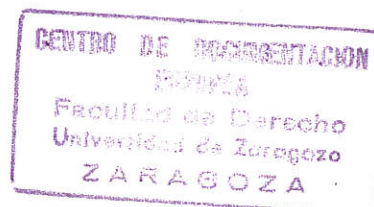
**TEXTE F**

**CONSEIL EUROPÉEN**

**MAASTRICHT, les 9 et 10 décembre 1991**

**CONCLUSIONS DE LA PRESIDENCE**

05 JUN. 2003



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*Maastricht, le 11 décembre 1991*

**CONSEIL EUROPEEN**

*Maastricht, les 9 et 10 décembre 1991*

**CONCLUSIONS DE LA PRESIDENCE**

*M. BARON CRESPO, président du Parlement européen, a exposé au Conseil européen les points de vue de son Institution sur les projets de traités sur l'Union politique et sur l'Union économique et monétaire.*

*Le Conseil européen s'est félicité de tous les contacts qui ont été établis avec le Parlement européen au cours de la préparation de ces projets et, en particulier, les réunions inter-institutionnelles qui ont permis aux uns et aux autres de mieux comprendre leurs idées respectives.*

### **TRAITE SUR L'UNION EUROPEENNE**

*Les Conférences Intergouvernementales sur l'Union politique et sur l'Union économique et monétaire, réunies au niveau des chefs d'Etat et de gouvernement, sont parvenues à un accord sur le projet de traité sur l'Union européenne sur la base des textes (doc. SN 252/1/91) relatifs à l'union politique ainsi que sur le projet de traité concernant l'union économique et monétaire. La mise au point juridique définitive et l'harmonisation des textes seront effectuées afin de permettre la signature du traité au début du mois de février 1992.*

*En ce qui concerne plus particulièrement la politique sociale, le Conseil européen confirme que les dispositions actuelles du traité peuvent être considérées comme un acquis communautaire.*

*Le Conseil européen constate que onze Etats membres sont désireux de poursuivre dans la voie tracée par la Charte sociale de 1989. A cet effet, ils sont convenus d'annexer au traité un protocole relatif à la politique sociale qui prévoit que les institutions de la Communauté seront tenues de prendre et d'appliquer les décisions nécessaires et qui adapte les procédures de prise de décision en vue de leur application par onze Etats membres.*

### **ELARGISSEMENT**

*Le Conseil européen rappelle que le traité sur l'Union européenne que les chefs d'Etat et de gouvernement ont approuvé prévoit que tout Etat européen dont le système de gouvernement est fondé sur le principe de la démocratie peut demander à devenir membre de l'Union.*

*Le Conseil européen note que les négociations sur l'adhésion à l'Union européenne sur la base du traité qui vient d'être approuvé pourront démarrer dès que la Communauté aura terminé ses négociations sur les ressources propres et les questions connexes en 1992.*

*Le Conseil européen prend acte de ce qu'un certain nombre de pays européens ont déjà présenté ou annoncé leur intention de présenter une demande d'adhésion à l'Union. Le Conseil européen invite la Commission à examiner ces questions, y compris les implications pour le développement de l'Union, en vue du Conseil européen de Lisbonne.*

#### URUGUAY ROUND

*Le Conseil européen note que les négociations sur la libéralisation du commerce sont entrées dans leur phase finale. Il a été informé des progrès intervenus dans les négociations, tant à Genève que lors du sommet transatlantique, qui a eu lieu à La Haye le 9 novembre 1991.*

*Le Conseil européen réaffirme son engagement résolu à voir l'Uruguay Round se conclure d'ici la fin de l'année par un ensemble de résultats substantiels et équilibrés. Cet ensemble devrait donc couvrir les règles et disciplines du GATT, l'accès au marché, l'agriculture, les textiles, les services, les TRIP et un renforcement institutionnel du système du GATT qui exclue tout recours, par quelque partenaire que ce soit, à des mesures unilatérales. Il appelle ses partenaires au sein de l'Uruguay Round à s'associer à aux efforts qu'il déploie pour conclure les négociations sur cette base.*

*Le Conseil européen invite la Commission à veiller à ce que les négociations débouchent, dans tous les principaux domaines, sur des résultats substantiels et crédibles qui soient compatibles avec les objectifs des Communautés européennes.*

*Il demande à la Commission d'informer régulièrement le Conseil des résultats obtenus.*

COOPERATION DANS LES DOMAINES DE LA JUSTICE ET DES AFFAIRES INTERIEURES

Libre circulation des personnes, Immigration et asile

A. Le Conseil européen a pris acte des rapports en matière d'immigration et d'asile établis à sa demande par les ministres chargés de l'immigration. Il estime qu'ils constituent une base adéquate pour des mesures à prendre dans ces domaines.

Il a marqué son accord sur le programme de travail et les calendriers prévus et a invité les ministres chargés de l'immigration à les mettre en oeuvre.

B. Le Conseil européen a pris acte du rapport établi par le Groupe des Coordonnateurs "Libre circulation des personnes" et a approuvé les recommandations qui y sont faites.

C. Le Conseil européen a exprimé son regret qu'il n'ait pas encore été possible de résoudre le dernier problème faisant obstacle à la signature de la Convention des Etats membres des Communautés européennes relative au franchissement des frontières extérieures. Le Conseil européen a invité la présidence à rechercher activement, en liaison avec les deux Etats membres concernés, une solution à ce problème.

D. Le Conseil européen invite les coordonnateurs à examiner la structure à donner au système d'information européen et à veiller à l'adoption des mesures techniques et juridiques - y compris en ce qui concerne la protection de la vie privée - nécessaires à sa mise en oeuvre.

Compte tenu de la nécessité de conclure rapidement ces travaux, il est souhaitable d'examiner en premier lieu la possibilité d'étendre à l'ensemble des Etats membres l'application des arrangements déjà conclus par certains d'entre eux.

### Europol

Le Conseil européen a marqué son accord sur la création d'un Office européen de police (Europol) ayant pour mission, dans un premier stade, d'organiser à l'échelon des douze Etats membres de la Communauté l'échange de renseignements en matière de stupéfiants. Le Conseil européen a chargé les Ministres "TREVI", en collaboration avec la Commission, de prendre les mesures permettant la mise en place rapide d'Europol.

### Drogue

Le Conseil européen a pris note du rapport du Comité européen de lutte antidrogue.

Il a invité les Institutions de la Communauté européenne à tout mettre en oeuvre pour que l'acte créant l'Observatoire européen des drogues puisse être adopté avant le 30 Juin 1992.

Dans le cadre d'une information la plus large possible sur les problèmes de la drogue, le Conseil européen a appuyé l'organisation, au cours du deuxième semestre de 1992, d'une semaine européenne en faveur de la prévention de l'usage des drogues.

Le Conseil européen a invité le CELAD à poursuivre son action de coordination et à veiller à ce que les différentes instances compétentes mettent en oeuvre sans retard le programme européen de lutte contre la drogue adopté par le Conseil européen, à Rome, le 14 décembre 1990.

### Conséquences du projet de traité sur l'Union européenne

Le Conseil européen a chargé les instances compétentes du Conseil et le Groupe des Coordonateurs "Libre circulation des personnes" d'examiner, en collaboration avec la Commission, les conséquences qu'aura, sur l'organisation des travaux dans ces domaines, le projet de traité sur l'Union européenne, afin de permettre l'application effective des dispositions pertinentes du futur traité dès son entrée en vigueur.

SITUATION DE L'APPROVISIONNEMENT EN DENREES ALIMENTAIRES A MOSCOU ET A SAINT-PETERSBOURG

*Le Conseil européen s'est déclaré préoccupé par la situation critique de l'approvisionnement en denrées alimentaires à Moscou et à Saint-Petersbourg et est convenu que la Communauté devrait rapidement prendre des mesures concrètes pour aider les populations de ces villes.*

*Les Etats membres accèderont aux demandes formulées par la Commission pour que les experts en logistique soient mis à sa disposition.*

*Il a invité la Commission à présenter des propositions spécifiques et le Conseil Ecofin à examiner, lors de sa session du 17 décembre 1991, les aspects financiers concrets d'une action communautaire, y compris la question des garanties de crédit.*

COOPERATION POLITIQUE EUROPEENNE

Moyen-Orient

*Le Conseil européen a adopté la déclaration sur le processus de paix au Moyen-Orient qui figure à l'annexe 1.*

*Le Conseil européen se félicite de la libération de nouveaux otages au Liban. Il exprime sa reconnaissance au Secrétaire général des Nations Unies pour les efforts qu'il a déployés dans ce domaine.*

*Le Conseil européen déplore que les ressortissants allemands Heinrich Strübig et Thomas Kempfner soient toujours détenus au Liban.*

*Le Conseil européen lance un appel pressant à tous les gouvernements et à toutes les personnalités qui sont en mesure de contribuer au règlement de la question des otages pour qu'ils poursuivent leurs efforts en vue d'une libération inconditionnelle de toutes les personnes détenues sans aucune procédure juridique.*

*La question des otages au Liban ne sera pas résolue tant que tous les otages n'auront pas été libérés.*

*Le Conseil européen se félicite du fait que le Secrétaire général des Nations Unies se soit déclaré prêt à poursuivre ses efforts.*

Evolution de la situation en Union soviétique

Le Conseil européen a examiné l'évolution récente de la situation en Union Soviétique et a adopté la déclaration qui figure à l'annexe 2.

Politique relative aux nouveaux Etats européens

Le Conseil européen a chargé les ministres des Affaires étrangères d'évaluer l'évolution de la situation en Europe de l'Est et en Union soviétique en vue d'élaborer une approche en ce qui concerne les relations avec de nouveaux Etats.

Racisme et xénophobie

Le Conseil européen a adopté la déclaration qui figure à l'annexe 3.

Enquêtes sur les attentats contre les vols PAN AM 103 et UTA 772

Rappelant la déclaration publiée par la Communauté et ses Etats membres le 2 décembre, le Conseil européen considère avec une extrême gravité les accusations portées contre des ressortissants lybiens à propos des attentats contre le vol PAN AM 103 en décembre 1988 et le vol UTA 772 en septembre 1989. Le Conseil européen réaffirme sa condamnation de tous les actes de terrorisme, où qu'ils soient commis et quels qu'en soient les auteurs.

Le Conseil européen a pris acte des exigences formulées à l'égard des autorités lybiennes par les gouvernements de la France, du Royaume-Uni et des Etats-Unis le 27 novembre. Il souscrit entièrement à ces exigences et appelle les autorités lybiennes à s'y conformer rapidement et totalement.

ANNEXE 1

DECLARATION SUR LE PROCESSUS DE PAIX AU MOYEN ORIENT

*Le Conseil européen attache une grande importance à la Conférence de paix de Madrid sur le Moyen Orient, qui a initié le processus de négociations sur la base des résolutions 242 et 338 du Conseil de sécurité des Nations Unies qui devrait conduire à un règlement juste et global du conflit israélo-arabe et de la question palestinienne. Sur la base des positions de principe qui les ont guidés depuis longtemps, la Communauté et ses Etats membres sont déterminés à entreprendre aux côtés des Etats-Unis et de l'Union Soviétique tous les efforts possibles afin de favoriser ce processus. A Madrid, ils se sont engagés à apporter leur concours actif dans toutes les phases des négociations.*

*Le Conseil européen estime qu'il est d'une importance essentielle que l'élan acquis à Madrid ne s'enlise pas dans des questions de procédure. Il a pris note que la deuxième session de négociations bilatérales a été convoquée à Washington. Ces négociations doivent être poursuivies de bonne foi par toutes les parties. Ce n'est qu'ainsi qu'il sera possible de progresser en substance et d'aboutir à des mesures significatives destinées à renforcer la confiance. Le Conseil européen est d'avis que l'arrêt de la politique israélienne d'implantations dans les Territoires occupés représenterait une contribution essentielle à la création d'un environnement stable, nécessaire au progrès des négociations. La fin du boycott commercial arabe y contribuerait également.*

*S'agissant de la situation dans les Territoires occupés, il est important que les deux parties fassent preuve de modération et qu'Israël se conforme aux dispositions de la Quatrième convention de Genève. Le Conseil européen s'attend à une amélioration tangible de la situation dans ces territoires, avant même la mise en oeuvre d'accords intérimaires ou autres. Dans ce contexte, il a pris note des informations selon lesquelles le niveau de violence dans les territoires avait baissé depuis la Conférence de Madrid. Cette Conférence a, en effet, suscité dans les Territoires occupés comme ailleurs un climat d'espoir qu'il convient de ne pas décevoir.*



*Le Conseil européen rappelle l'engagement de la Communauté et de ses Etats membres à contribuer activement et de manière pratique à ce que la phase multilatérale des négociations sur la coopération régionale progresse. Il exprime l'espoir que toutes les parties dans la région participeront à ces négociations. Le Conseil européen estime que les négociations bilatérales et multilatérales doivent aller de pair, l'une renforçant l'autre. Toutefois, les négociations dans le domaine de la coopération régionale ne sauraient progresser plus vite qu'un règlement politique. Compte tenu de leurs liens étroits avec toutes les parties concernées, la Communauté et ses Etats membres sont décidés à maintenir un contact étroit avec tous les participants et à faire tout leur possible afin de promouvoir des avancées significatives sur la voie d'un règlement global, juste et durable.*

DECLARATION SUR L'EVOLUTION DE LA SITUATION EN UNION SOVIETIQUE

*Le Conseil européen a pris note de la décision des républiques de Biélorussie, Ukraine et Russie de constituer un "Commonwealth d'Etats Indépendants" auquel d'autres républiques ont été invitées à se joindre. Il a également pris note de la déclaration faite par le président Gorbachev le 9 décembre 1991.*

*Le Conseil européen souligne la nécessité d'un dialogue constructif entre toutes les parties concernées afin que le processus de transformation de l'Union soviétique, qui est entré dans une phase cruciale, se déroule de façon pacifique, démocratique et ordonnée.*

*Le Conseil européen accueille avec satisfaction le fait que les trois républiques engagées dans ce vaste processus de transformation aient déclaré reconnaître et respecter mutuellement leur intégrité territoriale ainsi que l'inviolabilité des frontières existant dans le cadre de leur "Commonwealth".*

*Le Conseil européen accueille favorablement le fait que ces républiques ont, par la même occasion, affirmé leur volonté de respecter les engagements internationaux souscrits par l'Union soviétique et d'assurer un contrôle unique des armes nucléaires sur leur territoire.*

*Le Conseil européen rappelle l'importance que la Communauté et ses Etats membres attachent au respect et à l'application par toutes les Républiques de toutes les dispositions de l'Acte final de Helsinki, de la Charte de Paris, ainsi que d'autres dispositions pertinentes de la CSCE ayant trait aux droits de l'homme et aux droits des personnes appartenant à des minorités nationales. Il rappelle également que, conformément à ces dispositions, les frontières de tous les Etats en Europe sont inviolables et ne peuvent être modifiées que par des moyens pacifiques et d'un commun accord. En outre, la Communauté et ses Etats membres attachent aussi une importance particulière à ce que les dispositions nécessaires soient prises sans tarder par les républiques concernées dans le domaine de la mise en oeuvre des accords de maîtrise des armements, de la non-prolifération nucléaire ainsi que du contrôle effectif et de la sécurité des armes nucléaires. La Communauté et ses Etats membres partent également du principe que les républiques respecteront, pour leur part, les obligations découlant de la dette extérieure de l'Union soviétique.*

*Au moment où ces républiques expriment démocratiquement et pacifiquement leur volonté d'accéder à la pleine souveraineté, la Communauté et ses Etats membres souhaitent ouvrir avec elles, dans un esprit de coopération, un dialogue touchant au développement de leurs relations mutuelles.*

*Le Conseil européen forme également le voeu que ces républiques puissent développer entre elles les structures de coopération de nature à faciliter leur insertion dans la communauté internationale dans des conditions propres à assurer la sécurité, la stabilité et l'épanouissement légitime de tous.*

DECLARATION SUR LE RACISME ET LA XENOPHOBIE

*Le Conseil européen note avec préoccupation que les manifestations de racisme et de xénophobie prennent de plus en plus d'ampleur en Europe, tant dans les Etats membres de la Communauté qu'ailleurs.*

*Le Conseil européen souligne que les obligations internationales concernant la lutte contre la discrimination et le racisme auxquelles les Etats membres ont souscrit dans le cadre des Nations Unies, du Conseil de l'Europe et de la CSCE demeurent pleinement valides.*

*Le Conseil européen rappelle la déclaration sur le racisme et la xénophobie adoptée par le Parlement européen, le Conseil et la Commission le 11 Juin 1986, et, rappelant la déclaration qu'il a publiée à Dublin le 26 Juin 1990, exprime sa répulsion face aux sentiments et manifestations racistes. Ces manifestations, y compris l'expression de préjugés, la violence à l'égard d'immigrants étrangers et leur exploitation, sont inacceptables.*

*Le Conseil européen exprime sa conviction que le respect de la dignité de l'être humain est d'une importance capitale pour l'Europe de la Communauté et que la lutte contre la discrimination sous toutes ses formes est donc essentielle pour la Communauté européenne en tant que communauté d'Etats régis par l'Etat de droit. Le Conseil européen estime par conséquent nécessaire que les gouvernements et les parlements des Etats membres agissent avec clarté et sans ambiguïté contre la montée de sentiments et de manifestations de racisme et de xénophobie.*

*Le Conseil européen demande aux ministres et à la Commission d'intensifier leurs efforts dans la lutte contre la discrimination et la xénophobie et de renforcer la protection juridique des ressortissants de pays tiers sur le territoire des Etats membres.*

*Le Conseil européen note enfin qu'en relation avec les changements intervenus en Europe de l'Est, des sentiments similaires d'intolérance et de xénophobie s'y manifestent sous des formes nationalistes et ethnocentriques extrêmes. Les politiques de la Communauté et de ses Etats membres à l'égard des pays concernés viseront à décourager fermement de telles manifestations.*

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# U N I O N   P O L I T I Q U E

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La présidence propose d'apporter à son texte (doc. CONF-UP 1850/91  
+ COR 1 + COR 2) les modifications ci-après :

## DISPOSITIONS COMMUNES

### Article A

Par le présent traité, les Hautes Parties Contractantes instituent entre elles  
une Union européenne, ci-après dénommée "Union".

Le présent traité marque une nouvelle étape dans le processus créant une union  
sans cesse plus étroite entre les peuples de l'Europe, dans laquelle les  
décisions sont prises d'une manière aussi proche que possible des citoyens.

L'Union est fondée sur les Communautés européennes complétées par les politiques  
et formes de coopération instaurées par le présent traité. Elle a pour mission  
d'organiser de façon cohérente et solidaire les relations entre les Etats membres  
et entre leurs peuples.

## Article B

L'Union se donne pour objectifs :

- de promouvoir un progrès économique et social équilibré et durable, notamment par la création d'un espace sans frontières intérieures, par le renforcement de la cohésion économique et sociale et par l'établissement d'une union économique et monétaire comportant, à terme, une monnaie unique, conformément aux dispositions du présent traité ;
- d'affirmer son identité sur la scène internationale, notamment par la mise en oeuvre d'une politique étrangère et de sécurité commune intégrant à terme la définition d'une politique commune de défense ;
- de renforcer la protection des droits et des intérêts des ressortissants de ses Etats membres par l'instauration d'une citoyenneté de l'Union ;
- de développer une coopération étroite dans le domaine de la justice et des affaires intérieures ;
- de maintenir intégralement l'acquis communautaire et de le développer dans le but d'examiner, par le biais de la procédure visée à l'article W paragraphe 2, dans quelle mesure les politiques et formes de coopération instaurées par le présent traité devraient être éventuellement révisées en vue d'assurer l'efficacité des mécanismes et institutions communautaires.

Les objectifs de l'Union sont atteints conformément aux dispositions du présent traité, dans les conditions et selon les rythmes qui y sont prévus, dans le respect du principe de subsidiarité tel qu'il est défini à l'article 3 B du traité instituant la Communauté européenne.

Articles C et D

*inchangés*

Article E

Remplacer "dispositions spécifiques" par "autres dispositions".

Article F

*inchangé*



Article 3

ajouter au point (d) le membre de phrase : " conformément aux dispositions de l'article 100 C".

ajouter un nouveau point ainsi conçu : "- une contribution au renforcement de la protection des consommateurs."

Article 3 B

(page 13)

Remplacer le texte actuel par le texte suivant :

"La Communauté agit dans les limites des compétences qui lui sont conférées et des objectifs qui lui sont assignés par le présent traité.

Dans les domaines qui ne relèvent pas de sa compétence exclusive, la Communauté n'intervient, conformément au principe de subsidiarité, que si et dans la mesure où les objectifs de l'action envisagée ne peuvent pas être réalisés de manière suffisante par les Etats membres et peuvent donc, en raison des dimensions ou des effets de l'action envisagée, être mieux réalisés au niveau communautaire.

Aucune action de la Communauté n'excède ce qui est nécessaire pour atteindre les objectifs du présent traité."

Article 4

(page 14)

Premier paragraphe : ajouter la Cour des comptes

Article 87

(page 24)

Texte actuel du traité CEE, inchangé.

Article 99

Biffer : "Sans préjudice des dispositions de l'article 101".

Article 100 C

(page 26)

Remplacer le texte actuel par le libellé suivant :

- "1. Le Conseil, statuant à l'unanimité sur proposition de la Commission et après consultation du Parlement européen, détermine les pays tiers dont les ressortissants doivent être munis d'un visa lors du franchissement des frontières extérieures des Etats membres.
2. Toutefois, dans le cas où survient dans un pays tiers une situation d'urgence confrontant la Communauté à la menace d'un afflux soudain de ressortissants de ce pays, le Conseil peut, statuant à la majorité qualifiée sur recommandation de la Commission, pour une période ne dépassant pas six mois, rendre l'obtention d'un visa obligatoire pour les ressortissants du pays en question. L'obligation d'obtenir un visa instaurée par la présente disposition peut être prorogée selon la procédure visée au paragraphe 1.

3. A compter du 1er janvier 1996, le Conseil adoptera à la majorité qualifiée les décisions visées au paragraphe 1. Avant cette date, agissant à la majorité qualifiée sur proposition de la Commission et après consultation du Parlement européen, le Conseil arrête les mesures relatives à l'instauration d'un modèle type de visa.
4. Dans les domaines visés au présent article, la Commission est tenue d'instruire toute demande formulée par un Etat membre et tendant à ce qu'elle fasse une proposition au Conseil.
5. Le présent article ne porte pas atteinte à l'exercice des responsabilités qui incombent aux Etats membres pour le maintien de l'ordre public et la sauvegarde de la sécurité intérieure.
6. Les dispositions du présent article sont applicables à d'autres sujets s'il en est ainsi décidé en vertu de l'article I des dispositions du traité sur l'Union relatives à la coopération dans les domaines de la justice et des affaires intérieures.
7. Les dispositions des conventions en vigueur entre les Etats membres régissant des matières couvertes par le présent article restent en vigueur tant que leur contenu n'aura pas été remplacé par des directives ou par des mesures prises en vertu du présent article."

#### Titre VIII - Chapitre 1 : dispositions sociales

Dispositions actuelles du traité CEE, inchangées (cf. annexe III).

Chapitre 3 : Education

(page 38)

Ajouter à la fin du paragraphe 1 de l'article A : "ainsi que pour leur diversité culturelle et linguistique".

Article 123

(page 37)

Remplacer "l'adaptation aux mutations industrielles" par "l'adaptation aux mutations industrielles et à l'évolution des systèmes de production".

Titre X - Cohésion économique et sociale (page 43)

ajouter le protocole figurant à l'Annexe I.

Article 130 D

Modifier le dernier alinéa comme suit :

"Le Conseil, statuant selon la même procédure, crée avant le 31 décembre 1993 un Fonds de cohésion, qui contribue financièrement à la réalisation de projets dans le domaine de l'environnement et dans celui des réseaux transeuropéens en matière d'infrastructure des transports."

Titre XI - Recherche et développement technologique

Article 130 I (programme-cadre)

Procédure visée à l'article 189 B plus l'unanimité.

Article 130 S (Environnement)

(pages 52-53)

Le paragraphe 2 est modifié comme suit :

"Par dérogation au paragraphe précédent et sans préjudice des dispositions de l'article 100 A, le Conseil statuant à l'unanimité sur proposition de la commission, après consultation du Parlement européen, adopte :

- des dispositions essentiellement de nature fiscale ;
- des mesures concernant l'aménagement du territoire, l'affectation des sols, à l'exception de la gestion des déchets et des mesures à caractère général, ainsi que la gestion des ressources hydrauliques ;
- des mesures affectant sensiblement le choix d'un Etat membre entre différentes sources d'énergie et la structure générale de son approvisionnement énergétique.

Le Conseil, statuant à l'unanimité sur proposition de la Commission et après consultation du Parlement européen, peut définir les questions visées au présent paragraphe au sujet desquelles des décisions doivent être prises à la majorité qualifiée."

Le premier alinéa du paragraphe 3 est modifié comme suit :

"Dans d'autres domaines, des programmes d'action à caractère général fixant les objectifs prioritaires à atteindre sont arrêtés par le Conseil statuant en conformité avec la procédure visée à l'article 189 B."

*Le paragraphe 5 doit être libellé comme suit :*

*"Sans préjudice du principe du pollueur payeur, lorsqu'une mesure fondée sur les dispositions du paragraphe 1 implique des coûts jugés disproportionnés pour les pouvoirs publics d'un Etat membre, le Conseil prévoit, dans l'acte portant adoption de cette mesure, les dispositions appropriées sous la forme :*

*- de dérogations temporaires et/ou*

*- d'un soutien financier du Fonds de cohésion qui sera créé au plus tard le 31 décembre 1993 conformément aux dispositions de l'article 130 D."*

*Ajouter la déclaration suivante des Etats membres :*

*"Les modifications apportées à la législation communautaire ne peuvent porter atteinte aux dérogations accordées à l'Espagne et au Portugal jusqu'au 31 décembre 1999 en vertu de la directive .... (grandes installations de combustion)."*

Titre XIII - Réseaux transeuropéens

Article B

(pages 54-55)

Modifier comme suit le troisième tiret du premier paragraphe :

"- peut appuyer les efforts financiers des Etats membres pour des projets d'intérêt commun financés par les Etats membres et identifiés dans le cadre des orientations visées au premier tiret, en particulier sous la forme d'études de faisabilité, de garanties d'emprunt ou de bonifications d'intérêt ; la Communauté peut également contribuer au financement, dans les Etats membres, de projets spécifiques en matière d'infrastructure des transports par le biais du Fonds de cohésion à créer au plus tard le 31 décembre 1993 conformément aux dispositions de l'article 130 D."

Article C

Ajouter un nouveau deuxième alinéa rédigé comme suit :

"Chaque Etat membre approuve les orientations et les projets d'intérêt commun concernant son propre territoire."

Titre XIV - Industrie (page 56)

La dernière phrase du paragraphe 3 doit être libellée comme suit :

"Le Conseil, statuant à l'unanimité après consultation du Parlement européen et du Comité économique et social, peut décider de mesures spécifiques destinées à appuyer les actions menées dans les Etats membres afin de réaliser les objectifs visés au paragraphe 1."

Ajouter à la fin du paragraphe 3 la phrase suivante :

"Le présent titre ne constitue pas une base pour l'introduction, par la Communauté, de quelque mesure que ce soit pouvant entraîner des distorsions de concurrence."

Titre XV - Santé publique (page 58)

Paragraphe 1, deuxième alinéa : après "fléaux", ajouter "y compris la toxicomanie".

Nouveau Titre XVIII - Protection des consommateurs

1. La Communauté contribue à la réalisation d'un niveau élevé de protection des consommateurs par :

a) des mesures qu'elle adopte en application de l'article 100 A dans le cadre de la réalisation du marché intérieur ;

b) des actions spécifiques qui appuient et complètent la politique menée par les Etats membres en vue de protéger la santé, la sécurité et les intérêts économiques des consommateurs et de leur assurer une information adéquate.

2. Le Conseil, statuant conformément à la procédure visée à l'article 189 B et après consultation du Comité économique et social, arrête les actions spécifiques visées au paragraphe 1, point b).

3. Les actions arrêtées en application du paragraphe 2 ne peuvent empêcher un Etat membre de maintenir ou d'établir des mesures de protection plus strictes. Ces mesures doivent être compatibles avec le présent traité. Elle sont notifiées à la Commission.



Article 138

(page 70)

(paragraphe 2 du traité CEE, inchangé)(1)

Article 157

(texte de l'actuel traité CEE, inchangé) (1)

Titre XVI - Culture

Procédure visée à l'article 189 B plus l'unanimité.

Article 158 (Durée du mandat de la Commission)

(page 73)

Ajouter un nouveau paragraphe 1 bis ainsi conçu :

"A compter du 1er janvier 1995, la durée du mandat de la Commission est portée à cinq ans."

(1) Déclaration :

Les Etats membres conviennent d'examiner les questions relatives au nombre des membres de la Commission et au nombre des membres du Parlement européen à la fin de 1992 au plus tard, en vue d'aboutir à un accord qui permettra d'établir la base juridique nécessaire à la fixation du nombre des membres du Parlement européen en temps voulu pour les élections de 1994. Les décisions seront notamment prises compte tenu de la nécessité de fixer le nombre total des membres du Parlement européen dans une Communauté élargie.

La délégation allemande a fait une déclaration orale à inscrire au protocole sur la question du nombre des membres allemands du Parlement européen.

*(Il conviendrait de modifier en conséquence les dispositions actuelles du traité concernant la durée du mandat de la Commission qui sera désignée en janvier 1993 et celles concernant la procédure de destitution de la Commission (article 144). Il faudrait préciser que la Commission nommée pour remplacer une Commission destituée n'exercerait son mandat que jusqu'à la date normale de renouvellement et non pas pour toute la durée du mandat).*

**Article 161**

*Biffer le deuxième alinéa (commissaires adjoints).*

**Article 167 (Election du Président de la Cour)**

*(page 76)*

*Texte actuel de l'article du traité CEE, inchangé.*

Article C

(page 107)

Remplacer la première phrase du paragraphe 2 par le texte suivant :

"Lors de l'adoption de l'action commune et à tout stade de son déroulement, le Conseil définit les questions au sujet desquelles des décisions doivent être prises à la majorité qualifiée."

Ajouter une déclaration de la conférence libellée comme suit :

"Pour les décisions du Conseil qui requièrent l'unanimité, les Etats membres éviteront autant que possible d'empêcher qu'il y ait unanimité lorsqu'une majorité qualifiée est favorable à la décision."

Paragraphe 6 : Remplacer le texte actuel par le texte suivant :

"En cas de nécessité impérieuse liée à l'évolution de la situation et à défaut d'une décision du Conseil, les Etats membres peuvent prendre d'urgence les mesures qui s'imposent, en tenant compte des objectifs généraux de l'action commune. L'Etat membre qui prend de telles mesures en informe immédiatement le Conseil."

Article D

(page 109)

1. La politique étrangère et de sécurité commune inclut l'ensemble des questions relatives à la sécurité de l'Union européenne, y compris la formulation à terme d'une politique de défense commune, qui pourrait conduire à terme à une défense commune.

2. *L'Union demande à l'Union de l'Europe occidentale, qui fait partie intégrante du développement de l'Union européenne, d'élaborer et de mettre en oeuvre les décisions et les actions de l'Union qui ont des implications dans le domaine de la défense. Le Conseil, en accord avec les institutions de l'UEO, adopte les modalités pratiques nécessaires.*
3. *Les questions qui ont des implications dans le domaine de la défense et qui sont régies par le présent article ne sont pas soumises aux procédures définies à l'article C.*
4. *La politique de l'Union au sens du présent article n'affecte pas le caractère spécifique de la politique de sécurité et de défense de certains Etats membres, elle respecte les obligations découlant pour certains Etats membres du traité de l'Atlantique Nord et elle est compatible avec la politique commune de sécurité et de défense arrêtée dans ce cadre.*
5. *Les dispositions du présent article ne font pas obstacle au développement d'une coopération plus étroite entre deux ou plusieurs Etats membres au niveau bilatéral, dans le cadre de l'UEO et de l'Alliance atlantique, dans la mesure où cette coopération ne contrevient pas à celle qui est prévue dans le présent titre ni ne l'entrave.*
6. *En vue de promouvoir l'objectif du présent traité et compte tenu de l'échéance de 1998 dans le contexte de l'article 12 du traité de Bruxelles, les dispositions du présent article pourront être révisées, comme prévu à l'article W paragraphe 2, sur la base d'un rapport que le Conseil soumettra en 1996 au Conseil européen, et qui comprend une évaluation des progrès réalisés et de l'expérience acquise jusque-là.*

Article G

(page 110)

Remplacer le paragraphe 1 par le texte suivant :

"La présidence consulte le Parlement européen sur les principaux aspects et les choix fondamentaux de la politique étrangère et de sécurité commune et veille à ce que les vues du Parlement européen soient dûment prises en considération. Le Parlement européen est tenu régulièrement informé par la présidence et la Commission de l'évolution de la politique étrangère et de sécurité de l'Union."

Note en bas de page relative à l'article K

(page 113)

Remplacer par le texte suivant :

"Le régime linguistique de la Communauté européenne est d'application.

Pour les communications COREU, la pratique actuelle de la Coopération politique européenne servira de modèle pour le moment.

Tous les textes relatifs à la politique étrangère et de sécurité commune qui sont présentés ou adoptés lors des sessions du Conseil européen ou du Conseil ainsi que tous les textes à publier sont traduits immédiatement et simultanément dans toutes les langues officielles de la Communauté."

Déclaration des Etats membres qui sont membres de l'UEO

(page 114)

(cf. Annexe V)

DISPOSITIONS SUR LA COOPERATION DANS LES DOMAINES DE LA JUSTICE ET DES AFFAIRES  
INTERIEURES

Article A

(page 116)

Ajouter un nouveau point 2 libellé comme suit :

"Les règles régissant le franchissement des frontières extérieures des Etats membres par des personnes et l'exercice du contrôle de ce franchissement ;"

Le point 2 devient le point 3 et, sous a), les termes "pour des séjours de longue durée" sont supprimés.

Les points 3, 4, 5, 6, 7 et 8 de l'article A deviennent les points 4, 5, 6, 7, 8 et 9. Les références faites à ces points sont adaptées en conséquence.

Déclaration ad article A point 1

(page 122)

Au paragraphe 1, remplacer les termes "avant fin 1993" par "pour le début de 1993".

Au paragraphe 2, remplacer les termes "avant la fin 1994" par "avant la fin de 1993".

Déclaration ad article A point 8

(page 124)

Au dernier alinéa, remplacer "au cours de l'année 1995" par "au cours de l'année 1994".

DISPOSITIONS FINALES

Article W

(page 127)

Lire le paragraphe 2 comme suit :

"Une conférence des représentants des gouvernements des Etats membres sera convoquée en 1996 pour examiner, conformément aux objectifs énoncés aux articles A et B des dispositions communes, les dispositions du présent traité pour lesquelles une révision est prévue.".

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PROTOCOLE  
SUR LA COHESION ECONOMIQUE ET SOCIALE

La Commission et les Etats membres,

Rappelant que l'Union s'est fixé pour objectif de promouvoir le progrès économique et social, entre autres par le renforcement de la cohésion économique et sociale ;

Rappelant que l'article 2 du traité CE mentionne, entre autres missions, la promotion de la cohésion économique et sociale et de la solidarité entre les Etats membres et que le renforcement de la cohésion économique et sociale figure parmi les actions de la Communauté énumérées à l'article 3 ;

Rappelant que les dispositions de l'ensemble du titre X, consacré à la cohésion économique et sociale, fournissent la base juridique permettant de consolider et de développer davantage l'action de la Communauté dans le domaine de la cohésion économique et sociale, notamment de créer de nouveaux fonds ;

Rappelant que les dispositions des titres XII, relatif à l'environnement, et XIII, concernant les réseaux transeuropéens, prévoient la création d'un Fonds de cohésion avant le 31 décembre 1993 ;

Se déclarant convaincus que la marche vers l'union économique et monétaire contribuera à la croissance économique de tous les Etats membres ;

Notant que les fonds structurels de la Communauté auront été doublés en termes réels entre 1987 et 1993, entraînant d'importants transferts, notamment en termes de part du PIB des Etats membres les moins prospères ;



*Notant que la BEI prête des sommes considérables et de plus en plus importantes au bénéfice des régions les plus pauvres ;*

*Notant le souhait d'une plus grande souplesse dans les modalités d'octroi des ressources provenant des fonds structurels ;*

*Notant le souhait d'une modulation des niveaux de la participation communautaire aux programmes et aux projets dans certains pays ;*

*Notant la proposition de prendre davantage en compte, dans le système des ressources propres, la prospérité relative des Etats membres ;*

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*Réaffirment que la promotion de la cohésion économique et sociale est vitale pour le développement intégral et le succès durable de la Communauté et soulignent qu'il importe de faire figurer la cohésion économique et sociale aux articles 2 et 3 du traité ;*

*Réaffirment leur conviction que les fonds structurels doivent continuer à jouer un rôle considérable dans la réalisation des objectifs de la Communauté dans le domaine de la cohésion ;*

*Réaffirment leur conviction que la BEI doit continuer à consacrer la majorité de ses ressources à la promotion de la cohésion économique et sociale et se déclarent disposés à réexaminer le capital dont la BEI a besoin, dès que cela sera nécessaire à cet effet ;*

*Réaffirment la nécessité de procéder à une évaluation complète du fonctionnement et de l'efficacité des fonds structurels en 1992 et de réexaminer à cette occasion la taille que devraient avoir ces fonds, compte tenu des missions de la Communauté dans le domaine de la cohésion économique et sociale ;*

Conviennent que le Fonds de cohésion, qui doit être créé avant le 31 décembre 1993, attribuera des contributions financières de la Communauté à des projets relatifs à l'environnement et aux réseaux transeuropéens dans des Etats membres dont le PNB par habitant est inférieur à 90 % de la moyenne communautaire et qui ont mis en place un programme visant à satisfaire aux conditions de convergence économique visées à l'article 104 B du traité ;

Déclarent qu'ils ont l'intention de permettre une plus grande flexibilité dans l'octroi de crédits en provenance des fonds structurels afin de tenir compte des besoins spécifiques qui ne sont pas satisfaits dans le cadre de la réglementation actuelle des fonds structurels ;

Se déclarent disposés à moduler les niveaux de la participation communautaire dans le cadre des programmes et des projets des fonds structurels, afin d'éviter des augmentations excessives des dépenses budgétaires dans les Etats membres les moins prospères ;

Reconnaissent la nécessité de suivre de près les progrès accomplis sur la voie de la cohésion économique et sociale et se déclarent prêts à étudier toutes les mesures nécessaires à cet égard ;

Affirment leur intention de tenir davantage compte de la capacité contributive des différents Etats membres au système des ressources propres et d'étudier des moyens permettant de corriger, pour les Etats membres les moins prospères, les éléments dégressifs du système actuel de ressources propres.

REFERENCE AUX PARTIS EUROPEENS A INCLURE DANS LE TRAITE

La Conférence convient de faire figurer dans le traité une référence aux partis européens soulignant qu'ils sont indispensables en tant que facteur d'intégration au sein de l'Union. Ils contribuent à la formation de consensus et à l'expression de la volonté des citoyens de l'Union.

Le libellé précis de cette référence et sa place dans le traité seront déterminés ultérieurement.

PROTOCOLE  
RELATIF A LA POLITIQUE SOCIALE

*Les Hautes Parties Contractantes*

*constatant que onze Etats membres sont désireux de poursuivre dans la voie tracée par la Charte sociale de 1989 ; qu'ils ont arrêté entre eux un Accord à cette fin ;*

- 1. Conviennt d'autoriser ces onze Etats membres à faire recours aux institutions, procédures et mécanismes de la Communauté européenne aux fins de prendre entre eux et d'appliquer pour ce qui les concerne les décisions nécessaires.*
- 2. Le Royaume-Uni ne participe pas aux délibérations et à l'adoption des propositions de la Commission relatives aux domaines couverts par l'Accord visé ci-dessus.*

*Par dérogation à l'article 148 paragraphe 2 du traité instituant la Communauté européenne, les actes du Conseil pris en vertu du présent protocole qui doivent être adoptés à la majorité qualifiée le sont s'ils ont recueilli au moins quarante-quatre voix. L'unanimité de tous les membres du Conseil, à l'exception du Royaume-Uni, est nécessaire pour les actes du Conseil qui doivent être adoptés à l'unanimité, ainsi que pour ceux constituant amendement de la proposition de la Commission.*

*Les actes ainsi adoptés par le Conseil, ainsi que les éventuelles conséquences financières des mesures prises en application de l'article 118 paragraphe 3 dernier tiret ne sont pas applicables au Royaume-Uni.*

ACCORD  
CONCLU ENTRE LES ETATS MEMBRES DE LA COMMUNAUTE EUROPEENNE  
A L'EXCEPTION DU ROYAUME-UNI

Les onze HAUTES PARTIES CONTRACTANTES soussignées, DESIREUSES de mettre en oeuvre, à partir de l'acquis communautaire, la Charte sociale de 1989, PRENANT EN CONSIDERATION le Protocole relatif à la politique sociale :

Sont CONVENUES des dispositions suivantes :

Article 117

La Communauté et ses Etats membres ont pour objectifs la promotion de l'emploi, l'amélioration des conditions de vie et de travail, une protection sociale adéquate, le dialogue social, le développement des ressources humaines permettant un niveau d'emploi élevé et durable et la lutte contre les exclusions. A cette fin, la Communauté et ses Etats membres mettent en oeuvre des mesures qui tiennent compte de la diversité des pratiques nationales, en particulier dans le domaine des relations conventionnelles, ainsi que de la nécessité de maintenir la compétitivité de l'économie de la Communauté.

Article 118

1. En vue de réaliser les objectifs de l'article 117, la Communauté soutient et complète l'action des Etats membres dans les domaines suivants :

- l'amélioration, en particulier, du milieu de travail pour protéger la santé et la sécurité des travailleurs,
- les conditions de travail,
- l'information et la consultation des travailleurs,

- l'égalité entre hommes et femmes en ce qui concerne leurs chances sur le marché du travail et le traitement dans le travail,
- l'intégration des personnes exclues du marché du travail, sans préjudice des dispositions de l'article B du chapitre 3.

2. A cette fin, le Conseil peut arrêter, par voie de directive, des prescriptions minimales applicables progressivement, compte tenu des conditions et des réglementations techniques existant dans chacun des Etats membres. Ces directives évitent d'imposer des contraintes administratives, financières et juridiques telles qu'elles contrarieraient la création et le développement de petites et moyennes entreprises.

Le Conseil statue selon la procédure visée à l'article 189 C et après consultation du Comité économique et social.

3. Toutefois, le Conseil statue à l'unanimité sur proposition de la Commission après consultation du Parlement européen et du Comité économique et social dans les domaines suivants :

- la sécurité sociale et la protection sociale des travailleurs,
- la protection des travailleurs en cas de résiliation du contrat de travail,
- la représentation et la défense collective des intérêts des travailleurs et des employeurs, y compris la cogestion, sous réserve du paragraphe 6,
- les conditions d'emploi des ressortissants des pays tiers se trouvant en séjour régulier sur le territoire de la Communauté,
- les contributions financières visant la promotion de l'emploi et la création d'emplois, sans préjudice des dispositions relatives au Fonds social.

4. Un Etat membre peut confier aux partenaires sociaux, à leur demande conjointe, la mise en oeuvre des directives prises en application des paragraphes 2 et 3.

Dans ce cas, il s'assure que, au plus tard à la date à laquelle une directive doit être transposée conformément à l'article 189, les partenaires sociaux ont mis en place les dispositions nécessaires par voie d'accord, l'Etat membre concerné devant prendre toute disposition nécessaire lui permettant d'être à tout moment en mesure de garantir les résultats imposés par cette directive.

5. *Les dispositions arrêtées en vertu du présent article ne peuvent empêcher un Etat membre de maintenir et d'établir des mesures de protection plus strictes compatibles avec le présent traité.*
6. *Les dispositions du présent article ne s'appliquent pas aux rémunérations, au droit d'association, au droit de grève, ni au droit de lock out.*

#### Article 118 A

1. *La Commission a pour tâche de promouvoir la consultation des partenaires sociaux au niveau communautaire et prend toute mesure utile pour faciliter leur dialogue en veillant à un soutien équilibré des parties.*
2. *A cet effet, la Commission, avant de présenter des propositions dans le domaine de la politique sociale, consulte les partenaires sociaux sur l'orientation possible d'une action communautaire.*
3. *Si la Commission, après cette consultation, estime qu'une action communautaire est souhaitable, elle consulte les partenaires sociaux sur le contenu de la proposition envisagée. Les partenaires sociaux remettent à la Commission un avis ou, le cas échéant, une recommandation.*
4. *A l'occasion de cette consultation, les partenaires sociaux peuvent informer la Commission de leur volonté d'engager le processus prévu à l'article 118 B. La durée de la procédure ne pourra pas dépasser neuf mois, sauf prolongation décidée en commun par les partenaires sociaux concernés et la Commission.*

#### Article 118 B

1. *Le dialogue entre partenaires sociaux au niveau communautaire peut conduire, si ces derniers le souhaitent, à des relations conventionnelles, y compris des accords.*

2. La mise en oeuvre des accords conclus au niveau communautaire intervient soit selon les procédures et pratiques propres aux partenaires sociaux et aux Etats membres, soit, dans les matières relevant de l'article 118, à la demande conjointe des parties signataires, par une décision du Conseil sur proposition de la Commission. (1)

Le Conseil statue à la majorité qualifiée, sauf lorsque l'accord en question contient une ou plusieurs dispositions relatives à l'un des domaines visés à l'article 118 paragraphe 3, auquel cas il statue à l'unanimité.

#### Article 118 C

En vue de réaliser les objectifs de l'article 117 et sans préjudice des autres dispositions du présent traité, la Commission encourage la coopération entre les Etats membres et facilite la coordination de leur action dans les domaines de la politique sociale relevant du présent titre.

#### Article 119

1. Chaque Etat membre assure l'application du principe de l'égalité des rémunérations entre travailleurs masculins et travailleurs féminins pour un même travail.

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(1) Déclaration à l'Acte final de la Conférence :

" La Conférence déclare que la première modalité d'application des accords entre les partenaires sociaux au niveau communautaire - à laquelle il est fait référence à l'article 118 B paragraphe 2 - consistera dans le développement, par la négociation collective et selon les normes de chaque Etat membre, du contenu de ces accords et que, en conséquence, cette modalité n'implique pas, pour les Etats membres, l'obligation d'appliquer de façon directe ces accords ou d'élaborer des normes de transposition de ceux-ci, ni l'obligation de modifier les dispositions internes en vigueur pour faciliter leur mise en oeuvre."



2. Aux fins du présent article, on entend par rémunération le salaire ou traitement ordinaire de base ou minimum, et tous autres avantages payés directement ou indirectement, en espèces ou en nature, par l'employeur au travailleur en raison de l'emploi de ce dernier.

L'égalité de rémunération, sans discrimination fondée sur le sexe, implique :

- a) que la rémunération accordée pour un même travail payé à la tâche soit établie sur la base d'une même unité de mesure,
- b) que la rémunération accordée pour un travail payé au temps soit la même pour un même poste de travail.

3. Le présent article ne peut empêcher un Etat membre de maintenir ou d'apporter des mesures prévoyant des avantages spécifiques destinés à faciliter l'exercice d'une activité professionnelle par les femmes ou à prévenir ou compenser des désavantages dans leur carrière professionnelle.

#### Articles 120 et 121

~~Supprimés~~

#### Article 122

La Commission établit chaque année un rapport sur l'évolution de la réalisation des objectifs de l'article 117, y compris la situation démographique dans la Communauté. Elle transmet ce rapport au Parlement européen, au Conseil et au Comité économique et social.

Le Parlement européen peut inviter la Commission à établir des rapports sur des problèmes particuliers concernant la situation sociale.

Déclaration des Etats membres de l'Union de l'Europe occidentale qui sont également membres de l'Union européenne, sur le rôle de l'UEO et sur ses relations avec l'Union européenne et avec l'Alliance atlantique

Introduction

1. Les Etats membres de l'UEO conviennent de la nécessité de former une véritable identité européenne de sécurité et de défense et d'assumer des responsabilités européennes accrues en matière de défense. Cette identité sera élaborée progressivement selon un processus comportant des étapes successives. L'UEO fera partie intégrante du développement de l'Union européenne et renforcera sa contribution à la solidarité au sein de l'Alliance atlantique. Les Etats membres de l'UEO conviennent de renforcer le rôle de l'UEO dans la perspective à terme d'une politique de défense commune au sein de l'Union européenne, qui pourrait conduire à terme à une défense commune compatible avec celle de l'Alliance atlantique.
  
2. L'UEO sera développée en tant que composante de défense de l'Union européenne et comme moyen de renforcer le pilier européen de l'Alliance atlantique. A cette fin, elle formulera une politique de défense européenne commune et veillera à sa mise en oeuvre concrète en développant plus avant son propre rôle opérationnel.

Les Etats membres de l'UEO prennent note de l'article D relatif à la politique étrangère et de sécurité commune du traité sur l'Union européenne, qui se lit comme suit :

- "1. La politique étrangère et de sécurité commune inclut l'ensemble des questions relatives à la sécurité de l'Union européenne, y compris la formulation à terme d'une politique de défense commune, qui pourrait conduire à terme à une défense commune.
  
2. L'Union demande à l'Union de l'Europe occidentale, qui fait partie intégrante du développement de l'Union européenne, d'élaborer et de mettre en oeuvre les décisions et les

actions de l'Union qui ont des implications dans le domaine de la défense. Le Conseil, en accord avec les institutions de l'UEO, adopte les modalités pratiques nécessaires.

3. Les questions qui ont des implications dans le domaine de la défense et qui sont régies par le présent article ne sont pas soumises aux procédures définies à l'article C.
4. La politique de l'Union au sens du présent article n'affecte pas le caractère spécifique de la politique de sécurité et de défense de certains Etats membres, elle respecte les obligations découlant pour certains Etats membres du traité de l'Atlantique Nord et elle est compatible avec la politique commune de sécurité et de défense arrêtée dans ce cadre.
5. Les dispositions du présent article ne font pas obstacle au développement d'une coopération plus étroite entre deux ou plusieurs Etats membres au niveau bilatéral, dans le cadre de l'UEO et de l'Alliance atlantique, dans la mesure où cette coopération ne contrevient pas à celle qui est prévue dans le présent titre ni ne l'entrave.
6. En vue de promouvoir l'objectif du présent traité et compte tenu de l'échéance de 1998 dans le contexte de l'article 12 du traité de Bruxelles, les dispositions du présent article pourront être révisées, comme prévu à l'article W paragraphe 2, sur la base d'un rapport que le Conseil soumettra en 1996 au Conseil européen, et qui comprend une évaluation des progrès réalisés et de l'expérience acquise jusque-là."

A. Les relations de l'UEO avec l'Union politique

3. L'objectif est d'édifier par étapes l'UEO en tant que composante de défense de l'Union européenne. A cette fin, l'UEO est prête à élaborer et à mettre en oeuvre, sur demande de l'Union européenne, les décisions et les actions de l'Union qui ont des implications en matière de défense.

A cette fin, l'UEO instaurera d'étroites relations de travail avec l'Union européenne en prenant les mesures suivantes :

- de manière appropriée, synchronisation des dates et lieux de réunion ainsi qu'harmonisation des méthodes de travail ;
- établissement d'une étroite coopération entre le Conseil et le Secrétariat général de l'UEO d'une part, et le Conseil de l'Union et le Secrétariat général du Conseil d'autre part ;

- examen de l'harmonisation de la succession et de la durée des présidences respectives ;
- mise au point de modalités appropriées afin de garantir que la Commission soit régulièrement informée et, le cas échéant, consultée sur les activités de l'UEO conformément au rôle de la Commission dans la politique étrangère et de sécurité commune telle que définie dans le traité sur l'Union européenne ;
- encouragement d'une coopération plus étroite entre l'Assemblée parlementaire de l'UEO et le Parlement européen.

Le Conseil de l'UEO prendra les dispositions pratiques nécessaires en accord avec les institutions compétentes de l'Union européenne.

#### B. Les relations de l'UEO avec l'Alliance atlantique

4. L'objectif est de développer l'UEO en tant que moyen de renforcer le pilier européen de l'Alliance atlantique. A cette fin, l'UEO est prête à développer les étroites relations de travail entre l'UEO et l'Alliance et à renforcer le rôle, les responsabilités et les contributions des Etats membres de l'UEO au sein de l'Alliance. Cela s'effectuera sur la base de la transparence et de la complémentarité nécessaires entre l'identité européenne de sécurité et de défense, telle qu'elle se dégage, et l'Alliance. L'UEO agira en conformité avec les positions adoptées dans l'Alliance atlantique.

- Les Etats membres de l'UEO intensifieront leur coordination sur les questions au sein de l'Alliance qui représentent un important intérêt commun, afin d'introduire des positions conjointes concertées au sein de l'UEO dans le processus de consultation de l'Alliance, qui restera le forum essentiel de consultation entre les alliés et l'enceinte où ceux-ci s'accordent sur des politiques touchant à leurs engagements de sécurité et de défense au titre du Traité de Washington.

- Lorsqu'il y a lieu, les dates et lieux de réunion seront synchronisés et les méthodes de travail seront harmonisées.
- Une étroite coopération sera établie entre les Secrétariats généraux de l'UEO et de l'OTAN.

### C. Le rôle opérationnel de l'UEO

5. Le rôle opérationnel de l'UEO sera renforcé en examinant et en déterminant les missions, structures et moyens appropriés, couvrant en particulier :

- une cellule de planification de l'UEO ;
- une coopération militaire plus étroite en complément de l'Alliance, notamment dans le domaine de la logistique, du transport, de la formation et de la surveillance stratégique ;
- des rencontres des chefs d'état-major de l'UEO,
- des unités militaires relevant de l'UEO.

D'autres propositions seront étudiées plus avant, notamment :

- une coopération renforcée en matière d'armement, en vue de créer une agence européenne des armements ;
- la transformation de l'Institut de l'UEO en Académie européenne de sécurité et de défense.

Les mesures visant à renforcer le rôle opérationnel de l'UEO seront pleinement compatibles avec les dispositions militaires nécessaires pour assurer la défense collective de tous les alliés.

### D. Mesures diverses

6. En conséquence des mesures ci-dessus et afin de faciliter le renforcement du rôle de l'UEO, le siège du Conseil et du Secrétariat de l'UEO sera transféré à Bruxelles.

7. La représentation au Conseil de l'UEO doit être telle qu'il puisse exercer ses fonctions en permanence, conformément à l'article VIII du Traité de Bruxelles modifié. Les Etats membres pourront faire appel à une formule de "double chapeau", à mettre au point, constituée de leurs représentants auprès de l'Alliance et auprès de l'Union européenne.

8. L'UEO note que, conformément aux dispositions de l'article D paragraphe 6 relatif à la politique étrangère et de sécurité commune du Traité sur l'Union européenne, l'Union décidera de revoir les dispositions de cet article afin de promouvoir l'objectif qu'il fixe selon la procédure définie. L'UEO procédera en 1996 à un réexamen des présentes dispositions. Ce réexamen tiendra compte des progrès et expériences acquises, et s'étendra aux relations entre l'UEO et l'Alliance atlantique.

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*Maastricht, 10 December 1991*

**AMENDMENTS TO THE EEC TREATY**  
**- ECONOMIC AND MONETARY UNION -**  
**AS AGREED IN THE EUROPEAN COUNCIL OF MAASTRICHT**  
**ON 10 DECEMBER 1991**

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CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES  
- ECONOMIC AND MONETARY UNION -

PART ONE - PRINCIPLES

ARTICLE 3 A

1. *For the purposes set out in Article 2, the activities of the Member States and the Community shall include, as provided for in this Treaty and in accordance with the timetable set out therein, the adoption of an economic policy based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and which is concluded in accordance with the principle of an open market economy with free competition.*
2. *Concurrently with the foregoing, and as provided for 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, 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 4 A

*A European System of Central Banks (In this Treaty called "ESCB") and the European Central Bank (In this Treaty called "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 the Statute of the ESCB and the ECB annexed thereto.*

**PART THREE - POLICIES OF THE COMMUNITY**

**TITLE III - FREE MOVEMENT OF PERSONS, SERVICES, CAPITAL AND  
FREEDOM OF PAYMENTS**

**CHAPTER 4: CAPITAL AND PAYMENTS**

**ARTICLES 67 TO 73**

*Unchanged*

**ARTICLE 73 A**

*From 1 January 1994, Articles 67 to 73 shall be replaced by Articles 73B, BB, C, D, E and F.*

**Article 73 B**

- 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 payments between Member States and between Member States and third countries shall be free of restrictions.*

**Article 73 BB**

- 1. The provisions of Article 73 B shall not prejudice the application to third countries of any restrictions which exist at the end of 1993 under national law or under Community law adopted in respect of the movement of capital to or from third countries involving direct investment, establishment, the provision of financial services and the admission of securities to capital markets.*
- 2. Whilst endeavouring to achieve the objective of unrestricted free movement of capital 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, establishment, the provision of financial*

services and 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 liberalization of the movement of capital to or from third countries.

Article 73 C

1. The provisions of Article 73 B shall be without prejudice to the right of Member States:
  - a. to apply the relevant provisions of their tax law which distinguish between tax-payers who are not in the same situation with regard to the place of residence or 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 establishment compatible with this Treaty.
3. The measures and procedures mentioned in paragraphs 1 and 2 shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 73 B.

Article 73 D

By derogation from Article 73 B, Member States which, at the end of 1993, enjoy a derogation on the basis of existing Community law, shall be entitled to maintain, until the end of 1995 at the latest, restrictions on movements of capital covered by such derogations as exist on that date.

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Article 73 E

*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 vis--vis third countries of limited duration for a period not exceeding six months if such measures are strictly necessary.*

Article 73 F

- 1. If, in the cases envisaged in Article 228 A, action by the Community is deemed necessary, the Council may, in accordance with the procedure provided for in Article 228 A, take the necessary urgent measures on the movement of capital and on payments as regards third countries concerned.*
- 2. Without prejudice to Articles 223 and 224 and as long as the Council has not taken measures pursuant to paragraph 1, a Member State may, for serious political reasons on grounds of urgency take measures on its own initiative. The Commission and the other Member States shall be informed of such measures by the date of their entry into force at the latest. The Council may, acting by a qualified majority on a proposal from the Commission, decide that the Member State concerned shall amend or abolish the measures. The President of the Council shall inform the European Parliament about the decision taken.*

**TITLE VI - ECONOMIC AND MONETARY POLICY**

**CHAPTER 1: ECONOMIC POLICY**

**ARTICLE 102 A**

*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 103 paragraph 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 3 A.*

**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 102 A.*
- 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 this 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 qualified majority, adopt a recommendation setting out these broad guidelines. The Council shall report its recommendation to the European Parliament.*
- 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 the economic developments in each of the Member States and in the Community as well as consistency of economic policies with the broad guidelines referred to in the preceding paragraph, 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*

*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 prove to be not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardizing 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. Furthermore, the President of the Council may be invited to appear before the competent Committee of the European Parliament if the Council has made public recommendations.*

5. *The Council may, acting by a qualified majority on a proposal from the Commission and in co-operation with the European Parliament, adopt detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4 of this Article.*

#### ARTICLE 103 A

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 about the decision taken.*

ARTICLE 104

*Overdraft facilities or any other type of credit facility with the European Central Bank or with the national central banks to Community Institutions or bodies, Central Governments, regional or local authorities, public authorities, other bodies governed by public law, or public undertakings of Member States and the purchase directly from them of debt instruments shall be prohibited.*

*The above provision 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 104 AA

*Any measure, not based on prudential considerations, establishing a privileged access by Community Institutions or bodies, Central Governments, regional or local authorities, public authorities, other bodies governed by public law, or public undertakings of Member States to the financial institutions shall be prohibited. The Council shall, before 1 January 1994, acting by a qualified majority on a proposal from the Commission and in co-operation with the European Parliament, specify definitions for the application of the prohibition referred to in this Article.*

ARTICLE 104 A

- 1. The Community shall not be liable for or assume the commitments of Central Governments, regional or local authorities, 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 or local authorities, 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 may, acting by a qualified majority on a proposal from the Commission and in co-operation with the European Parliament, specify definitions for the application of the prohibitions referred to in Article 104 and in this Article.*

ARTICLE 104 B

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 the budgetary discipline on the basis of the following two criteria:*
  - *whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value and, if so,*
    - *whether the ratio has not declined substantially and continuously and has not reached a level that comes close to the reference value;*
    - *or, alternatively whether the excess over the reference value is only exceptional and temporary and the deficit remains close to the reference value;*
  - *whether the ratio of government debt to gross domestic product exceeds a reference value, and if so, whether the ratio is not sufficiently diminishing and not approaching the reference value at a satisfactory pace.*

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

3. *If a Member State does not fulfil the requirements under one of these criteria, the Commission shall prepare a report. The report of the Commission shall also take into account whether the government deficit exceeds the 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 a risk exists of an excessive deficit in a Member State.*

4. *The Committee provided for in Article 109 B 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 its 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 follow-up to its recommendations within the period laid down, the Council may make its recommendations public.*
9. *In cases where a Member State persists in failing to put into practice the Council's recommendations, the Council may decide to give notice to the Member State concerned 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 cases, the Council may request the Member State concerned to submit reports in accordance with a specific time-table in order to examine the adjustment efforts of that Member State.*
10. *The rights to bring actions provided for in Article 169 and 170 may not be exercised within the framework of application 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 that the Member State concerned shall publish additional information, to be specified by the Council, before issuing bonds and securities;
  - to invite the EIB to reconsider its lending policy towards the Member State concerned;
  - to require that the Member State concerned makes 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 about the decisions taken.

12. The Council shall abrogate any or all of its decisions as referred to in paragraph 6 and following if, in the view of the Council, the excessive deficit in the Member State concerned has been corrected. If the Council previously has made public recommendations, it will, as soon as the decision has been abrogated, make a public statement that an excessive deficit in the Member State concerned no longer exists.
13. When taking the Council decisions referred to in paragraphs 7 and following, the Council shall act on a recommendation from the Commission by a majority of two thirds of the weighted votes of the Member States, excluding the votes 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 adopt, acting unanimously on a proposal from the Commission and after consulting the ECB, and the European Parliament, the appropriate provisions which shall then replace this 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 this Protocol.

**CHAPTER 2 : MONETARY POLICY**

**ARTICLE 105**

1. *The primary objective of the European System of Central Banks 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 3 A.*
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 109;*
  - *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 have the exclusive right to authorize the issue of bank-notes within the Community. The ECB and the national central banks may issue such notes. The bank-notes issued by the ECB and the national central banks shall be the only such notes to have legal tender status within the Community.*
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.*

ARTICLE 106

1. *The ESCB shall be composed of the European Central Bank (in this Treaty called "ECB") and of the central banks of the Member States (in this Treaty called "national central banks").*
2. *The ECB shall have legal personality.*
3. *The ESCB shall be governed by the decision-making bodies of the ECB. The decision-making bodies of the ECB are the Governing Council and the Executive Board. The Governing Council shall comprise the members of the Executive Board and the Governors of the national central banks.*
4. *The Statute of the ESCB and the ECB (in this Treaty called "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 by a qualified majority on a recommendation from the ECB and after consulting the Commission and after receiving the assent of the European Parliament, or, acting unanimously on a proposal from the Commission and after consulting the ECB and after receiving the assent of the European Parliament.*
6. *The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the ECB, or acting on a recommendation from the ECB and after consulting the Commission, and after consulting the European Parliament, adopt the provisions referred to in Articles 4.1, 5.4, 19, 20, 28.1, 29.2, 30.4 and 34.3 of the Statute of the ESCB.*
7. *In the performance of the tasks entrusted to the ESCB and under the conditions provided for in Article 34 of the Statute of the ESCB, the ECB shall adopt regulations, take decisions and issue recommendations or opinions. The ECB may publish its recommendations and opinions.*

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 and of the national central banks in the performance of their tasks.*

ARTICLE 108

**1. The ECB:**

- *shall be consulted regarding any proposed Community act within its fields of competence; within the limits and under the conditions set out by the Council under the procedure laid down in Article 106 paragraph 6 with respect to Article 4.1 of the Statute of the ESCB, the ECB shall be consulted by national authorities regarding any draft legislative provision within its fields of competence;*
- *may frame opinions for submission to the appropriate Community Institutions or bodies or national authorities on matters within its fields of competence.*

**2.** *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.*

**3.** *Member States may issue coins subject to ECB approval of the volume of the issue. The Council may, acting by a qualified majority on a proposal from the Commission and after consulting the ECB and in cooperation with the European Parliament, adopt measures to harmonize the denominations and technical specifications of all circulation coins to the extent necessary to permit a smooth circulation of coins within the Community.*

**4.** *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 109

- 1. The Council may, acting by unanimity 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 arrangement procedures of paragraph 3 conclude formal agreements on an exchange rate system for the ECU vis--vis 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 ECU central rates of the ECU within the exchange rate system. The President of the Council shall inform the European Parliament on the adoption, adjustment or abandonment of the ECU central rate.*
- 2. In the absence of an exchange rate system vis--vis one or more non-Community currencies as referred to in paragraph 1 of this Article, the Council may, acting by a qualified majority on a recommendation from the Commission and after consulting the ECB, on a recommendation from the ECB, formulate general orientations for exchange rate policy vis--vis these currencies. These general orientations shall be without prejudice to the primary objective of the ESCB to maintain price stability.*
- 3. By derogation from Article 228, in case agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Community with one or more States or international organizations, the Council, after consulting the ECB, shall, acting by a qualified majority on a recommendation from the Commission, 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 will be fully associated in the negotiations. Agreements concluded in accordance with this paragraph shall be binding on the ECB, on the institutions of the Community and on Member States.*



4. *Subject to paragraph 1 of this Article, the Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the ECB, decide on the position of the Community on the international level as regards issues of particular relevance to economic and monetary union and acting unanimously its representation in compliance with the allocation of powers laid down in Articles 103 and 105.*
5. *Without prejudice to Community competence and Community agreements as regards EMU, Member States may negotiate in international bodies and conclude international agreements.*



CHAPTER 3 : PROVISIONS GOVERNING THE INSTITUTIONS

ARTICLE 109 A

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; the latter may hold a general debate on that basis.*

*Furthermore, 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.*

4. *The President, the Vice-President and the other members of the Executive Board shall be appointed by common accord of the Governments of the Member States at the level of Heads of State or of Government, on a recommendation from the Council and after consulting the European Parliament and the Governing Council of the ECB, from among persons of recognized standing and professional experience in monetary or banking matters.*

*Their term of office shall be 8 years. The mandate shall not be renewable.*

ARTICLE 109 B

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 these institutions;
- without prejudice to Article 151, to contribute to the preparation of the work of the Council referred to in Articles 73 E, 73 F, 103 paragraphs 2, 3, 4 and 5, 103 A, 104 A, 104 B, 109 C paragraph 2, 109 D paragraph 6, 109 E bis, 109 F paragraph 2 and 109 G paragraph 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 of 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 of this Article shall cease to exist. The Economic and Financial Committee shall have the following tasks:

- to deliver opinions, at the request of the Council, the Commission, or on its own initiative, for submission to these 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 the Commission, in particular on financial relations with third countries and international institutions;
- without prejudice to Article 151, to contribute to the preparation of the work of the Council referred to in Articles 73 E, 73 F, 103 paragraphs 2, 3, 4 and 5, 103 A, 104 A, 104 B, 106 paragraphs 5

and 6, 108 paragraphs 3 and 4, 109, 109 E bis, 109 G paragraph 2, 109 H paragraphs 3 and 4, 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 of 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.

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 Committee. The President of the Council shall inform the European Parliament about the decision taken.

3. 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 Article 109 F and 109 G, 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 109 BB

For matters within the scope of Articles 103 paragraph 4, 104 B with the exception of paragraph 14, 109, 109 F, 109 G and 109 H paragraphs 3 and 4 the Council or a Member State may ask the Commission to make a recommendation or a proposal. The Commission examines this request and submits its conclusions to the Council without delay.

**CHAPTER 4 : TRANSITIONAL PROVISIONS**

**ARTICLE 109 C**

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 73 B, without prejudice to Article 73 D, and in Articles 104 and 104 AA;*
    - *adopt, if necessary, with a view to permitting the assessment provided for in paragraph 2 (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 completion of the implementation of Community law concerning the internal market.*
3. *The provisions of Articles 104, 104AA, 104 A paragraph 1 and 104 B excluding paragraphs 1, 9, 11 and 14 and 108 paragraph 2 shall apply from the beginning of the second stage. The provisions of Articles 103 A paragraph 2, 104 B paragraphs 1, 9 and 11, 105, 107, 108 paragraphs 1, 3 and 4, 109, 109 A and 109 B paragraphs 2 and 3 shall apply from the beginning of the third stage. Subject to Article 109 G paragraph 6, Article 109 E bis shall no longer apply from the beginning of the third stage.*
4. *In the second stage of EMU 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 the provisions of Article 108 paragraph 2.*

ARTICLE 109 D

1. At the start of the second stage, the European Monetary Institute (in this Treaty called "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, a Vice-president and the Governors of the Central Banks of the Member States. The President shall be appointed by common accord of the Governments of the Member States at the level of Heads of State or of Government, on a recommendation from, as the case may be, the Committee of Governors or the Council of the EMI, and after consulting the Council and the European Parliament. The President shall be selected from among persons of recognized 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 a Vice-President from among the Governors.

The Statute of the EMI is laid down in a Protocol annexed to this Treaty. The Committee of Governors of the Central Banks of the Member States shall be dissolved at the start of the second stage.

2. The EMI shall:
  - strengthen co-operation between the central banks of the Member States;
  - 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 central banks and affecting the stability of financial institutions and markets;
  - take over the tasks of the European Monetary Cooperation Fund, which shall cease to exist; the modalities are dealt with in the Statute of the EMI;
  - facilitate the use of the ECU and oversee the 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 conditions 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 in the framework of the ESCB;
- promote the efficiency of EC cross-border payments;
- supervise the technical preparation of ECU bank-notes.

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 may, acting by a qualified majority, formulate opinions, or recommendations on the overall orientation of monetary policy and exchange rate policy as well as on the respective measures introduced in each Member State. The EMI may express its 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. The EMI may also, acting by a qualified majority, make recommendations to the national monetary authorities of the Member States concerning the conduct of their monetary policy.
5. The EMI may, acting unanimously, 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 EMI and the European Parliament, 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 EMI and the European Parliament, confer upon the EMI other tasks for the preparation of the third stage.
8. In such cases where this Treaty provides for a consultative role for the ECB in the second stage, references to the ECB shall be read as referring to the EMI.
9. During the second stage, the term "European Central Bank" used in Articles 173, 175, 177, 180 and 215 shall be read as referring to the EMI.

ARTICLE 109 E

*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 the provisions of Article 109 H paragraph 3.*

ARTICLE 109 E bis

*Articles 108 and 109 of the EEC Treaty will in this Treaty be renumbered as Article 109 E bis paragraphs 1 and 2.*

ARTICLE 109 F

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 a Member State's national legislation, including the Statutes of its national central bank, and Articles 107 and 108 paragraph 2 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 of 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 budgetary positions without a government deficit that is excessive as determined in accordance with Article 104 B paragraph 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 any other Member State currency;*
- *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 period over which they are to be respected are elaborated 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 developments of unit labour costs and other price indices.*

2. *On the basis of these reports, the Council shall, acting by a qualified majority on a recommendation from the Commission, 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 fulfils 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 of Government. The European Parliament shall be consulted and forward its opinion to the Council, meeting in the composition of the Heads of State or of Government.

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

- decide on the basis of the recommendations of the Council referred to in paragraph 2, whether a majority of the Member States fulfils the necessary conditions for the adoption of a single currency;
- decide whether it is appropriate for the Community to enter the third stage of economic and monetary union,

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 will start on 1 January 1999. Before 1 July 1998, the Council, meeting in the composition of Heads of State or of 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 as 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 109 G

1. - *In the case that the decision has been taken to set the date in accordance with Article 109 F paragraph 3, the Council shall, on the basis of the recommendations of the Council as referred to in Article 109 F paragraph 2, acting by a qualified majority on a recommendation from the Commission, decide whether any, and if so, which Member States will need a derogation as defined in paragraph 3 of this Article. Such Member States will in this Treaty be called "Member States with a derogation".*
  - *In the case that the Council has confirmed which Member States fulfill the necessary conditions for the adoption of a single currency, in accordance with Article 109 F paragraph 4, those Member States that do not fulfill the conditions will need a derogation as defined in paragraph 3 of this Article. Such Member States will in this Treaty be called "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 following the procedure of Article 109 F paragraph 1. After consulting the European Parliament and after discussion in the Council, meeting in the composition of the Heads of State or of Government, the Council shall, acting by a qualified majority on a proposal from the Commission, decide which Member States with a derogation fulfill the necessary conditions based on the criteria set out in Article 109 F paragraph 1, and abrogate the derogations of the Member States concerned.*
3. *A derogation as referred to in paragraph 1 shall entail that the following Articles do not apply to the Member State concerned: Articles 104 B paragraphs 9 and 11, 105, 106 paragraph 7, 108 paragraph 3, 109 and 109 A paragraph 4. The exclusion of the rights and obligations within the ESCB is laid down in Chapter IX of the Statute of the ESCB.*
4. *In Articles 105, 108 paragraph 3, 109 and 109 A paragraph 4 "Member States" shall be read as "Member States without a derogation".*

5. *The voting rights of the 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 derogation from Article 149, qualified majority shall be defined as two thirds of the weighted votes of the Member States without a derogation and unanimity of those Member States shall be required for an act constituting an amendment to a proposal from the Commission.*
6. *The provisions of Article 109 E bis will remain valid for a Member State with a derogation.*

ARTICLE 109 H

1. *Immediately after the decision on the date for the beginning of the third stage has been taken in accordance with Article 109 F paragraph 3, or, as the case may be, immediately after 1 July 1998:*
  - *the Council shall adopt the provisions referred to in Article 106 paragraph 6;*
  - *the Governments of the Member States without a derogation shall appoint, according to 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 circumstance less than four.*

*As soon as the Executive Board has been appointed, the ESCB and the ECB are 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 will start from the first day of the third stage.*

2. *As soon as the ECB is established, the ECB will, if necessary, take over functions of the EMI. The EMI shall go into liquidation upon the establishment of the ECB; the modalities are dealt with in the Statute of the EMI.*
3. *If there are Member States with a derogation, and without prejudice to Article 106 paragraph 3 of this Treaty, the General Council will 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 will 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 109 G paragraph 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, including in the Member State concerned.*

**PROTOCOL ON THE STATUTE OF  
THE EUROPEAN SYSTEM OF CENTRAL BANKS  
AND OF  
THE EUROPEAN CENTRAL BANK**

**THE HIGH CONTRACTING PARTIES,**

**DESIRING to lay down the Statute of the European System of Central Banks and of the European Central Bank provided for in Article 4 A of this Treaty,**

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

**Chapter I - CONSTITUTION OF THE ESCB**

**Article 1 - The European System of Central Banks**

- 1.1 The European System of Central Banks (in the Statute called "ESCB") and the European Central Bank (in this Statute called "ECB"), shall be established in accordance with Article 4 A of this Treaty; they shall perform their functions and carry on their activities in accordance with the provisions of this Treaty and of this Statute.**
- 1.2 In accordance with Article 106 paragraph 1 of this Treaty, the ESCB shall be composed of the European Central Bank and of the central banks of the Member States (in this Statute called "national central banks").  
The Institut Monétaire Luxembourgeois will be the central bank of Luxembourg.**

Chapter 11 - OBJECTIVES AND TASKS OF THE ESCB

Article 2 - Objectives

*In accordance with Article 105 paragraph 1 of this Treaty, the primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, it 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 of this Treaty. 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 3 A of this Treaty.*

Article 3 - Tasks

- 3.1 *In accordance with Article 105 paragraph 2 of this Treaty, 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 109 of this Treaty;*
  - *to hold and manage the official foreign reserves of the Member States;*
  - *to promote the smooth operation of payment systems.*
- 3.2 *In accordance with Article 105 paragraph 3 of this Treaty, the third indent of paragraph 1 shall be without prejudice to the holding and management by the Governments of Member States of foreign exchange working balances.*
- 3.3 *In accordance with Article 105 paragraph 5 of this Treaty, 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.*

Article 4 - Advisory functions

- 4.1 In accordance with Article 108 paragraph 1 of this Treaty, the ECB:
- shall be consulted regarding any proposed Community act within its fields of competence; within the limits and under the conditions set out by the Council in accordance with the procedure of Article 42, the ECB shall be consulted by national authorities regarding any draft legislative provision within its fields of competence;
  - may frame opinions for submission to the appropriate Community Institutions or bodies or national authorities on matters within its fields of competence.
- 4.2 The ECB shall perform its functions as set out in Article 109 of this Treaty.

Article 5 - Collection of statistical information

- 5.1 In order to undertake the tasks of the ESCB, the ECB, assisted by the national central banks, shall collect the necessary statistical information either from the competent national authorities or directly from economic agents. For these purposes it shall co-operate with the Community Institutions or bodies and with the competent authorities of the Member States or third countries and with international organisations.
- 5.2 The national central banks shall carry out, to the extent possible, the tasks described in Article 5.1.
- 5.3 The ECB shall contribute to the harmonisation, where necessary, of the conditions governing the collection, compilation and distribution of statistics in the areas within its field of competence.
- 5.4 The Council, in accordance with the procedure laid down in Article 42, shall define the natural and legal persons subject to reporting requirements, the confidentiality regime and the appropriate provisions for enforcement.

Article 6 - International co-operation

- 6.1 *In the field of International co-operation involving the tasks entrusted to the ESCB, the ECB shall decide how the ESCB shall be represented.*
- 6.2 *The ECB and, subject to its approval, the national central banks may participate in International monetary institutions.*
- 6.3 *The provisions of paragraphs 1 and 2 shall be without prejudice to the provisions of Article 109 paragraph 4 of this Treaty.*



**CHAPTER III - ORGANISATION OF THE ESCB**

**Article 7 - Independence**

*In accordance with Article 107 of this Treaty, when exercising the powers and carrying out the tasks and duties conferred upon them by this Treaty and this Statute, 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 and of the national central banks in the performance of their tasks.*

**Article 8 - General principle**

*The ESCB shall be governed by the decision-making bodies of the ECB.*

**Article 9 - The European Central Bank**

- 9.1 The ECB which in accordance with Article 106 paragraph 2 of this Treaty shall have legal personality, shall enjoy in each of the Member States 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.*
- 9.2 The function of the ECB shall be to ensure that the tasks conferred upon the ESCB under Article 3 are implemented either by the ECB's activities pursuant to this Statute or through the national central banks pursuant to Articles 12.1 and 14.*
- 9.3 In accordance with Article 106 paragraph 3 of this Treaty, the decision-making bodies of the ECB are the Governing Council and the Executive Board.*

Article 10 - The Governing Council

- 10.1 In accordance with Article 106 paragraph 3 of this Treaty, the Governing Council shall comprise the members of the Executive Board and the Governors of the national central banks.
- 10.2 Subject to Article 10.3, only members of the Governing Council present in person shall have the right to vote. By derogation from this principle, the Rules of Procedure referred to in Article 12.3 may lay down that members of the Governing Council may cast their vote by means of teleconferencing. These rules shall also provide that a member of the Governing Council who is prevented from voting for a prolonged period may appoint an alternate as a member of the Governing Council.
- Subject to Articles 10.3 and 11.3 each member shall have one vote. Save as otherwise provided for in this Statute, the Governing Council shall act by a simple majority. In the event of a tie, the President shall have the casting vote.
- In order for the Governing Council to vote, there shall be a quorum of two-thirds of the members. If the quorum is not met, the President may convoke an extraordinary meeting at which decisions may be taken without regard to the quorum referred to above.
- 10.3 For any decisions to be taken under Articles 28, 29, 30, 32, 33 and 51, the votes in the Governing Council shall be weighted according to the national central banks' shares in the subscribed capital of the ECB. The weights of the members of the Executive Board shall be zero. A decision by a qualified majority shall be approved if the votes cast in favour represent at least two thirds of the subscribed capital of the ECB and represent at least half of the shareholders. If a Governor is unable to be present, he may nominate an alternate to cast his weighted vote.
- 10.4 The proceedings of the meetings shall be confidential. The Governing Council may decide to make the outcome of its deliberations public.
- 10.5 The Governing Council shall meet at least ten times a year.

Article 11 - The Executive Board

- 11.1 *The Executive Board shall comprise the President, the Vice-President and four other members.  
The members shall perform their duties on a full-time basis. No member shall engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Governing Council.*
- 11.2 *In accordance with Article 109 A paragraph 4 of this Treaty, the President, the Vice-President and the other Members of the Executive Board shall be appointed by common accord of the Governments of the Member States at the level of the Heads of State or of Government, on a recommendation from the Council after consulting the European Parliament and the Governing Council, from among persons of recognized standing and professional experience in monetary or banking matters. Their term of office shall be 8 years. The mandate shall not be renewable.  
Only nationals of Member States may be members of the Executive Board.*
- 11.3 *The terms and conditions of employment of the members of the Executive Board, in particular their salaries, pensions and other social security benefits shall be the subject of contracts with the ECB and shall be fixed by the Governing Council on a proposal of a Committee comprising three members appointed by the Governing Council and three members appointed by the Council. The members of the Executive Board shall not have the right to vote on matters referred to in this paragraph.*
- 11.4 *If a member of the Executive Board 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 Governing Council or the Executive Board, compulsorily retire him.*
- 11.5 *Each member of the Executive Board present in person shall have the right to vote and shall have, for that purpose, one vote. Save as otherwise provided, the Executive Board shall act by a simple majority of the votes cast. In the event of a tie, the President*

*shall have the casting vote. The voting arrangements will be specified in the Rules of Procedure referred to in Article 12.3.*

- 11.6 *The Executive Board shall be responsible for the current business of the ECB.*

*Article 12 - Responsibilities of the decision-making bodies*

- 12.1 *The Governing Council shall adopt the guidelines and take the decisions necessary to ensure the performance of the tasks entrusted to the ESCB under this Treaty and this Statute. The Governing Council shall formulate the monetary policy of the Community including, as appropriate, decisions relating to intermediate monetary objectives, key interest rates and the supply of reserves in the ESCB, and shall establish the necessary guidelines for their implementation.*

*The Executive Board shall implement monetary policy in accordance with the guidelines and decisions laid down by the Governing Council. In doing so the Executive Board shall give the necessary instructions to national central banks. In addition the Executive Board may have certain powers delegated to it where the Governing Council so decides.*

*To the extent deemed possible and appropriate and without prejudice to the provision of this Article, the ECB shall have recourse to the national central banks to carry out operations which form part of the ESCB's tasks.*

- 12.2 *The Executive Board shall have responsibility for the preparation of Governing Council meetings.*
- 12.3 *The Governing Council shall adopt Rules of Procedure which determine the internal organisation of the ECB and its decision-making bodies.*
- 12.4 *The Governing Council shall exercise the advisory functions referred to in Article 4.*
- 12.5 *The Governing Council shall take the decisions referred to in Article 6.*

Article 13 - The President

- 13.1 *The President, or, in his absence, the Vice-President shall chair the Governing Council and the Executive Board of the ECB.*
- 13.2 *Without prejudice to Article 39, the President or his nominee shall present the positions of the ECB externally.*

Article 14 - National central banks

- 14.1 *In accordance with Article 108 paragraph 2 of this Treaty, 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 this Statute.*
- 14.2 *The Statutes of the national central banks shall in particular provide that the term of office of a Governor of a national central bank shall be no less than 5 years.*

*The Governor may be relieved from office only if he no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct. A decision to this effect may be referred to the Court of Justice by the Governor concerned or the Governing Council.*

- 14.3 *The national central banks are an integral part of the ESCB and shall act in accordance with the guidelines and instructions of the ECB. The Governing Council shall take the necessary steps to ensure compliance with the guidelines and instructions of the ECB, and shall require that any necessary information be given to it.*
- 14.4 *National central banks may perform functions other than those specified in this Statute unless the Governing Council finds, by a majority of two-thirds of the votes cast, that these interfere with the objectives and tasks of the ESCB. Such functions shall be performed on the responsibility and liability of national central banks and shall not be regarded as being part of the ESCB.*

Article 15 - Reporting commitments

- 15.1 *The ECB shall draw up and publish reports on the activities of the ESCB at least quarterly.*
- 15.2 *A consolidated financial statement of the ESCB shall be published each week.*
- 15.3 *In accordance with Article 109 A paragraph 3 of this Treaty, the ECB shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and the current year to the European Parliament, the Council and the Commission, and also to the European Council.*
- 15.4 *The reports and statements referred to above shall be made available to interested parties free of charge.*

Article 16 - Notes

*In accordance with Article 105 paragraph 4 of this Treaty, the Governing Council shall have the exclusive right to authorize the issue of bank-notes within the Community. The ECB and the national central banks may issue such notes. The bank-notes issued by the ECB and the national central banks shall be the only such notes to have legal tender status within the Community. The ECB shall respect as far as possible existing practices regarding the issuing and design of bank-notes.*

**CHAPTER IV - MONETARY FUNCTIONS AND OPERATIONS OF THE ESCB**

**Article 17 - Accounts with the ECB and the national central banks**

*In order to conduct their operations, the ECB and the national central banks may open accounts for credit institutions, public entities and other market participants and accept assets including book-entry securities as collateral.*

**Article 18 - Open market and credit operations**

*18.1 In order to achieve the objectives of the ESCB and to carry out its tasks, the ECB and the national central banks may:*

- operate in the financial markets by buying and selling outright (spot and forward) or under repurchase agreement, by lending or borrowing claims and marketable instruments, whether in Community or in non-Community currencies, as well as precious metals;*
- conduct credit operations with credit institutions and other market participants, with lending being based on adequate collateral.*

*18.2 The ECB shall establish general principles for open market and credit operations carried out by itself or the national central banks including the announcement of conditions under which they stand ready to enter into such transactions.*

**Article 19 - Minimum reserves**

*19.1 Subject to Article 2, the ECB may require credit institutions established in Member States to hold minimum reserves on accounts with the ECB and national central banks in pursuance of monetary policy objectives. Regulations concerning the calculation and determination of the required minimum reserves may be established by the Governing Council. In cases of non-compliance the ECB shall be entitled to levy penalty interest and to impose other sanctions with comparable impact.*

*19.2 For the application of this Article, the Council shall, in accordance with the procedure laid down in Article 42, define the*

*basis for minimum reserves and the maximum permissible ratios between those reserves and their basis, as well as the appropriate sanctions in cases of non-compliance.*

Article 20 - Other Instruments of monetary control

*The Governing Council may, by a majority of two-thirds of the votes cast, decide upon the use of such other operational methods of monetary control as it sees fit respecting Articles 2 and 34. The Council shall, in accordance with the procedure laid down in Article 42, define the scope of such methods if they impose obligations on third parties.*

Article 21 - Operations with public entities

*21.1 In accordance with Article 104 of this Treaty, overdrafts or any other type of credit facility by the ECB or by the national central banks to Community institutions or bodies, Central Governments, regional or local authorities, public authorities, other bodies governed by public law, or public undertakings of Member States and the purchase directly from them of debt instruments shall be prohibited.*

*21.2 The ECB and national central banks may act as fiscal agents for the entities referred to in paragraph 1.*

*21.3 The provisions under this Article 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 22 - Clearing and payment systems

*The ECB and national central banks may provide facilities, and the ECB may issue ECB regulations to ensure efficient and sound clearing and payment systems within the Community and with other countries.*



Article 23 - External operations

The ECB and the national central banks may:

- establish relations with central banks and financial institutions in other countries and, where appropriate, with international organisations;
- acquire and sell spot and forward all types of foreign exchange assets and precious metals; the term "foreign exchange asset" shall include securities and all other assets in currency of any country or units of account and in whatever form held;
- hold and manage the assets defined above;
- conduct all types of banking transactions in relations with third countries and international organisations, including borrowing and lending operations.

Article 24 - Other operations

In addition to operations arising from their tasks, the ECB and the national central banks may enter into operations for their administrative purposes or for their staff.

**Chapter V - PRUDENTIAL SUPERVISION**

**Article 25 - Prudential supervision**

- 25.1** *The ECB may offer advice to and be consulted by the Council, the Commission and the competent authorities of the Member States on the scope and implementation of Community legislation relating to the prudential supervision of credit institutions and to the stability of the financial system.*
- 25.2** *In accordance with the Council decision referred to in Article 108 paragraph 4 of this Treaty, the ECB may fulfil specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.*

**CHAPTER VI - FINANCIAL PROVISIONS OF THE ESCB**

**Article 26 - Financial accounts**

- 26.1 *The financial year of the ECB and the national central banks shall begin on the first day of January and end on the last day of December.*
- 26.2 *The annual accounts of the ECB shall be drawn up by the Executive Board in accordance with the principles established by the Governing Council. The accounts shall be approved by the Governing Council and shall thereafter be published.*
- 26.3 *For analytical and operational purposes, the Executive Board shall draw up a consolidated balance sheet of the ESCB, comprising the assets and liabilities of the national central banks that fall within the ESCB.*
- 26.4 *For the applications of this Article, the Governing Council shall establish the necessary rules for standardising the accounting and reporting of operations undertaken by the national central banks.*

Article 27 - Auditing

- 27.1 The accounts of the ECB and the national central banks shall be audited by independent external auditors recommended by the Governing Council and approved by the Council. The auditors shall have full power to examine all books and accounts of the ECB and national central banks, and to be fully informed about their transactions.
- 27.2 The provisions of Article 206 A of this Treaty shall only apply to an examination of the operational efficiency of the management of the ECB.

Article 28 - Capital of the ECB

- 28.1 The capital of the ECB shall, becoming operational upon its establishment, be ECU 5.000 million. The capital may be increased by such amounts as may be decided by the Governing Council acting by the qualified majority provided for in Article 10.3, within the limits and under the conditions set by the Council under the procedure laid down in Article 42.
- 28.2 The national central banks shall be the sole subscribers to and holders of the capital of the ECB. The subscription of capital shall be according to the key established in accordance with Article 29.
- 28.3 The Governing Council, acting by the qualified majority provided for in Article 10.3, shall determine the extent to which and the form in which the capital shall be paid up.
- 28.4 Subject to Article 28.5, the shares of the national central banks in the subscribed capital of the ECB may not be transferred, pledged or attached.
- 28.5 If the key referred to in Article 29 is adjusted, the national central banks shall transfer among themselves capital shares to the extent necessary to ensure that the distribution of capital shares corresponds to the adjusted key. The Governing Council shall determine the terms and conditions of such transfers.

Article 29 - Key for capital subscription

29.1 When in accordance with the procedure mentioned in Article 109 H paragraph 1 of this Treaty the ESCB and the ECB have been established, the key for subscription of the ECB's capital shall be established. Each national central bank shall be assigned a weighting in this key which shall be equal to the sum of:

- 50% of the share of its respective Member State in the population of the Community in the penultimate year preceding the establishment of the ESCB;
- 50% of the share of its respective Member State in the gross domestic product at market prices of the Community as recorded in the last five years preceding the penultimate year before the establishment of the ESCB;

The percentages shall be rounded up by 0.05% points.

29.2 The statistical data to be used for the application of this Article laid down by the Commission in accordance with the rules adopted by the Council under the procedure provided for in Article 42.

29.3 The weightings assigned to the national central banks shall be adjusted every five years after the establishment of the ESCB in analogy to the provisions laid down in Article 29.1. The adjusted key shall apply with effect from the first day of the following year.

29.4 The Governing Council shall take all other measures necessary for the application of this Article.

Article 30 - Transfer of foreign reserve assets to the ECB

30.1 Without prejudice to the provisions of Article 28, the ECB shall be provided by the national central banks with foreign reserve assets, other than Member States' currencies, ECUs, IMF reserve positions and SDR's, up to an amount equivalent to ECU 50.000 million. The Governing Council shall decide upon the proportion to be called up by the ECB at the implementation of this Statute and the amounts called up at later dates. The ECB shall have the full right to hold and manage the foreign reserves that are transferred to it and to use them for the purposes set out in this Statute.

- 30.2 *The contributions of each national central bank shall be fixed in proportion with its share in the subscribed capital of the ECB.*
- 30.3 *Each national central bank shall be credited by the ECB with a claim equivalent to its contribution. The Governing Council shall determine the denomination and remuneration of such claims.*
- 30.4 *Further calls of foreign reserve assets beyond the limit set in Article 30.1 may be effected by the ECB, in accordance with the provision of Article 30.2, within the limits and under the conditions set by the Council in accordance with the procedure of Article 42.*
- 30.5 *The ECB may hold and manage IMF reserve positions and SDRs and provide for the pooling of such assets.*
- 30.6 *The Governing Council shall take all other measures necessary for the application of this Article.*

*Article 31 - Foreign reserve assets held by national central banks*

- 31.1 *The national central banks shall be allowed to perform transactions in fulfilment of the obligations towards international organisations in accordance with Article 23.*
- 31.2 *All other operations in foreign reserve assets remaining with the national central banks after the transfers referred to in Article 30, and Member States' transactions with foreign assets of the foreign exchange working balances shall, above a certain limit to be established through Article 31.3, be subject to approval by the ECB in order to ensure consistency with the exchange rate and monetary policies of the Community.*
- 31.3 *The Governing Council shall issue guidelines with a view to facilitating such operations.*

Article 32 - Allocation of monetary income of national central banks

- 32.1 The income accruing to the national central banks in the performance of the ESCB's monetary policy function (called hereafter "monetary income") shall be allocated at the end of each financial year in accordance with the provisions hereafter.
- 32.2 Subject to Article 32.3, the amount of each national central bank's monetary income shall be equal to its annual income derived from its assets held against notes in circulation and deposit liabilities vis--vis credit institutions. These assets shall be earmarked by national central banks in accordance with guidelines to be established by the Governing Council.
- 32.3 If following the entry into the third stage of EMU, in the judgement of the Governing Council, the balance sheet structures of the national central banks do not permit the application of Article 32.2, the Governing Council, acting by a qualified majority, may decide that, by way of derogation to Article 32.2, the monetary income shall be measured according to an alternative method for a period of not more than five years.
- 32.4 The amount of each national central bank's monetary income shall be reduced by an amount equivalent to any interest paid by that central bank on its deposit liabilities vis--vis credit institutions in accordance with Article 19.
- The Governing Council may decide that national central banks shall be indemnified for cost incurred in connection with the issuance of bank notes or in exceptional circumstances for specific losses arising from monetary policy operations undertaken for the ESCB. The indemnification shall be in the form deemed appropriate in the judgement of the Governing Council; these amounts may be offset against the national central banks' monetary income.
- 32.5 The sum of the national banks' monetary income shall be allocated to the national central banks in proportion to their paid up shares in the capital of the ECB, subject to any decision taken by the Governing Council pursuant to Article 33.2.
- 32.6 The clearing and settlement of the balances arising from the allocation of monetary income shall be carried out by the ECB in

accordance with the guidelines established by the Governing Council.

32.7 The Governing Council shall take all other measures necessary for the application of this Article.

Article 33 - Allocation of net profits and losses of the ECB

33.1 The net profit of the ECB shall be transferred in the following order:

- (a) an amount to be determined by the Governing Council, which may not exceed 20% of the net profit, shall be transferred to the general reserve fund within the limit of 100% of the capital;
- (b) the remaining net profit shall be distributed to the shareholders of ECB in proportion to their subscribed shares.

33.2 In the event of a loss incurred by the ECB, the shortfall may be offset against the general reserve fund of the ECB and, if necessary, following a decision by the Governing Council, against the monetary income of the financial year concerned in proportion and up to the amounts allocated to the national central banks in accordance with Article 32.5.



Chapter VII - GENERAL PROVISIONS

Article 34 - Legal acts

34.1 In accordance with Article 106 paragraph 7 of this Treaty, the ECB shall:

- Issue ECB recommendations and ECB opinions;
- take, under the conditions laid down in this Statute, ECB decisions necessary for carrying out the tasks entrusted to the ESCB under this Treaty and this Statute;
- adopt, under the conditions laid down in this Statute, ECB regulations to the extent necessary to implement the tasks defined in Article 3.1 first indent, Articles 19, 22 or 25.2 and in cases which shall be laid down in the acts of the Council referred to in Article 42.

The ECB may publish its recommendations and opinions.

34.2 An ECB decision shall be binding in its entirety upon those to whom it is addressed.

An ECB regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States. ECB recommendations and ECB opinions shall have no binding force.

Articles 190 to 192 of this Treaty shall apply in all respects to ECB regulations and ECB decisions.

34.3 Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 42, the ECB shall be entitled to impose fines and periodic penalty payments on undertakings for failures to comply with obligations with respect to ECB regulations adopted and ECB decisions taken on the basis of this Statute.

Article 35 - Judicial control and related matters

- 35.1 *The acts or omissions of the ECB shall be open to review or interpretation by the Court of Justice under the conditions laid down for the legal control of the acts or omissions of Community Institutions. The ECB may, within its field of competence, institute proceedings in accordance with the provisions of Articles 173 to 178 and Article 184 of this Treaty.*
- 35.2 *Disputes between the ECB, on the one hand, and its creditors, debtors or any other person, on the other, shall be decided by the competent national courts, save where jurisdiction has been conferred upon the Court of Justice.*
- 35.3 *The ECB shall be subject to the liability regime as provided for in Article 215 of this Treaty. The national central banks shall be liable according to their respective national law.*
- 35.4 *The Court of Justice shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by or on behalf of the ECB, whether that contract be governed by public or private law.*
- 35.5 *The decision of the ECB to bring an action before the Court of Justice shall be taken by the Governing Council.*
- 35.6 *The Court of Justice shall have jurisdiction in disputes concerning the fulfilment by a national central bank of obligations under this Statute. If the ECB considers that a national central bank has failed to fulfil an obligation under this Statute, it may bring the matter before the Court of Justice. It shall deliver a reasoned opinion on the matter after giving the national central bank concerned the opportunity to submit its observations. If the national central bank concerned does not comply with the opinion within the period laid down by the ECB, the latter may bring the matter before the Court of Justice.*

Article 36 - Staff

36.1 The Governing Council, on a proposal from the Executive Board, shall lay down the conditions of employment of the staff of the ECB.

36.2 The Court of First Instance shall have jurisdiction in any dispute between the ECB and its servants within the limits and under the conditions laid down in the conditions of employment.

Article 37 - Seat

Before the end of 1992, the decision where the Seat of the ECB will be established shall be taken by common accord of the Governments of the Member States at the level of Heads of State or of Governments.

Article 38 - Professional secrecy

38.1 Members of the governing bodies and the staff of the ECB and the national central banks shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

38.2 Persons having access to data covered by specific secrecy Community legislation shall be subject to such legislation.

Article 39 - Signatories

The ECB shall be legally committed vis--vis third parties by the President or by two members of the Executive Board or by the signatures of two members of the staff of the ECB who have been duly authorized by the President to sign on behalf of the ECB.

Articles 40 - Privileges and Immunities

The ECB 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 on the privileges and immunities of the European Communities annexed to the Treaty establishing a Single Council and a Single Commission of the European Communities.

**CHAPTER VIII - AMENDMENT OF THE STATUTE AND COMPLEMENTARY LEGISLATION**

**Article 41 - Simplified amendment procedure**

41.1 In accordance with Article 106 paragraph 5 of this Treaty, 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 this Statute may be amended by the Council, acting by a qualified majority on a recommendation from the ECB and after consulting the Commission and after receiving the assent of the European Parliament, or, acting unanimously on a proposal from the Commission and after consulting the ECB and after receiving the assent of the European Parliament.

41.2 A recommendation made by the ECB under this Article shall require a unanimous decision by the Governing Council.

**Article 42 - Complementary legislation**

In accordance with Article 106 paragraph 6 of this Treaty, immediately after the decision on the date for the beginning of the third stage the Council shall:

- acting by a qualified majority on a proposal from the Commission and after consulting the ECB, or, acting on a recommendation from the ECB and after consulting the Commission and after consulting the European Parliament, adopt the provisions referred to in Articles 4.1, 5.4, 19, 20, 28.1, 29, 2, 30.4 and 34.3 of this Statute.

**CHAPTER IX - TRANSITIONAL AND OTHER PROVISIONS FOR THE ESCB**

**Article 43 - General provisions**

- 43.1 A derogation as referred to in Article 109 G paragraph 1 of this Treaty shall entail that the following Articles of this Statute shall not bestow any rights or obligations on the Member State concerned: 3, 4.2, 6, 9.2, 12.1, 14.3, 16, 18, 19, 20, 22, 23, 26.2, 27, 30, 31, 32, 33, 34 and 52.
- 43.2 The central banks of Member States with a derogation as specified in Article 109 G paragraph 1 of this Treaty shall retain their powers in the field of monetary policy according to national law.
- 43.3 In accordance with Article 109 G paragraph 4 of this Treaty, "Member States" shall be read as "Member States without a derogation" in the following Articles of this Statute: 3, 11.2, 19, and 34.2.
- 43.4 "National central banks" shall be read as "central banks of Member States without a derogation" in the following Articles of this Statute: 9.2, 10.1, 10.3, 12.1, 16, 17, 18, 22, 23, 27, 30, 31, 32 and 52.

**Article 44 - Transitional tasks of the ECB**

The ECB shall take over those tasks of the EMI that because of the derogations of one or more Member States still have to be fulfilled in the third stage.

The ECB shall give advice in the preparation for the abrogation of the derogations specified in Article 109 G of this Treaty.

**Article 45 - The General Council of the ECB**

- 45.1 Without prejudice to Article 106 paragraph 3 of this Treaty, the General Council will be constituted as a third decision-making body of the ECB.
- 45.2 The General Council shall comprise the President and Vice-President of the ECB and the Governors of the central banks of the Member States. The other members of the Executive Board may participate,

*without having the right to vote, in meetings of the General Council.*

*45.3 The responsibilities of the General Council are listed in full in Article 47 of this Statute.*

*Article 46 - Rules of procedure of the General Council*

*46.1 The President, or, in his absence, the Vice-President of the ECB shall chair the General Council of the ECB.*

*46.2 The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the General Council.*

*46.3 The President shall prepare the meetings of the General Council.*

*46.4 The General Council shall adopt its Rules of Procedure.*

*46.5 The Secretariat of the General Council shall be provided by the ECB.*

*47 - Responsibilities of the General Council*

*47.1 The General Council shall:*

- perform the tasks referred to in Article 44;*
- contribute to the advisory functions referred to in Articles 4.1 and 25.1.*

*47.2 The General Council shall contribute to the:*

- collection of statistical information as referred to in Article 5 of this Statute;*
- reporting activities of the ECB as referred to in Article 15 of this Statute;*
- establishment of the necessary rules for the applications of Article 26 as referred to in Article 26.4;*
- taking all other measures necessary for the application of Article 29 as referred to in Article 29.4;*
- laying down the conditions of employment of the staff of the ECB as referred to in Article 36.*

47.3 The General Council shall contribute to the necessary preparations for the irrevocably fixing of the exchange rates of the currencies of Member States with a derogation against the currencies, or the single currency, of the Member States without a derogation.

47.4 The General Council shall be informed by the President of the ECB on decisions of the Governing Council.

Article 48 - Transitional provisions for the capital of the ECB

In accordance with Article 29.1 each national central bank will be assigned a weighting in the key for subscription of the ECB's capital. By derogation from Article 28.3, central banks of Member States with a derogation shall not pay up their subscribed capital unless the General Council, acting by a qualified majority as defined in Article 10.3, decides that a minimal percentage has to be paid up for covering the operational costs of the ECB.

Article 49 - Deferred payment of capital, reserves and provisions of the ECB

49.1 A central bank of a Member State whose derogation has been abrogated, shall pay up its subscribed share of the capital of the ECB to the same extent as the other central banks of Member States without a derogation, and shall transfer to the ECB foreign reserve assets in accordance with Article 30.1. The sum to be transferred shall be determined by multiplying the ECU value at current exchange rates of the foreign reserve assets which have hitherto been transferred to the ECB in accordance with Article 30.1, by the ratio between the number of shares subscribed by the national central bank concerned and the numbers of shares already subscribed by the other national central banks.

49.2 In addition to the payment to be made in accordance with paragraph 1, the central bank concerned shall contribute to the reserves of the ECB, to those provisions equivalent to reserves, and to the amount still to be appropriated to the reserves and provisions corresponding to the balance of the profit and loss account as at 31st December of the year prior to the subscription of its share in the capital of the ECB. The sum to be contributed shall be determined by multiplying the amount of the reserves, as defined above and as stated in the approved balance sheet of the ECB, by the ratio between the number of shares subscribed by the central

bank concerned and the number of shares already subscribed by the other central banks.

Article 50 - Initial appointment of the members of the Executive Board

When the Executive Board of the ECB is being established, the President, the Vice-President and the other members of the Executive Board shall be appointed by common accord of the Governments of the Member States at the level of Heads of State or of Government, on a recommendation from the Council and after consulting the European Parliament and the Council of the EMI. The President of the Executive Board shall be appointed for 8 years. By derogation from Article 11.2 of this Statute and Article 109 A paragraph 4 of this Treaty, the Vice-President shall be appointed for 4 years and the other members of the Executive Board for a term of office of between 5 and 8 years, and the EMI instead of the Governing Council shall be consulted. The mandate shall not be renewable. The number of members of the Executive Board may be smaller than provided for in Article 11.1 of this Statute, but in no circumstance less than four.

Article 51 - Derogation from Article 32

51.1 If, after the start of the third stage of EMU, the Governing Council, acting by a qualified majority, decides that the application of Article 32 of this Statute results in significant changes in national central banks' relative income positions, the amount of income to be allocated pursuant to Article 32 shall be reduced by a uniform percentage which shall not exceed 60% in the first financial year after the start of the third stage of EMU and which shall decrease by at least 12 percentage points in each subsequent financial year.

51.2 Article 51.1 shall be applicable for not more than five full financial years after the start of the third stage of EMU.

Article 52 - Exchange of bank-notes in Community currencies

Following the irrevocably fixing of exchange rates, the Governing Council shall take the necessary measures to ensure that bank-notes denominated in currencies with irrevocable fixed exchange rates are exchanged by the national central banks at their respective par values.



Article 53 - Applicability of the transitional provisions

If and as long as there are Member States with a derogation Articles 43 up to and including 48 will be applicable.

**PROTOCOL ON THE STATUTE OF  
THE EUROPEAN MONETARY INSTITUTE**

*THE HIGH CONTRACTING PARTIES,*

*DESIRING to lay down the Statute of the European Monetary Institute,*

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

*Article 1 - Constitution and name*

- 1.1 The European Monetary Institute (In this Statute called "EMI"), shall be established in accordance with Article 109 D of this Treaty; it shall perform its functions and carry out its activities in accordance with the provisions of this Treaty and of this Statute.*
- 1.2 The members of the EMI shall be the central banks of the Member States (In this Statute called "national central banks"). For the purpose of this Statute, the Institut Monétaire Luxembourgeois shall be regarded as the central bank of Luxembourg.*
- 1.3 Pursuant to Article 109 D of this Treaty, the Committee of Governors shall be dissolved and the European Monetary Co-operation Fund (In this Statute called "EMCF") shall cease to exist. All assets and liabilities of the EMCF shall pass on automatically and in their entirety to the EMI.*

*Article 2 - Objectives*

*The EMI shall contribute to the realization of the conditions necessary for the transition to the third stage of EMU, in particular by:*

- strengthening the co-ordination of monetary policies with a view to ensuring price stability;*
- making the preparations required for the conduct of a single monetary policy in the third stage of EMU and for the establishment of the ESCB and the creation of a single currency;*
- overseeing the development of the ECU.*

Article 3 - General principles

- 3.1 The EMI shall carry out the tasks and functions conferred upon it by this Treaty and this Statute without prejudice to the responsibility of the competent authorities for the conduct of the monetary policy within the respective Member States.
- 3.2 The EMI shall act in accordance with the objectives and principles stated in Article 2 of the Statute of the European System of Central Banks (in this Statute called "ESCB") and the European Central Bank (in this Statute called "ECB").

Article 4 - Primary tasks

- 4.1 In accordance with Article 109 D paragraph 2 of this Treaty, the EMI shall:
- strengthen co-operation between the national central banks of the Member States;
  - strengthen the co-ordination of the monetary policies of the Member States with the aim of ensuring price stability;
  - monitor the functioning of the European Monetary System (in this Statute called "EMS");
  - 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 EMCF; in particular it shall perform the functions referred to in Articles 6.1, 6.2 and 6.3;
  - facilitate the use of the ECU and oversee the development, including the smooth functioning, of the ECU clearing system;
  - hold regular consultations concerning the course of monetary policies and the use of monetary policy instruments;
  - normally be consulted by the national monetary authorities before they take decisions on the course of monetary policy in the context of the common framework for ex ante coordination.
- 4.2 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 of EMU, respecting the principle of an open economy with free competition. This framework shall be submitted for decision to the ECB at the beginning of the third stage.

*In accordance with Article 109 D paragraph 3 of this Treaty, it shall in particular:*

- prepare the instruments and the procedures necessary for carrying out a single monetary policy in the third stage;*
- promote the harmonization, where necessary, of the conditions 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 in the framework of the ESCB;*
- promote the efficiency of EC cross-border payments consistent with the requirements of the third stage;*
- supervise the technical preparation of ECU bank-notes.*

*Article 5 - Advisory functions*

- 5.1 In accordance with Article 109 D paragraph 4 of this Treaty, the Council of the EMI may formulate opinions and recommendations on the overall orientation of monetary policy and exchange rate policy as well as on the respective measures introduced in each Member State. The EMI may express opinions and recommendations to Governments and to the Council on policies which might affect the internal and external monetary situation in the Community and, in particular, the functioning of the EMS.*
- 5.2 The Council of the EMI may also make recommendations to the national monetary authorities concerning the conduct of their monetary policy.*
- 5.3 In accordance with Article 109 D paragraph 6 of this Treaty, 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 Council of the EMI, or acting on a recommendation from the Council of the EMI and after consulting the Commission, and in cooperation with the European Parliament, the EMI shall be consulted by the authorities of the Member States on any draft legislative provision within its field of competence, in particular with regard to Article 4.2.*
- 5.4 In accordance with Article 109 D paragraph 5 of this Treaty, the EMI may publish its opinions and its recommendations.*

Article 6 - Operational and technical functions

6.1 The EMI shall:

- provide for the multilateralisation of positions resulting from interventions by the national central banks in Community currencies and the multilateralisation of Intra-Community settlements;
- administer the very short-term financing mechanism provided for by the Agreement between the central banks of the Community of 13th March 1979 and the short-term monetary support mechanism provided for in the Agreement between the central banks of the Community of 9th February 1970, as amended;
- perform the functions referred to in Article 11 of Council Regulation (EEC) No 1969/88 of 24th June 1988 establishing a single facility providing medium-term financial assistance for Member States' balances of payments.

6.2 The EMI may receive monetary reserves from the national central banks and issue ECUs against such assets for the purpose of implementing the EMS agreements. These ECUs may be used by the EMI and the national central banks as a means of settlement and for transactions between them and the EMI. The EMI shall take the necessary administrative measures for the implementation of this paragraph.

6.3 The EMI may grant to the monetary authorities of third countries and to international monetary institutions the status of "Other Holders" of ECUs and fix the terms and conditions under which such ECUs may be acquired, held and used by Other Holders.

6.4 EMI shall be entitled to hold and manage foreign exchange reserves as an agent for and at the request of national central banks. Profits and losses regarding these reserves shall be for the account of the national central bank depositing the reserves. The EMI shall perform this function on the basis of bilateral contracts. In accordance with rules laid down in a decision adopted by the Council of the EMI, acting by qualified majority of two-thirds of the members of the Council of the EMI. These rules shall ensure that transactions with these reserves shall not interfere with the monetary policy and exchange rate policy of the competent monetary authority of any Member State and shall be

consistent with the objectives of the EMI and the proper functioning of the ERM of the EMS.

Article 7 - Other tasks

- 7.1 Once a year the EMI shall address a report to the Council on the state of the preparation for the third stage of EMU. These reports shall include an assessment of the progress towards convergence in the Community, and cover in particular the adaptation of monetary policy instruments and the preparation of the procedures necessary for carrying out a single monetary policy in the third stage of EMU as well as the statutory requirements to be fulfilled for central banks to become an integral part of the ESCB.
- 7.2 In accordance with the Council decisions referred to in Article 109 D paragraph 7 of this Treaty, the EMI may fulfil other tasks for the preparation of the third stage of EMU.

Article 8 - Independence

The members of the Council of the EMI who are the representatives of their institutions shall act, with respect to their activities, according to their own responsibilities. In exercising the powers and performing the tasks and duties conferred upon them by this Treaty and this Statute, the Council of the EMI may not seek or take any instructions from Community institutions or bodies or Governments of Member States. The Community institutions and bodies as well as the Governments of the Member States undertake to respect this principle and not to seek to influence the Council of the EMI in the performance of its tasks.

Article 9 - Administration

- 9.1 In accordance with Article 109 D paragraph 1 of this Treaty, the EMI shall be directed and managed by the Council of the EMI.
- 9.2 The Council of the EMI shall comprise the President, Vice-President and the Governors of the national central banks. If a Governor is unable to attend a meeting he may nominate another representative of his Institution.
- 9.3 The President shall be appointed for a period of three years, by common accord of the Governments of the Member States at the level of Heads of State or of Government on a recommendation from, as the case may be, the Committee of Governors or the Council of the EMI and after consulting the Council and the European Parliament. The President shall be selected from among persons of recognized standing and professional experience in monetary or banking matters. Only nationals of Member States may be President of the EMI. The Governors shall appoint a Vice-President from among themselves for a period of three years.
- 9.4 The President shall perform their duties on a full-time basis. He shall not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council of the EMI.
- 9.5 The President shall:
- prepare and chair the meetings of the Council of the EMI;
  - present without prejudice to Article 22 the views of the EMI externally;
  - be responsible for the day-to-day management of the EMI.
- In the absence of the President, his duties shall be performed by the Vice-President.
- 9.6 The terms and conditions of employment of the President, in particular his salary, pension and other social security benefits, shall be the subject of contracts with the EMI and shall be fixed by the Council of the EMI on a proposal from a Committee comprising three members appointed by the Council of the EMI and three members appointed by the Council. The President shall not have the right to vote on matters referred to in this paragraph.

- 9.7 *If the President no longer fulfills 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 of the EMI, compulsorily retire him.*
- 9.8 *The Rules of Procedure of the EMI shall be adopted by the Council of the EMI.*

Article 10 - Meetings of the Council of the EMI and voting procedures

- 10.1 *The Council of the EMI shall meet at least ten times a year. The proceedings of the meeting shall be confidential. The Council of the EMI may, acting unanimously, decide to make the outcome of its deliberations public.*
- 10.2 *Each member of the Council of the EMI or his nominee shall have one vote.*
- 10.3 *Save as otherwise provided for in this Statute, the Council of the EMI shall act by a simple majority of its members.*
- 10.4 *Decisions to be taken in the context of Articles 4.2, 5.4, 6.2 and 6.3 shall require unanimity among the members of the Council of the EMI. The adoption of opinions and recommendations in the context of Article 5.1 and 5.2 and the adoption of guidelines as referred to in Article 15.3 shall require a qualified majority of two-thirds of the members of the Council of the EMI.*

Article 11 - Inter-institutional co-operation and reporting requirements

- 11.1 *The President of the Council and a member of the Commission may participate, without having the right to vote, in meetings of the Council of the EMI.*
- 11.2 *The President of the EMI shall be invited to participate in Council meetings when the Council is discussing matters relating to the objectives and tasks of the EMI.*
- 11.3 *At a date to be established in the Rules of Procedure, the EMI shall prepare an annual report on its activities and on the monetary and financial conditions in the Community. The annual report, together with the annual accounts of the EMI, shall be*



addressed to the Council, the European Parliament and the Commission and also to the European Council.

The President of the EMI may, at the request of the European Parliament or on his own initiative, be heard by the competent Committees of the European Parliament.

11.4 Reports published by the EMI shall be made available to interested parties free of charge.

Article 12 - Currency denomination

The operations of the EMI shall be expressed in ECU.

Article 13 - Seat

Before the end of 1992, the decision where the Seat of the EMI will be established shall be taken by common accord of the Governments of the Member States at the level of Heads of State or of Governments.

Article 14 - Legal capacity

The EMI, which in accordance with Article 109 D paragraph 1 of this Treaty shall have legal personality, shall enjoy in each of the Member States the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable or immovable property and may be a party to legal proceedings.

Article 15 - Legal acts

15.1 In the performance of its tasks, and under the conditions laid down in this Statute, the EMI shall:

- deliver EMI opinions;
- make EMI recommendations;
- take EMI decisions and adopt EMI guidelines which shall be addressed to the national central banks.

15.2 Opinions and recommendations of the EMI shall have no binding force.

15.3 The Council of the EMI may adopt guidelines laying down the methods for the implementation of the conditions necessary for the ESCB to perform its functions in the third stage of EMU. EMI guidelines

shall have no binding force; they shall be submitted for decision to the ECB.

- 15.4 Without prejudice to Article 3.1, a decision of the EMI shall be binding in its entirety upon those to whom it is addressed. Articles 190 and 191 of this Treaty shall apply in all respects to EMI decisions.

Article 16 - Financial resources

- 16.1 The EMI shall be endowed with its own resources. The size of the resources of the EMI shall be determined by the Council of the EMI, acting by a qualified majority, with a view to ensuring an income deemed necessary to cover the administrative expenditure incurred in the performance of the tasks and functions of the EMI.
- 16.2 The resources of the EMI determined in accordance with Article 16.1 shall be formed out of contributions by the national central banks in accordance with the key as referred to in Article 29 of the Statute of the ESCB and paid up at the establishment of the EMI.
- 16.3 The Council of the EMI, acting by a qualified majority of two-thirds of the Members, shall determine the form in which contributions shall be paid up.

Article 17 - Annual accounts and auditing

- 17.1 The financial year of the EMI shall begin on the first day of January and end on the last day of December.
- 17.2 The Council of the EMI shall adopt an annual budget before the beginning of each financial year.
- 17.3 The annual accounts shall be drawn up in accordance with the principles established by the Council of the EMI. The annual accounts shall be approved by the Council of the EMI and shall thereafter be published.
- 17.4 The annual accounts shall be audited by independent external auditors approved by the Council of the EMI. The auditors shall have full power to examine all books and accounts of the EMI and be fully informed about its transactions. The provisions of

*Article 206 A of this Treaty shall only apply to an examination of the operational efficiency of the management of the EMI.*

- 17.5 A surplus of the EMI shall be transferred in the following order:*
- a. an amount to be determined by the Council of the EMI shall be transferred to the general reserve fund of the EMI;*
  - b. the remaining surplus shall be distributed to the contributors of the EMI in accordance with the key as referred to in Article 16.2.*
- 17.6 In the event of a loss incurred by the EMI, the shortfall shall be offset against the general reserve fund of the EMI. A remaining shortfall shall be made good by contributions from the national central banks, in accordance with the key as referred to in Article 16.2.*

*Article 18 - Staff*

- 18.1 The Council of the EMI shall lay down the conditions of employment of the staff of the EMI.*
- 18.2 The Court of First Instance shall have jurisdiction in any dispute between the EMI and its servants within the limits and under the conditions laid down in the conditions of employment.*

*Article 19 - Judicial control and related matters*

- 19.1 The acts or omissions of the EMI shall be open to review or interpretation by the Court of Justice under the conditions laid down for the legal control of the acts or omissions of Community Institutions. The EMI may, within its field of competence, institute proceedings under the same conditions as the ECB. Articles 173 to 178 and Article 184 of this Treaty shall be applicable accordingly.*
- 19.2 Disputes between the EMI, on the one hand, and its creditors, debtors or any other person, on the other, shall fall within the jurisdiction of the competent national courts, save where jurisdiction has been conferred upon the Court of Justice.*
- 19.3 The EMI shall be subject to the liability regime as provided for in Article 215 of this Treaty.*

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

19.5 The decision of the EMI to bring an action before the Court of Justice shall be taken by the Council of the EMI.

Article 20 - Professional secrecy

20.1 Members of the Council of the EMI and the staff of the EMI shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

20.2 Persons having access to data covered by specific secrecy Community legislation shall be subject to such legislation.

Article 21 - Privileges and Immunities

The EMI 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 on the privileges and immunities of the European Communities annexed to the Treaty establishing a Single Council and a Single Commission of the European Communities.

Article 22 - Signatories

The EMI shall be legally committed vis--vis third parties by the President or the Vice-President or by the signatures of two members of the staff of the EMI who have been duly authorized by the President to sign on behalf of the EMI.

Article 23 - Liquidation of the EMI

23.1 In accordance with Article 109 H of this Treaty, the EMI shall go into liquidation on the establishment of the ECB. The liquidation shall be terminated by the beginning of the third stage of EMU.

23.2 The mechanism for the creation of ECUs against gold and US dollars as provided for by Article 17 of the EMS Agreement shall be unwound

by the first day of the third stage of EMU in accordance with the provisions of Article 20 of the said Agreement.

- 23.3 All claims and liabilities arising from the very short-term financing mechanism and the short-term monetary support mechanism, as provided for by the Agreements referred to in Article 6.1, shall be settled by the first day of the third stage of EMU.
- 23.4 All remaining assets of the EMI shall be disposed of and all remaining liabilities of the EMI shall be settled.
- 23.5 The proceeds of the liquidation described in Article 22.4 shall be distributed to the national central banks in accordance with the key as referred to in Article 16.2.
- 23.6 The Council of the EMI shall, acting by a qualified majority of two-thirds of the Members, take the measures necessary for the application of Articles 23.4 and 23.5.
- 23.7 Upon the establishment of the ECB, the President of the EMI shall retire from office.

**PROTOCOL  
ON THE EXCESSIVE-DEFICIT PROCEDURE**

**THE HIGH CONTRACTING PARTIES,**

**DESIRING to lay down the details of the excessive-deficit procedure as referred to in Article 104 B of this Treaty,**

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

**Article 1**

**The reference values referred to in Article 104 B paragraph 2 of this Treaty are:**

- **3 % for the ratio of the planned or actual government deficit to gross domestic product at market prices.**
- **60 % for the ratio of government debt to gross domestic product at market prices.**

**Article 2**

**In Article 104 B of this Treaty and in this protocol:**

- **Government means General Government, that is Central Government, regional or local government and social security funds, to the exclusion of commercial operations as defined in the European System of Integrated Economic Accounts;**
- **Deficit means net lending, as defined in the European System of Integrated Economic Accounts;**
- **Investment means gross fixed capital formation as defined in the European System of Integrated Economic Accounts;**
- **Debt means total gross debt at nominal value outstanding at the end of the year and consolidated between and within the sectors of general government as defined in this Article.**

Article 3

*In order to ensure the effectiveness of the excessive-deficit procedure the Governments of the Member States shall be responsible under this procedure for the deficits of General Government as referred to in Article 2 of this Protocol. The Member States shall ensure that national procedures in the budgetary area enable them to meet their obligations in this area deriving from this Treaty. The Member States shall report their planned and actual deficits and the levels of their debt promptly and regularly to the Commission.*

Article 4

*Revenues from non-interest bearing deposits and fines imposed under Article 104 B paragraph 11 of this Treaty shall be treated as ordinary revenue of the European Economic Community and shall be inscribed in the general budget of the Communities.*

Article 5

*The statistical data to be used for the application of this protocol shall be provided by the Commission.*

PROTOCOL  
ON THE CONVERGENCE CRITERIA AS MENTIONED IN  
ARTICLE 109 F OF THIS TREATY

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the details of the convergence criteria which shall guide the Community in the decision making on the passage to the third stage of economic and monetary union, as referred to in Article 109 F paragraph 1 of this Treaty,

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

Article 1

The criterion on price stability as mentioned in Article 109 F paragraph 1 first indent of this Treaty shall mean that a Member State has a price performance that is sustainable and an average rate of inflation, observed over a period of one year before the examination, that does not exceed that of at most the three best performing Member States in terms of price stability by more than 1 1/2 percentage points. Inflation shall be measured by means of the consumer price index (CPI) on a comparable basis, taking into account differences in national definitions.

Article 2

The criterion on the government budgetary position as mentioned in Article 109 F paragraph 1 second indent of this Treaty means that at the time of the examination the Member State is not the subject of a Council decision as referred to in Article 104 B paragraph 6 of this Treaty that an excessive deficit exists for the Member State concerned.

Article 3

The criterion on participation in the Exchange Rate Mechanism of the European Monetary System as mentioned in Article 109 F paragraph 1 third indent of this Treaty shall mean that a Member State has respected the normal fluctuation margins provided for by the Exchange Rate Mechanism of



*the European Monetary System without severe tensions for at least the last two years before the examination. In particular the Member State shall not have devalued its currency's bilateral central rate against any other Member State's currency on its own initiative for the same period.*

Article 4

*The criterion on the convergence of interest rates as mentioned in Article 109 F paragraph 1 fourth indent of this Treaty shall mean that observed over a period of one year before the examination a Member State has an average nominal long-term interest rate that does not exceed that of at most the three best performing Member States in terms of price stability by more than 2 percentage points. Interest rates shall be measured on the basis of long term Government bonds or comparable securities, taking into account differences in national definitions.*

Article 5

*The statistical data to be used for the application of this protocol shall be provided by the Commission.*

Article 6

*The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the EMI or ECB and the Committee referred to in Article 109 B of this Treaty, adopt the appropriate provisions to lay down the details of the convergence criteria as mentioned in article 109 F of this Treaty which shall then replace this Protocol.*

**PROTOCOL  
ON THE PRIVILEGES AND IMMUNITIES OF THE  
EUROPEAN CENTRAL BANK AND THE  
EUROPEAN MONETARY INSTITUTE**

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 40 of the Statute of the European System of Central Banks and of the European Central Bank and in accordance with Article 21 of the Statute of the European Monetary Institute, the European Central Bank and the European Monetary Institute shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

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

Article 1

The Protocol on the Privileges and Immunities of the European Communities, annexed to the Treaty establishing a Single Council and a Single Commission of the European Communities, shall be supplemented by the following provisions:

"Article 23

This Protocol shall also apply to the European Central Bank, to the members of its organs, to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

The provisions above shall also apply to the European Monetary Institute. Its dissolution or liquidation shall not give rise to any imposition."

**PROTOCOL  
ON  
DENMARK**

**THE HIGH CONTRACTING PARTIES**

**DESIRING to settle certain particular problems relating to Denmark,**

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

**The provisions of Article 14 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank shall not affect the right of the National Bank of Denmark to carry out its existing tasks concerning those parts of the Kingdom of Denmark which are not part of the Community.**

**PROTOCOL  
ON  
PORTUGAL**

**THE HIGH CONTRACTING PARTIES,**

**DESIRING to settle certain particular problems relating to Portugal,**

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

- 1. Portugal is hereby authorized to maintain the facility conferred to the Autonomous Regions of Aores and Madeira to benefit from an interest-free credit facility with the Banco de Portugal under the terms established by existing Portuguese law.**
- 2. Portugal commits itself to pursue its best endeavours in order to put an end to the above said facility as soon as possible.**

**PROTOCOL  
ON THE TRANSITION TO THE THIRD STAGE OF  
ECONOMIC AND MONETARY UNION**

**THE HIGH CONTRACTING PARTIES,**

**Declare the irreversible character of the Community's movement to the third stage by signing the new Treaty provisions on Economic and Monetary Union.**

**Therefore all Member States shall, whether they fulfill the necessary conditions for the adoption of a single currency or not, respect the will for the Community to enter swiftly into the third stage of Economic and Monetary Union, and therefore no Member State shall prevent the entering into the third stage.**

**If by the end of 1997 the date of the beginning of the third stage has not been set, the Member States concerned, the Community institutions and other bodies involved, shall expedite all preparatory work during 1998, in order to enable the Community to enter the third stage irrevocably on 1 January 1999 and to enable the ECB and the ESCB to start their full functioning from this date on.**

**PROTOCOL  
ON CERTAIN PROVISIONS RELATING TO  
THE UNITED KINGDOM**

**THE HIGH CONTRACTING PARTIES,**

**RECOGNISING** that the United Kingdom shall not be obliged or committed to move to the third stage of economic and monetary union without a separate decision to do so by its government and Parliament,

**NOTING** the practice of the government of the United Kingdom to fund its borrowing requirement by the sale of debt to the private sector,

**HAVE AGREED** the following provisions, which shall be annexed to the EEC Treaty:

1. The United Kingdom shall notify the Council whether it intends to move to the third stage of economic and monetary union before the Council makes its assessment under Article 109 F paragraph 2 of the EEC Treaty.
2. Unless the United Kingdom notifies the Council that it intends to move to the third stage, it shall be under no obligation to do so.

*If no date is set for the beginning of the third stage under Article 109 F paragraph 3 of the EEC Treaty the United Kingdom may notify its intention to move to the third stage before 1 January 1998.*

*Articles 3 to 9 of this Protocol shall have effect if the United Kingdom notifies the Council that it does not intend to move to the third stage.*

3. The United Kingdom shall not be included among the majority of Member States which fulfil the necessary conditions mentioned in Article 109 F paragraph 2, second indent and paragraph 3, first indent of the EEC Treaty.
4. The United Kingdom shall retain its powers in the field of monetary policy according to national law.

5. *Articles 3 A paragraph 2, 104 B paragraphs 1, 9 and 11, 105, 106 paragraph 3, 106 paragraph 7, 107, 108 paragraphs 1-3, 109, 109 A paragraph 4 and 109 H paragraphs 4-5 of the EEC Treaty shall not apply to the United Kingdom. In these provisions references to the Community or the Member States shall not include the United Kingdom and references to national central banks shall not include the Bank of England.*
6. *Articles 109 C paragraph 4 and 109 E bis of the EEC Treaty shall continue to apply to the United Kingdom. Article 109 B paragraph 3 shall apply to the United Kingdom as if it had a derogation.*
7. *The voting rights of the United Kingdom shall be suspended in respect of acts of the Council referred to in the Articles listed in Article 5 of this Protocol. For this purpose the weighted votes of the United Kingdom shall be excluded from any calculation of a qualified majority under Article 109 G paragraph 5 of the EEC Treaty.*

*The United Kingdom shall also have no right to participate in the appointment of the President, the Vice-President and the other members of the Executive Board of the ECB under Articles 109 A and 109 H paragraph 1 of the EEC Treaty.*

8. *Articles 3, 4, 6, 7, 9.2, 10.1, 10.3, 11.2, 12.1, 14, 16, 18-20, 22, 23, 26, 27, 30-34 and 52 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank (hereinafter called "the Statute") shall not apply to the United Kingdom. In those Articles references to the Community or the Member States shall not include the United Kingdom and references to national central banks shall not include the Bank of England.*
9. *Articles 44 to 48 of the Statute shall have effect, whether or not there is any Member State with a derogation, subject to the following amendments:*
  - (a) *References in Article 44 to the tasks of the ECB and the EMI shall include those tasks that still need to be fulfilled in the third stage due to any decision of the United Kingdom not to move to that stage.*

*(b) In addition to the tasks referred to in Article 47 the ECB shall also give advice in relation to and contribute to the preparation of any decision of the Council with regard to the United Kingdom taken in accordance with Articles 10(a) and 10(c) of this Protocol.*

*(c) The Bank of England shall pay up its subscription to the capital of the ECB to cover its operational costs on the same basis as national central banks of Member States with a derogation.*

*10. If the United Kingdom does not move to the third stage, it may change its notification at any time after the beginning of that stage. In that event:*

*(a) The United Kingdom shall have the right to move to the third stage provided only that it satisfies the necessary conditions. The Council, acting at the request of the United Kingdom and under the conditions and in accordance with the procedure laid down in Article 109 G paragraph 2 of the EEC Treaty, shall decide whether it fulfils or continues to fulfil the necessary conditions.*

*(b) The Bank of England shall pay up its subscribed capital, transfer to the ECB foreign reserve assets and contribute to its reserves on the same basis as the national central bank of a Member State whose derogation has been abrogated.*

*(c) The Council, acting under the conditions and in accordance with the procedure laid down in Article 109 H paragraph 5 of the EEC Treaty, shall take all other necessary decisions to enable the United Kingdom to move to the third stage.*

*If the United Kingdom moves to the third stage pursuant to the provisions of this Article, Articles 3 to 9 of this Protocol shall cease to have effect.*

*11. Notwithstanding the provisions of Articles 104 and 109 C paragraph 3 of the EEC Treaty and Article 21.1 of the Statute, the government of the United Kingdom may maintain its Ways and Means facility with the Bank of England if and so long as the United Kingdom does not move to the third stage.*



**PROTOCOL  
ON CERTAIN PROVISIONS RELATING TO  
DENMARK**

**THE HIGH CONTRACTING PARTIES,**

**DESIRING to settle, in accordance with the general objectives of this Treaty certain particular problems existing at the present time;**

**taking into account that,**

**The Danish Constitution contains provision which may imply a referendum in Denmark prior to Danish participation in the third stage of Economic and Monetary Union,**

**HAVE AGREED on the following provisions which shall be annexed to this Treaty:**

- 1. The Danish Government shall notify the Council of its position concerning participation in the third stage of the Economic and Monetary Union, before the Council makes its assessment under Article 109 F paragraph 2 of this Treaty.**
- 2. In case of a notification that Denmark will not participate in the third stage, Denmark shall have an exemption. The effect of the exemption is that all articles and provisions of the Treaty and the Statute of the ESCB referring to a derogation shall be applicable to Denmark.**
- 3. In such case, Denmark shall not be included among the majority of Member States which fulfil the necessary conditions mentioned in Article 109 F paragraph 2, second indent and paragraph 3, first indent of the EEC Treaty.**
- 4. As for the abrogation of the exemption, the procedure referred to in Article 109G, paragraph 2 shall only be initiated at the request of Denmark.**
- 5. In case of abrogation of the exemption status, the provisions of this Protocol shall no longer be applicable.**

**PROTOCOL  
ON  
FRANCE**

**THE HIGH CONTRACTING PARTIES,**

**DESIRING to take into account a particular point relating to France,**

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

**France will keep the privilege of monetary emission in its overseas territories under the terms established by its national laws, and will be solely entitled to determine the parity of the CFP franc.**

**DECLARATION  
ON TITLE III AND VI OF THE EC TREATY**

*The Conference affirms that the Council referred to in Part Three Title III Chapter 4 on capital and payments and Part Three Title VI on Economic and Monetary Policy of the EC Treaty is considered to be the Council in the composition of Economic and Finance Ministers.*

**DECLARATION  
ON TITLE VI OF THE EC TREATY**

*The Conference affirms that the President of the European Council shall invite the Economic and Finance Ministers to participate in European Council meetings when the European Council is discussing matters relating to the EMU.*

**DECLARATION ON MONETARY COOPERATION  
WITH NON-COMMUNITY COUNTRIES**

*The Conference affirms that the Community shall aim to contribute to stable international monetary relations. To this end the Community shall be prepared to cooperate with other European countries and with such non-European countries with which the Community has close economic ties.*

**DECLARATION ON MONETARY RELATIONS WITH  
SAN MARINO, VATICAN CITY AND MONACO**

*The Conference agrees that the existing monetary relations between Italy and San Marino and Vatican City and between France and Monaco remain unaffected by this Treaty until the introduction of the Ecu as the single currency of the Community.*

*The Community undertakes to facilitate such renegotiations of existing arrangements as might become necessary due to the introduction of the ECU as a single currency.*

**DECLARATION ON ARTICLE 73 C**

*The Conference affirms that the right of Member States to apply the relevant provisions of their tax law as referred to in Article 73 C paragraph 1.a of this Treaty will apply only with respect to their relevant provisions which exist at the end of 1993.*





Le 10 décembre 1991

Déclaration des Etats membres de  
l'Union de l'Europe occidentale faite à  
l'occasion de la 46ème réunion du Conseil européen,  
tenue les 9 et 10 décembre 1991 à Maastricht

Les Etats membres de l'UEO se félicitent du développement de l'identité européenne de sécurité et de défense. Ils sont résolus, compte tenu du rôle de l'UEO en tant que composante de défense de l'Union européenne et en tant que moyen de renforcer le pilier européen de l'Alliance atlantique, d'asseoir les relations existant entre l'UEO et les autres Etats européens sur une nouvelle base, au nom de la stabilité et de la sécurité en Europe. Dans cet esprit, ils proposent ce qui suit :

Les Etats qui sont membres de l'Union européenne sont invités à adhérer à l'UEO aux conditions qui seront convenues conformément à l'article XI du Traité de Bruxelles modifié ou à devenir observateurs s'ils le souhaitent. Simultanément, les autres Etats européens membres de l'OTAN sont invités à devenir membres associés de l'UEO d'une manière qui leur permette de participer pleinement aux activités de l'UEO.

Les Etats membres de l'UEO partent du principe que les traités et les accords correspondant aux propositions ci-dessus seront conclus avant le 31 décembre 1992.

