

## **Draft treaty modifying the treaty on the European Union and the treaty establishing the European community**

NB: the present document is no more than a working document to be examined by the ICG. The cross-references between articles which appear between square brackets will be, as usual, corrected by jurists/linguists when the text of the reforming treaty is prepared for signature.

### **Article 1**

The treaty on the European Union shall be modified according to the arrangements of this article.

### **Preamble**

1) In the preamble, the words "of this treaty" shall be replaced by "of the treaties" and the following text shall be inserted as a secondary reference:

"Inspired by Europe's cultural, religious and humanist heritage, from which have developed the universal values constituted by the inviolable and inalienable rights of the person, as well as liberty, democracy, equality and the rule of law;"

### **General Measures**

2) Article 1 shall be modified as follows:

- a) The following article heading shall be inserted "Establishment of the Union";
- b) The following phrase shall be added to the end of the first sub-paragraph:  
"... to which the member states ascribe competencies to attain their common objectives"
- c) The third paragraph is replaced by the following text:

"the Union is founded on the present treaty and on the treaty on the functioning of the European Union. It substitutes and succeeds the European Community."

3) An article 2 shall be inserted, with the existing article 2 becoming 3:

"Article 2: the values of the union

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

4) Article 2, renamed 3, is replaced by the following text:  
"Article 3: objectives of the Union

1. The Union's aim is to promote peace, its values and the well-being of its peoples.

2. The Union offers its citizens a space of liberty, security and justice without internal barriers, at the heart of which is the guaranteed free movement of people, in connection with appropriate measures in the domain of control of external borders, of asylum, immigration and the prevention of and fight against crime.

3. The Union establishes an internal market. It works for the sustainable development of a Europe founded on balanced economic growth and on price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment.

It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

4. The Union establishes an economic and monetary union whose currency is the euro.

5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the treaties."

**5)** Article 3, renamed 4, is replaced by the following text:

"Article 4: relations between the union and member states

1. In accordance with article [I-11], any competence not accorded to the Union belongs to member states.

2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self

government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each member state.

3. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the treaties.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

**6)** Article 4, renamed 5, is replaced by the following text:

“Article 5: fundamental principles relative to competencies

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.

2. Under the principle of conferral, the Union shall act within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out in the Treaties. Competences not conferred upon the Union in the Treaties remain with the Member States.

3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

**7)** Article 5 is repealed

**8)** Article 6 is replaced by the following text:

“Article 6: fundamental rights

1. The Union recognises the rights, freedoms and principles contained in the Charter of Fundamental Rights of 7 December 2000, as adapted [... 2007], which has the same juridical value as the treaties.

The arrangements of the Charter in no way extend the competencies of the Union as defined by the treaties.

The rights, freedoms and principles contained in the Charter shall be interpreted according to the general arrangements of title VII of the Charter governing the interpretation and application of the latter, with due consideration of the explanations contained in the Charter, which indicate the sources of those provisions.

2. The Union shall adhere to the European Convention of Human Rights. This adhesion shall not modify the competencies of the Union as defined in the treaties.

3. The fundamental rights, as guaranteed by the European Convention on Human rights and fundamental liberties, and as resulting from the constitutional traditions common to member states, form part of Union law as general principles.”

**9)** Article 7 shall be modified as follows:

a) The following article heading is inserted “Suspension of certain rights resulting from membership of the Union”;

b) throughout the article, the words “assent” shall be replaced by “approval”, the reference to violation of “principles contained in article 6, paragraph 1” shall be replaced by reference to violation of “the values mentioned in article [I-2]” and the words “of the this treaty” shall be replaced by “of the treaties”.

c) In paragraph 1, sub-paragraph 1, first phrase, the words “... and to address to that State the appropriate recommendations” are deleted; in the last sentence, the words “... and, acting in accordance with the same procedure, may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question” are replaced by “... and, acting in accordance with the same procedure, may address recommendations to that State.”;

d) in paragraph 2, the words “the Council, meeting in the composition of heads of state or government and acting by unanimity...” are replaced by “the European Council, acting by unanimity...” and the words “... the government of that state...” are replaced by “... that state...”;

e) Paragraphs 5 and 6 are replaced by the following text:

“5. The voting system which, for the purposes of the present article, shall apply to the European Parliament, the European Council and to the Council, is determined in article [309] of the treaty on the functioning of the Union.”

**10)** The following new article 7b is inserted:

“Article 7b: the Union and its neighbours

1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.

2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

**11)** The provisions of title II of the treaty on the European Union shall be incorporated in the treaty establishing the European Community.

### **Democratic principles**

**12)** Title II and article 8 shall be replaced by the following new heading and articles:

“Title II Measures relating to democratic principles”

Article 8: The principle of democratic equality

“In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.”

Article 8A: principle of representative democracy

1. the functioning of the Union shall be founded on representative democracy
2. Citizens are directly represented, at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

Article 8B: principle of participatory democracy

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.

2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.
3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.
4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the treaties.

The procedures and conditions required for such a citizens' initiative are determined in accordance with article [I-41(4)(last sentence)] of the treaty on the functioning of the Union.

#### Article 8C: the role of national parliaments

National parliaments shall contribute actively to the good functioning of the Union:

- a) by being informed by the institutions of the Union and by receiving notification of draft European legislative acts in accordance with the protocol on the role of national parliaments;
- b) by ensuring respect of the subsidiarity principle in accordance with the procedures contained in the protocol on the application of the principles of subsidiarity and proportionality
- c) by participating, within the framework of the area of freedom, security and justice, in the evaluation mechanisms provided for in article [III-260] of the treaty on the functioning of the Union; and by being associated with the political control of Europol and the evaluation of the activities of Eurojust, in accordance with articles [III-276 and III 273] of the same treaty;
- d) by taking part in the treaty revision procedures, in accordance with articles [IV-443 and IV-444] of the present treaty;
- e) by being informed of requests for accession to the Union, in accordance with article [I-58] of the present treaty;
- f) by participating in the inter-parliamentary co-operation between national parliaments and the European Parliament, in accordance with the protocol on the role of national parliaments."

#### **Institutions**

**13)** The provisions of Title II and the EU treaty are repealed. Title II is replaced by the following new title:

“Title III  
Provisions relating to the institutions”

**14)** Article 9 is replaced by the following text:

“Article 9  
The institutions of the Union

1. The Union shall have at its disposal an institutional framework aiming to promote its values, pursue its objectives, serve its interests and those of its citizens, and those of the member states, so as to ensure the coherence, efficiency and continuity of its policies and actions.

The Union's institutions are:

- the European Parliament
  - The European Council
  - The Council
  - The European Commission (hereafter “Commission”)
  - The Court of Justice of the European Union
  - The European Central Bank
  - The European Court of Auditors
2. Each institution shall act within the limits of the powers conferred on it in the treaties, and in conformity with the procedures and conditions set out in them. The institutions shall practice a loyal cooperation between them.
  3. The provisions relating to the European Central Bank and the Court of Auditors shall feature in the treaty on the functioning of the Union.”

**15)** An Article 9 A is inserted:

“Article 9 A  
The European Parliament

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the treaties. It shall elect the President of the Commission.
2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.

3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.

4. The European Parliament shall elect its President and its officers from among its members.

**16)** An article 9 B is inserted:

“Article 9 B

The European Council and its President

1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.

2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.

3. The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.

4. Except where the treaties provide otherwise, decisions of the European Council shall be taken by consensus.

5. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.

6. The President of the European Council:

(a) shall chair it and drive forward its work;

(b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;

(c) shall endeavour to facilitate cohesion and consensus within the European Council;

(d) shall present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.

The President of the European Council shall not hold a national office.



17) An article 9 C is inserted:

“Article 9 C

The Council, its President and the definition of qualified majority

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the treaties.

2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.

3. The Council shall act by a qualified majority except where the treaties provide otherwise.

4. From 1 November 2014, a qualified majority shall be defined as at least 55% of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65% of the population of the Union.

A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

Other arrangements governing qualified majority voting are laid out in Article I-25 (2) of the treaty on the functioning of the Union.

5. The provisional arrangements relative to the definition of a qualified majority which are applicable until 31 October 2014, as well as those which will be applicable between 1 November 2014 and 31 March 2017, are laid out in the protocol on provisional arrangements.

6. The Council shall sit in different configurations, a list of which shall be adopted in conformity with article [I-24(4) and (7)] of the treaty on the functioning of the Union.

The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

8. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in

accordance with the conditions laid down in article [I-24(4) and (7)] of the treaty on the functioning of the Union.

**18)** An article 9 D is inserted:

“Article 9 D

The European Commission and its President

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the treaties, and measures adopted by the institutions pursuant to these. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down by the treaties. With the exception of the common foreign and security policy, and other cases provided for in the treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the treaties provide otherwise.

Other acts shall be adopted on the basis of a Commission proposal where the treaties so provide.

3. The Commission's term of office shall be five years.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article I-28(2), the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

4. The Commission appointed between the date of entry into force of the treaty modifying the Treaty on European Union and the treaty establishing the European Community and the 31 October 2014, shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security policy, who shall be one of its Vice-Presidents.

5. From 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be selected from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established by the European Council acting unanimously and in conformity with article [I-26(6)(a) and (b)] of the treaty on the functioning of the Union.

6. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article III-340, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign and Security Policy shall resign from the duties that he or she carries out in the Commission.

7. The President of the Commission shall:

(a) lay down guidelines within which the Commission is to work;

(b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;

(c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article I-28(1), if the President so requests.

8. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in paragraph 3, second subparagraph, and in paragraph 5, second subparagraph.

The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

**19)** The following new article 9 E is inserted:

“Article 9 E

The High Representative of the Union for Foreign Affairs and Security Policy

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his or her term of office by the same procedure.

2. The High Representative shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that

policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.

3. The High Representative shall preside over the Foreign Affairs Council.

4. The High Representative shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.

**20)** A article 9 F is inserted:

“Article 9 F

The Court of Justice of the European Union

1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

2. The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General.

The General Court shall include at least one judge per Member State.

The judges and the Advocates-General of the Court of Justice and the judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles III-355 and III-356. They shall be appointed by common accord of the governments of the Member States for six years. Retiring judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall in accordance with the treaties:

(a) rule on actions brought by a Member State, an institution or a natural or legal person;

(b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;

(c) rule in other cases provided for by the treaties.

**21)** The arrangements in Title IV of the EU treaty are incorporated in the treaty establishing the European atomic energy community.

### **Enhanced cooperation**

- 22)** Title IV takes up the heading of title VII, which becomes “Arrangements on enhanced cooperation” and articles 27 A to 27 E, 40 to 40 B and 43 to 45 are replaced by the following article 10:

“Article 10

Enhanced cooperation

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the treaties, subject to the limits and in accordance with the procedures laid down in this Article and in Articles III-416 to III-423 of the treaty on the functioning of the Union.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article III-418 of the treaty on the functioning of the Union.

2. The Decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article III-419 of the treaty on the functioning of the EU.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting arrangements are laid down in article I-44(3) of the treaty on the functioning of the Union.

4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the *acquis* which has to be accepted by candidate States for accession to the Union.

- 23)** The wording of title V of the EU treaty is replaced by the following wording:  
“General provisions relating to the external action of the Union and specific provisions concerning the common foreign and security policy”.

#### **General provisions relating to external action**

- 24)** The following new chapter is inserted:

“Chapter 1

General provisions relating to the external action of the Union

Article 10 A

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of

equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;
- (g) assist populations, countries and regions confronting natural or man-made disasters;
- (h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and by the fifth part of the treaty on the functioning of the Union, as well as the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.

#### Article 10 B

1. On the basis of the principles and objectives set out in Article III-292, the European Council shall identify the strategic interests and objectives of the Union.

Decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.

The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. Decisions of the European Council shall be implemented in accordance with the procedures provided for in the treaties.

2. The High Representative of the Union for Foreign Affairs and Security Policy, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council.

### **Common foreign and security policy**

**25)** the following heading is inserted:

“Chapter 2: specific provisions concerning the common foreign and security policy”

**26)** the new article 10C is inserted:

“Article 10C

The action of the Union on the international scene, under the title of the present chapter, shall be guided by the principles, shall pursue the objectives and shall be executed in accordance with the general provisions referred to in chapter 1.”

**27)** Article 11 is modified as follows:

a) paragraph 1 is replaced by the following two paragraphs:

“1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

The common foreign and security policy is subject to specific procedures. It is defined and put into effect by the European Council and the Council, acting by unanimity, except in those cases where the treaties state otherwise, and the adoption of legislative acts is excluded. This policy is executed by the High Representative of the Union for Foreign Affairs and Security Policy and by the member states, in accordance with the treaties. The specific roles of the European parliament and of the Commission in this area are defined by the treaties. The Court of Justice of the European Union is not competent regarding provisions in this area, except for its competence to ensure respect for article [III-308] of the present treaty and to ensure the legality of certain decisions referred to in article [III-376, second sub-paragraph] of the treaty for the functioning of the Union.

2. The Union shall conduct, define and execute a common foreign and security policy based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.

b) paragraph 2, renamed 3, is modified as follows:

(i) in the first sub-paragraph, the following words are added at the end:

“... and respect the action of the Union in this area.”

(ii) the third sub-paragraph is replaced by “the Council and the High Representative ensure respect for these principles.”

**28)** article 12 is replaced by the following text:

“the Union shall conduct its common foreign and security policy:

a) by defining general guidelines;

b) by adopting decisions defining:

(i) actions to be taken by the Union

(ii) positions to be taken by the Union

(iii) arrangements for the implementation of decisions referred to in points i) and ii);

c) and by strengthening systematic cooperation between Member States in the conduct of policy.

**29)** article 13 is modified as follows:

(a) in paragraph 1, the words “... define the principles of and the general guidelines...” shall be replaced with “... identify the Union’s strategic interests, determine the objectives and define the general guidelines...” and the following phrase is added: “it adopts the necessary decisions.”; the following sub-paragraph is added:

“If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.”

(b) paragraph 2 is deleted and paragraph 3 is renamed 2. The first sub-paragraph is replaced by the following text: “the Council shall frame the common foreign and security policy and adopt the decisions necessary for defining and implementing that policy, on the basis of general guidelines and strategic lines defined by the European Council.” The second sub-paragraph is deleted.

(c) the following new paragraph is added:

“3.”The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by the Member States, using



national and Union resources.”

**30)** the following new article 13b is inserted:

“Article 13b

1. The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through his or her proposals towards the preparation of the common foreign and security policy and shall ensure implementation of the Decisions adopted by the European Council and the Council.

2. In fulfilling his or her mandate, the High Representative of the Union for Foreign Affairs and Security Policy shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy after consulting the European Parliament and after obtaining the consent of the Commission.

**31)** article 14 is modified as follows:

a) in paragraph 1, the first two sentences are replaced by the following sentence: “when an international situation demands operational action by the Union, the Council shall adopt the necessary decisions.”;

b) in paragraph 2, first sentence, the words “... to joint action” are replaced by “... to such a decision,” and the word “action” is replaced with “decision”. The final sentence is deleted.

c) in paragraph 3, the words “... joint actions” are replaced by “... decisions set out in paragraph 1...”;

d) paragraph 4 is deleted and the paragraphs which follow are consequently renumbered ;

e) in paragraph 5, renumbered 4, first sentence, the words “...pursuant to a joint action, information shall be provided in time to allow” are replaced by “... pursuant to a decision as set out in paragraph 1, information shall be provided by the member state concerned in time to allow...”;

f) in paragraph 6, renumbered 5, first sentence, the words “...failing a Council decision,” are replaced by “...failing a revision of the decision of the council as set out in paragraph 1,” and the words “... of the joint action” are replaced by “of the said decision.”

g) in paragraph 7, renumbered 6, first sentence, the words “joint action” are replaced by “decision set out in this article”.

**32)** In article 15, the words at the start: “the Council shall adopt common positions. Common positions shall define...” are replaced by “the Council shall adopt decisions which define...” and the last words “common positions” are replaced by “positions of the Union.”

**33)** the text of article 16 becomes article 17b, with the modifications below in point 35). It is replaced by a text which takes up the wording of article 22, with the following modifications:

a) in paragraph 1, the words “any member state or the Commission may refer to the Council...” are replaced by “any member state, the High Representative of the Union for Foreign Affairs and Security Policy, or the High Representative with the support of the Commission may refer to the Council...” and the words “...submit proposals...” are replaced by “... submit, respectively, initiatives or proposals...”.

b) in paragraph 2, the words “the presidency... shall convene...” are replaced by “the High Representative of the Union for Foreign and Security Policy... shall convene” and the words “or at the request of the Commission or a member state” are replaced by “or at the request of a member state.”

**34)** the text of article 17 becomes article 27, with the modifications below in point 48). It is replaced by a text which takes up the wording of article 23, with the following modifications:

a) in paragraph 1, the first sub-paragraph is replaced by the following text: “the decisions under this title shall be taken by the European Council and by the Council acting unanimously. The adoption of legislative acts is excluded” and the final sentence of the second sub-paragraph is replaced with the following text: “If the members of the Council qualifying their abstention in this way represent at least a third of member states encompassing at least a third of the population of the Union, the decision shall not be adopted.”;

b) paragraph 2 is modified as follows:

i) the first dash is replaced by the following two dashes:

“ – when adopting decisions defining a Union action or position on the basis of a decision of the European Council concerning the interests and strategic objectives of the Union, set out in article [III-293, paragraph 1];

– when adopting decisions defining a Union action or position on the basis of a proposal of the High Representative of the Union for Foreign Affairs and Security Policy presented following a specific request to him or her from the European Council, made on its own initiative or that of the High Representative;”

ii) in the second dash, now the third dash, the words “... joint action or a common position” are replaced by “... a decision defining a Union action or position.”;

iii) in the second sub-paragraph, first sentence, the word “important” is replaced by “vital”; the last sentence is replaced by the following text: “the High Representative shall investigate, in close consultation with the member state concerned, an acceptable solution to it. If he or she does not succeed, the Council, acting under qualified majority, may ask that the question be referred to the European Council for a decision by unanimity.”;

iv) the third sub-paragraph is replaced by the following new paragraph 3, the last sub-paragraph is numbered 4 and paragraph 3 is renumbered 5.

“3. the European Council may, unanimously, adopt a decision allowing the Council to act by qualified majority in cases other than those set out in paragraph 2 of the present article.”

c) in paragraph number 4, the words “this paragraph shall not apply...” are replaced by “paragraphs 2 and 3 shall not apply...” and paragraph 3 is renumbered ‘5’.

**35)** an article 17b is inserted, which takes up the wording of article 16; it is modified as follows:

(a) the words “... shall inform... one another...” are deleted, the words “the Council” are replaced by “the European Council and the Council” and the words “...in order to ensure that the Union’s influence is exerted as effectively as possible by means of concerted and convergent action” are replaced by “... in order to determine a common approach.”

b) the following text is added after the first sentence: “Before undertaking any action on the international scene or any commitment which could affect the Union’s interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.”;

c) the following two sub-paragraphs are inserted:

“When the European Council or the Council has defined a common approach of the Union within the meaning of the first paragraph, High Representative of the Union for Foreign Affairs and Security Policy and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach.”

**36)** article 18 is modified as follows:

a) paragraphs 1 to 4 are deleted

b) in paragraph 5, which remains without a number, the words “..., whenever it deems it necessary,...” are replaced with “..., on the proposal of the High Representative of the

Union for Foreign Affairs and Security Policy,...” and the following sentence is added at the end: “the special representative shall exercise his mandate under the authority of the high representative.”

**37)** article 19 is modified as follows:

a) in paragraph 1, the words “...common positions” are replaced by “... Union positions” and the following sentence is added: “the High Representative of the Union for Foreign Affairs and Security Policy shall organise this co-ordination”

b) paragraph 2 is modified as follows:

i) in the first sub-paragraph, the words “without prejudice to paragraph 1 and article 14(3),” are replaced by “in conformity with article [I-16, paragraph 2],” and the words “as well as the high representative” are inserted after “keep the latter”;

ii) in the second sub-paragraph, first sentence, the words “as well as the high representative” are inserted after “... the other member states”; in the second sentence, the words “...will, in the execution of their functions, ensure the defence of the positions...” are replaced by “... will, in the execution of their functions, defend the positions...”

iii) the following new third sub-paragraph is inserted: “When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the the High Representative of the Union for Foreign Affairs and Security Policy be asked to present the Union's position.”

**38)** Article 20 is modified as follows:

a) in the first sub-paragraph, the words “Commission delegations” are replaced by “Union delegations” and the words “that the common positions and joint actions adopted by the Council are complied with and implemented” are replaced with “that the decisions which define the positions and actions of the Union adopted under the present chapter are complied with and implemented”;

b) in the second sub-paragraph, the phrase “...contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community” is deleted and the following sub-paragraph is added:

“They shall contribute to the implementation of the right of European citizens to protection in the territory of third countries, as referred to in article [I-10, paragraph 2, point c] of the treaty on the functioning of the Union, and the measures adopted pursuant to article [III-127] of that treaty.”

**39)** article 21 is modified as follows:

a) the first sub-paragraph is replaced with the following text: “the High Representative of the Union for foreign affairs and security policy shall regularly consult the European Parliament on the principal aspects and the fundamental choices of the common foreign and security policy and of the common security and defence policy and inform it of the evolution of these policies. He or she will ensure that the views of the European parliament will be duly taken into consideration. The special representatives may be involved in briefing the European Parliament.”

b) in the second sub-paragraph, first sentence, the words “and the high representative of the Union” are inserted at the end; in the second sentence, the word “annual” is replaced by “twice-yearly,” and the words “including the security and common defence policy” are inserted at the end.

**40)** the text of article 22 becomes article 16, it is modified as indicated above in point 33)

**41)** the text of article 23 becomes article 17; it is modified as indicated above in point 34)

**42)** article 24, renumbered 22, is replaced by the following text:

“the Union may conclude agreements with one or several states or international organisations in the relevant areas of the present chapter”.

**43)** article 25, renumbered 23, is modified as follows:

a) in the first sub-paragraph, first sentence, the mention of the treaty establishing the European Community is adapted in accordance with the present treaty and the words “of the High Representative of the Union for foreign affairs and security policy” are inserted after “... at the request of the Council,”; in the second sentence the words “...without prejudice to the responsibility of the Presidency and the Commission” are replaced by “without prejudice to the responsibility of the high representative”;

b) the text of the second sub-paragraph is replaced by the following text: “Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the High Representative, the political control and strategic direction of the crisis management operations referred to in. [III-309].”

c) in the third sub-paragraph, reference to article 47 is deleted.

**44)** articles 26 and 27, renumbered 24 and 25, are replaced by the following two articles, with article 25 replacing article 47:

#### “Article 24

In conformity with article [I-51] of the treaty on the functioning of the Union and by derogation to paragraph 2, the Council shall determine the rules relating to the protection of individuals with regard to processing of personal data by member states when carrying out activities which fall within the scope of the present chapter, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

## Article 25

The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the treaties for the exercise of the Union competences referred to in Articles [I-13 to I-15 and I-17] of the treaty on the functioning of the Union.

Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the treaties for the exercise of the Union competences under this Chapter.”

**45)** Articles 27 A to 27 E, on enhanced cooperation, are replaced by article [I-44] in conformity with point 22) below.

**46)** Article 28, renumbered 26, is modified as follows:

- (a) Paragraph 1 is deleted and the paragraphs which follow are renumbered in consequence; in the whole article, the words “of the European communities” are replaced by “of the Union”;
- (b) In paragraph 2, renumbered 1, the words “the provisions relating to the areas referred to in this title” are replaced by “...implementation of this chapter”;
- (c) In paragraph 3, renumbered 2, first subparagraph, the words “...implementation of those provisions” are replaced by “... implementation of this chapter” and in the second subparagraph, the reference to article 23 is replaced by a reference to article [III-300];
- (d) The new following paragraph 3 is added, with paragraph 4 being deleted:

“3. The Council shall adopt a Decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article I-41(1) and Article III-309. It shall act after consulting the European Parliament.

Preparatory activities for the tasks referred to in Article I-41(1) and Article III-309 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, Decisions establishing:

- (a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- (b) the procedures for administering the start-up fund;
- (c) the financial control procedures.

When the task planned in accordance with Article I-41(1) and Article III-309 cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund. The High Representative shall report to the Council on the implementation of this remit.”

### **Common security and defence policy**

**47)** The following new section is inserted:

“Section on provisions for the common security and defence policy”

**48)** Article 27 takes up the wording of article 17, with the following modifications:

(a) The following new paragraph 1 is inserted, and the paragraph which follows is renumbered 2:

“1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.”

(b) Paragraph 1, renumbered 2, is modified as follows:

(i) The first subparagraph is replaced by the following text:

“The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.”

ii) in the second sub-paragraph, the words “in accordance with this article” are replaced with “according to this section”

iii) the third sub-paragraph is deleted

c) paragraphs 2, renumbered 3, through to 5 are replaced with the following paragraphs:

“3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall identify operational requirements, promote measures to satisfy those requirements, contribute to identifying and, where appropriate, implement any measure needed to strengthen the industrial and technological base of the defence sector, participate in defining a European capabilities and armaments policy, and assist the Council in evaluating the improvement of military capabilities.

4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative for Foreign Affairs and Security Policy may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article [III-310].

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article III-312. It shall not affect the provisions of Article [III-309].

7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation."

**49)** the following new articles 28 to 31 are inserted:

"Article 28

1. The tasks referred to in [Article I-41(1)], in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council shall adopt Decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for foreign affairs and security policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

Article 29

1. Within the framework of the decisions adopted in accordance with [Article III-309], the Council may entrust the implementation of a task to a group of Member States which are



willing and have the necessary capability for such a task. Those Member States, in association with the High representative of the Union for foreign affairs and security policy, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

#### Article 30

1. 1. The European Defence Agency, referred to in [Article I-41(3)] and subject to the authority of the Council, shall have as its task to:

(a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;

(b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;

(c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;

(d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;

(e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a Decision defining the Agency's statute, seat and operational rules. That decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

#### Article 31

1. Those Member States which wish to participate in the permanent structured cooperation referred to in [Article I-41(6)], which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a Decision establishing permanent structured cooperation and determining

the list of participating Member States. The Council shall act by a qualified majority after consulting the high representative.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the high representative.

The Council shall adopt a decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the high representative. Only members of the Council representing the participating Member States shall take part in the vote.

A qualified majority shall be defined in accordance with article [205, paragraph 3, point a)] of the treaty on the functioning of the Union.

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.

The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.

A qualified majority shall be defined in accordance with article [205, paragraph 3, point a)] of the treaty on the functioning of the Union.

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only.

**50)** articles 29 to 39 of title VI of the EU treaty, relative to judiciary co-operation in penal matters and police co-operation are replaced by articles [III-257 to III-264 and III-270 to III-277] of the treaty on the functioning of the Union; they are modified as indicated in article 2, points 61), 64) and 65) of the present treaty. The heading of the title is deleted and its number becomes that of the title relating to the final provisions.

**51)** articles 40 to 40 B of title VI of the EU treaty and articles 43 to 45, relating to enhanced co-operations, are replaced by article [1-44] in accordance with point 22) above.

**52)** articles 41 and 42 of the EU treaty are repealed.

### **Final provisions**

**53)** Title VIII, concerning the final provisions, is renumbered VI; this title and articles 48, 49, 51, 52 and 53 are modified as indicated, respectively, to points 55), 56), 60), 62) and 63) hereafter. Article 47 is replaced by article 25, as indicated below in point 44) and articles 46 and 50 are repealed.

**54)** The new article 32 is inserted:

“Article 32  
Legal personality

The Union has legal personality”

**55)** An article 33 is inserted, which replaced article 48:

“Article 33  
Revision procedure for the treaties

The treaties can be modified in accordance with an ordinary revision procedure. They can also be modified in accordance with simplified revision procedures.

*Ordinary revision procedure*

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the treaties. These proposals may aim to increase or reduce the competences conferred on the Union in the treaties. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in subparagraph 4.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the treaties.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

If, two years after the signature of the treaty amending the treaties, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

#### *Simplified revision procedures*

2. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of the third part of the treaty on the functioning of the Union on the internal policies and actions of the Union.

The European Council may adopt a Decision amending all or part of the provisions the third part of the treaty on the functioning of the Union. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area. Such a decision shall not come into force until it has been approved by the Member States in accordance with their respective constitutional requirements.

The decision referred to in the second subparagraph shall not increase the competences conferred on the Union in the treaties.

3. Where the treaty on the functioning of the Union or title V of the present treaty provides for the Council to act by unanimity in a given area or case, the European Council may adopt a decision authorising the Council to act by a qualified majority in that area or in that case. This paragraph shall not apply to decisions with military implications or those in the area of defence.

Where the treaty on the functioning of the Union provides for legislative acts to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a decision allowing for the adoption of such acts in accordance with the ordinary legislative procedure.

Any initiative taken by the European Council on the basis of paragraphs 1 or 2 shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in paragraphs 1 or 2 shall not be adopted. In the absence of opposition, the European Council may adopt the decision.

For the adoption of the decisions referred to in paragraphs 1 and 2, the European Council shall act by unanimity after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

**56)** An article 34 is inserted, with the wording of article 49; it is modified as follows:

the wording of the following article is inserted “eligibility criteria and accession procedures to the Union”;

the first subparagraph is modified as follows:

In the first sentence, the words “... respects the principles set out in article 6, paragraph 1, may apply” are replaced by “...respects the values referred to in article [1-2] and commits to promote them may apply...”;

In the second sentence, the words “It shall address its application to the Council, which shall act unanimously...” are replaced by “The European Parliament and the national parliaments shall be informed of this application. The applicant state shall address its application to the Council, which shall act unanimously...” and the word “assent” shall be replaced by “approval”.  
The following new sentence is inserted: “the eligibility criteria approved by the European council shall be taken into account.”

**57)** The following new article 35 is inserted:

“Article 35  
Voluntary withdrawal from the Union

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article III-325(3). It shall be concluded by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

The qualified majority shall be defined in accordance with article 205, paragraph 3 point b of the treaty on the functioning of the Union.

If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article I-58.

**58)** An article 36 is inserted:

“Article 36  
Protocols and annexes

The Protocols and Annexes to this Treaty shall form an integral part thereof.

**59)** An article 37 is inserted:

“Article 37  
Scope of territorial application

1. The treaties shall apply to the Kingdom of Belgium, the Republic of Bulgaria the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, to Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. The scope of territorial application of the treaties is laid out in article IV-440(2) to (7) of the treaty on the functioning of the Union.

**60)** An article 38 is inserted, with the wording of article 51; it is modified as follows:

The following article title is inserted “duration”

The words “This treaty is concluded...” are replaced by “the treaties are concluded”.

**61)** The new following article 39 is inserted:

“Article 39

Relationship between the present treaty and the treaty on the functioning of the Union”

This treaty and the treaty on the functioning of the Union consist of the treaties on which the Union are founded. These two treaties, which have the same legal value, are referred to be the terms “the treaties”.

**62)** An article 40 is inserted, with the wording of article 52; it is modified as follows:

(a) The following article title is inserted “Ratification and entry into force”;

(b) In paragraph 1, the words “this treaty shall...” are replaced by “the treaties will be...”;

(c) In paragraph 2, the words “this treaty will enter...” are replaced by “the treaties will enter...” and the words “... the 1 January 1993, provided that all the Instruments of ratification have been deposited, or, failing that, ...” are deleted.

**63)** An article 41 is inserted, with the wording of article 53; it is modified as follows:

(a) The following title is inserted: “Authentic texts are translations”;

(b) The first subparagraph becomes paragraph 1, the words “This treaty” are replaced by “the treaties”, the list of languages is completed by those numbered on the second subparagraph of article 53 of the EU treaty and the second subparagraph is deleted.

(c) The following new paragraph 2 is inserted:

“2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.”

## **Article 2**

- 1) The Treaty Establishing the European Community shall be modified in accordance with the provisions of the present article.
- 2) The title of the Treaty shall be replaced by: "Treaty on the Functioning of the European Union".

### **A. Horizontal Modifications**

- 3) Throughout the Treaty:
  - a) the words "Community" or "the European Community" shall be replaced by "the Union", the words "of the European Communities" shall be replaced by "of the European Union" and the adjective "community" is replaced by "of the Union";
  - b) the words "this treaty", "of this treaty" and "to this treaty" are replaced, respectively, by "the treaties", "of the treaties" and "to the treaties" and, where appropriate, the verb and the adjectives which follow are put in the plural.
  - c) the words "the Council, acting in accordance with the procedure set out in article 251" is replaced by "the European Parliament and the Council, acting in accordance with the ordinary legislative procedure" and the words "the procedure referred to in article 251" are replaced by "the ordinary legislative procedure", and, where appropriate, the following verb is put in the plural;
  - d) the words "acting by qualified majority" and "by qualified majority" shall be deleted;
  - e) the words "Council meeting at the level of heads of state or government" shall be replaced by "European Council";
  - f) the words "institutions or bodies" are replaced by "institutions, bodies, offices and agencies," with the exception of article 193, first paragraph.
  - g) the words "common market" shall be replaced by "internal market";
  - h) the word "ECU" is replaced by "euro";
  - i) the words "member states without a derogation" shall be replaced by "member states whose currency is the euro";
  - j) the abbreviation "ECB" shall be replaced by the words "European Central Bank";
  - k) the words "acts of the ESCB" shall be replaced by "acts of the ESCB and of the ECB";

- l) the words “committee provided for in article 114” and “committee referred to in article 114” shall be replaced by the “Economic and Financial Committee”;
  - m) the words “ruling of the Court of Justice” shall be replaced by “ruling of the European Court of Justice”;
  - n) the words “Court of first instance” are replaced by “Court”;
  - o) the words “judicial panel” and “judicial panels” shall be replaced respectively by “specialised court” and “specialised courts” and the sentence grammatically adapted as a result.
- 4)** In the following articles, the words “acting in accordance with a special legislative procedure” are inserted after the words “the Council” and the words “on a proposal from the Commission” are deleted.
- |                                   |  |
|-----------------------------------|--|
| - article 17bis, paragraph 1      | - article 95                                     |
| - article 19, paragraph 1         | - article 104, paragraph 14, second subparagraph |
| - article 19, paragraph 2         | - article 166, paragraph 4                       |
| - article 22, second subparagraph | - article 175, paragraph 2, first subparagraph   |
| - article 93                      |  |
- 5)** In the following articles, the words “acting by simplified majority” are inserted after “the Council”.
- |                                   |   |
|-----------------------------------|---|
| - article 130, first subparagraph | - article 213, second subparagraph, second sentence |
| - article 144, first subparagraph | - article 216                                       |
| - article 208                     | - article 284                                       |
| - article 209                     |   |
- 6)** In the following articles the words “consulting the Parliament” are replaced by “approval by the Parliament”.
- article 17bis, paragraph 1
  - article 22, second subparagraph
- 7)** In the following articles, the word “institution” or “the institution” is replaced by “institution, body, office or entity” or “the institution, the body, the office or the entity” and, where appropriate, the sentence is grammatically adapted as a result:
- 195, paragraph 1, second subparagraph
  - 232, second subparagraph
  - 233, first subparagraph
  - 234, point b)
  - 255, paragraph 2



8) In the following articles, the words “Court of Justice” or “Court” are replaced by “Court of Justice of the European Union”.

- |  |  |
|--|--|
| - article 83, paragraph 2, point d)                  | - article 234, first, second and third subparagraphs |
| - article 88, paragraph 2, second subparagraph       | - article 235  |
| - article 94, paragraph 9                            | - article 236  |
| - article 195, paragraph 1                           | - article 237, introductory sentence and point d)    |
| - article 225 A, sixth subparagraph                  | - article 238  |
| - article 226, second subparagraph                   | - article 240  |
| - article 227, first subparagraph                    | - article 242  |
| - article 228, paragraph 1                           | - article 243  |
| - article 229  | - article 244  |
| - article 229 A                                      | - article 245, first subparagraph                    |
| - article 230, first, second and third subparagraphs | - article 247, paragraph 8                           |
| - article 231, first subparagraph                    | - article 256, second and fourth subparagraphs       |
| - article 232, first subparagraph                    | - article 290  |
| - article 233, first subparagraph                    |  |

9) In the following articles, reference to another article of the treaty is replaced by the following reference to an article in the treaty on European Union.

- article 21, third subparagraph: reference to article [I-19] (first reference) and article [IV-448, paragraph 1] (second reference)
- article 97ter: reference to article [I-3]
- article 98: reference to article [I-3] (first reference)
- article 105, paragraph 1: reference to article [I-3]
- article 125: reference to article [I-3]
- article 215, fourth subparagraph: reference to article [I-27, paragraph 1,]

## **B. Specific Modifications**

### **Preamble**

10) In the second paragraph of the preamble, the word “country” is replaced by “states” and in the last paragraph of the preamble, the words “have decided to create a European Community and have designated...” shall be replaced by “have designated”

### **Common provisions**

11) The first article shall be replaced by the following text:

“First article

1. This treaty organises the functioning of the Union and determines the areas, the scope and the implementing methods of its competences.
2. This treaty and the Treaty on European Union constitute the treaties upon which the Union is founded. These two treaties, which have the same legal value, are defined by the words “the treaties”.
- 12) Article 3, paragraph 1, is repealed. Its paragraph 2 becomes article 8; it is changed as indicated below in point 21).
- 13) The text of article 4 becomes article 97 ter. It is modified as indicated below in point 82).
- 14) The text of article 12 becomes article 17.
- 15) The text of article 13 becomes article 17bis. It is modified as indicated below in point 31).
- 16) Le text of article 14 becomes article 22bis. It is modified as indicated below in point 41).
- 17) Le text of article 15 becomes article 22ter. It is modified as indicated below in point 42).
- 18) Le text of article 16 becomes article 14. It is modified as indicated below in point 27).

### **Categories and areas of competences**

- 19) Articles 2 to 6 shall be replaced by the new title and the new articles below:

#### “Title 1 Categories and areas of Union competence

##### Article 2

1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.
2. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.
3. The Member States shall coordinate their economic and employment policies within the arrangements set out by the Treaties, which the Union shall have competence to define.

4. The Union shall have competence, in conformity with the provisions of the Treaty on the European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.

5. In certain areas and under the conditions laid down in the Treaties, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States' laws or regulations.

6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions of the Treaties relative to that area.

### Article 3

1. The Union shall have exclusive competence in the following areas:

- (a) customs union;
- (b) establishing of competition rules necessary for the functioning of the internal market;
- (c) monetary policy for the Member States whose currency is the euro;
- (d) the conservation of marine biological resources under the common fisheries policy;
- (e) common commercial policy.

2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

### Article 4

1. The Union shall share competence with the Member States where the Treaties confer on it a competence which does not relate to the areas referred to in Articles I-13 and I-17.

2. Shared competence between the Union and the Member States applies in the following principal areas:

- (a) internal market;
- (b) social policy, for the aspects defined in the present treaty;
- (c) economic, social and territorial cohesion;
- (d) agriculture and fisheries, excluding the conservation of marine biological resources;
- (e) environment;
- (f) consumer protection;
- (g) transport;
- (h) trans-European networks;

- (i) energy;
- (j) area of freedom, security and justice;
- (k) common safety concerns in public health matters, for the aspects defined in the present treaty.

3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

4. In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

#### Article 5

1. The Member States shall coordinate their economic policies within the Union. To this end, the Council of Ministers shall adopt measures, in particular broad guidelines for these policies.

Specific provisions shall apply to those Member States whose currency is the euro.

2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.

3. The Union may take initiatives to ensure coordination of Member States' social policies.

#### Article 6

The Union shall have competence to carry out supporting, coordinating or complementary action. The areas of such action shall, at European level, be:

- (a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;
- (e) education, youth, sport and vocational training;
- (f) civil protection;
- (g) administrative cooperation."

#### **Provisions for general application**

**20)** Article 7 is replaced by the following title and articles:

#### "Title II Provisions of General application

#### Article 7

The Union shall ensure consistency between its different policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers.”

**21)** Article 8 shall be replaced by the wording of paragraph 2 of article 3. The words “...the activities referred to in this Article” shall be replaced by “...its activities”

**22)** Article 9 shall be replaced by the following text:

“In defining and implementing the policies and actions referred to in this Part, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.”

**23)** Article 10 is replaced by the following text:

“In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”

**24)** Article 11 shall be replaced by the wording of article 6, and the words “referred to in article 3” are repealed.

**25)** Article 12 is replaced by the wording of paragraph 2 of article 153.

**26)** Article 13 is replaced by the wording of the provision for the protocol on the protection and wellbeing of animals; the words “fisheries” are inserted after “agriculture, the words “..research,” are replaced by “...research and technological development and space,” and the words “since animals are sentient beings” shall be inserted after “...welfare of animals.”

**27)** Article 14 is replaced with the wording article 16; it is modified as follows:

a) in the enumeration of articles at the beginning, a reference to article I-5 of the TEU is inserted;

b) at the end of the first phrase, the words “...and conditions which enable them to fulfill their missions.” are replaced by “...and conditions, notably economic and financial, which enable them to fulfill their missions.”

**Comment:** Refers to services of general economic interest

c) a new phrase, below, is added:

“the European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions, without prejudice to the competence of member states, in respect of the treaties, to provide, to commission and fund such services”.

**28)** Article 15 is replaced with the following text:

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.
2. The Union equally respects the status under national law of philosophical and non-confessional organisations.
3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

### **Non discrimination and citizenship**

**29)** The title of the second part is replaced by the following title: “non discrimination and citizenship”.

**30)** Article 17 is replaced by the text of article 12.

**31)** An Article 17bis is inserted, with the wording of article 13; for paragraph 2, the words “...when the Council adopts...” are replaced by “...the European Parliament and Council, acting in accordance with the ordinary legislative procedure, can adopt...” and the words at the end “...it shall act in accordance with the procedure referred to in Article 251” is repealed.

**32)** An article 17ter is inserted, with the wording of article 17; its second paragraph is replaced by the following text:

“2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaty. They shall have:

- (a) the right to move and reside freely within the territory of the Member States;
- (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
- (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
- (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaties’ languages and to obtain a reply in the same language.”

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder.

**33)** Article 18 is modified as follows:

- a) in paragraph 2, the words “...Council may adopt” are replaced by “...the European Parliament and Council, acting in accordance with the ordinary legislative procedure, may adopt...” and the final sentence is repealed;

b) paragraph 3 is replaced by the following text:

“3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may establish measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.”

**34)** In article 20, the words “establish the necessary rules among themselves...” are repealed. The new paragraph, below, is added:

“The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, may establish the measures of coordination and cooperation necessary to facilitate such protection.”

**35)** In article 21, the new first subparagraph, below, is inserted:

“The European Parliament and Council, acting according to the ordinary legislative procedure, shall establish the provisions relating to the procedures and conditions required for the presentation by citizens of a citizens initiative as set out in article [I-47] of the Treaty on European Union, including the minimum number of Member States from which such citizens must come.

**36)** An article 21 [bis] is inserted, with the wording of article 255; it is modified as follows:

- a) paragraph 1 is preceded by the following text, paragraph 1 being renumbered 3 and paragraphs 2 and 3 becoming sub-paragraphs:

“1. In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.

2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.”

- b) in paragraph 1, renumbered 3, in the first paragraph, the word “statutory” is inserted after “registered office”, the words “European Parliament, Council and Commission” are replaced by “institutions, bodies, offices and agencies, whatever their medium” and the reference to paragraphs 2 and 3 is replaced by a reference to the present paragraph;
- c) in paragraph 2, which becomes the second sub-paragraph of paragraph 3, the words “in the 2 years following the entry into force of the Treaty of Amsterdam” are deleted;
- d) in paragraph 3, which becomes the third subparagraph of paragraph 3, the words “...referred to above shall elaborate” are replaced by “...shall ensure transparency in their work and elaborate”, the words “...,in conformity with the legislative act referred to in the second subparagraph” are inserted at the end of the sub-paragraph and the two new sub-paragraphs, below, are added:

“The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to this paragraph only when exercising their administrative tasks.

The European parliament and the Council shall ensure the publicity of documents concerning legislative procedures under the conditions provided for in the legislative act set out in the second sub-paragraph.”

**37)** an article 21c is inserted:

“Article 21 ter

1.any person has a right to the protection of personal data concerning him or her.

2. the European parliament and the Council, acting in accordance with the normal legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

The rules adopted on the basis of the present article are without prejudice to the specific rules provided for in article [III-307b].”

**38)** in article 22, second sub-paragraph, the following phrase is added to the end: “this sub-paragraph does not apply to article 21, first sub-paragraph, to article 21b or to article 21c.”

**39)** in the heading of the third part, the words “and internal actions” are inserted after “policies”

### **Internal market**

**40)** a title I, entitled “the internal market”, is inserted at the start of the third part

**41)** an article 22bis is inserted, with the wording of article 14. Paragraph 1 is replaced by the following text:

“1. the Union shall adopt the measures necessary to establish or ensure the functioning of the internal market, in conformity with the relevant measures of the treaties.”

**42)** an article 22 ter is inserted, with the wording of article 15. In the first sub-paragraph, the words “... in the course of the period of establishment...” are replaced by “... for the establishment...”

**43)** the numbering for title I on free circulation of goods becomes “I bis”

**44)** a chapter 1b bis is inserted after article 27, entitled “customs co-operation”, and an article 27 bis is inserted with the wording of article 135, with the last phrase of that article 135 being deleted.



### **Agriculture and fisheries**

**45)** in the heading for title II, the words “and fisheries” are added

**46)** article 32, paragraph 1, is modified as follows:

- a) the words “and fisheries” are inserted after the word “agriculture”
- b) the following sentence is added to the end of the paragraph: “references to the common agricultural policy or to agriculture and the use of the term “agricultural” extend to fisheries, with regard to the particular characteristics of this sector.”

**47)** article 36 is modified as follows:

- a) in the first sub-paragraph, the words “the European parliament and” are inserted before the words “the Council”, and the reference to paragraph 3 is deleted.
- b) in the second sub-paragraph, the introductory sentence is replaced by the following sentence: “the Council, acting on the proposals of the Commission, may authorise the granting of aid.”

**48)** article 37 is modified as follows:

- a) paragraph 1 is deleted
- b) paragraph 2 is renumbered 1 and the phrase “Having taken into account the work of the Conference provided for in paragraph 1, after consulting the Economic and Social Committee and within two years of the entry into force of this Treaty, the Commission shall submit proposals...” is replaced with “the Commission shall submit proposals...”;
- c) the following paragraphs are inserted as new paragraphs 2 and 2bis:

“2. the European parliament and the Council, acting in accordance with the normal legislative procedure and after consulting the social and economic Committee, shall establish the common organisation of agricultural markets as set out in article [III-228], paragraph 1, as well as other measures necessary for the pursuit of the objectives of the common agricultural and fisheries policy.

2b. The Council, on a proposal from the Commission, shall adopt the measures relating to the fixing of prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.”
- d) in the first sub-paragraph of paragraph 3, the words “The Council may, acting by a qualified majority” are deleted.

### **Generalisation of insurance periods and exporting of social security benefits**

**49)** Article 42 is modified as follows:

- a) in the first sub-paragraph, the words “...migrant workers and their dependents” are replaced by “salaried and non-salaried migrant workers and their dependents”

b) the last sub-paragraph is replaced by the following text:

“Where a member of the Council considers that a draft legislative act referred to in paragraph 1 would affect fundamental aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the normal legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension either:

(a) refer the draft back to the Council, which shall terminate the suspension of the normal legislative procedure, or

(b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.”

### **Freedom of establishment**

**50)** in article 44, paragraph 2, the words “the European parliament and” are added to the start of the first sub-paragraph

**51)** in article 45, second sub-paragraph, the words “the Council may, acting by a qualified majority on a proposal from the Commission,” are replaced by “the European parliament and the Council, acting in accordance with the normal legislative procedure, may...”

**52)** article 47 is modified as follows:

a) the following phrase is added to the end of paragraph 1: “and the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.”

b) paragraph 2 is deleted and paragraph 3 is renumbered ‘2’; the words “the progressive abolition” are replaced by “suppression” and the words “shall be” are replaced by “is”.

**53)** article 48b is inserted, with the wording of article 294.

### **Services**

**54)** article 49 is modified as follows:

a) in the first sub-paragraph, the words “state of the community” are replaced by “member state”

b) in the second sub-paragraph, the words “The Council may, acting by a qualified majority on a proposal from the Commission, extend...” are replaced by “the European parliament and the Council may, acting in accordance with normal legislative procedure, extend...”

### **Capital**

**55)** in article 50, third sub-paragraph, the words “the state” are replaced by “member state”

**56)** in article 52, first sub-paragraph, the words “...the Council shall, on a proposal from the Commission and after consulting the Economic and Social Committee and the European Parliament,” are replaced by “... the European Parliament and the Council, acting in accordance with the normal legislative procedure, and after consulting the Economic and Social Committee,”.

**57)** in article 57, paragraph 2, the words “the Council may, acting by a qualified majority on a proposal from the Commission, adopt measures...” are replaced by “... the European parliament and the Council may, acting in accordance with the normal legislative procedure, adopt measures...” and the final sentence of paragraph 2 becomes paragraph 3, reading thus:

“3. Notwithstanding paragraph 2, only the Council, acting in accordance with a special legislative procedure may adopt measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries.”

**58)** in article 58, the following new paragraph 4 is added:

“4. In the absence of measures in application of Article III-157(3), the Commission or, in the absence of a European decision of the Commission within three months from the request of the Member State concerned, the Council, may adopt a decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the treaties insofar as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State.”

**59)** article 60 becomes article [67 bis]. It is modified as indicated below in point 61)

#### **An area of freedom, security and justice**

**60)** a title IV, entitled ‘an area of freedom, security and justice’, shall replace title IV on visas, asylum, immigration and other policies linked to the free circulation of people. This title contains the following chapters:

Chapter 1: General Measures

Chapter 2: policies relative to border, asylum and immigration control

Chapter 3: judicial co-operation in civil matters

Chapter 4: judicial co-operation in criminal matters

Chapter 5: police co-operation

## **General provisions**

**61)** Article 61 is replaced by the chapter and the following articles:

### “Chapter 1 General provisions

#### Article 61

1. The Union shall constitute an area of freedom, security and justice in respect of the fundamental right and of the different systems and legal traditions of the member states.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Chapter, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

#### Article 62

The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.

#### Article 63

National Parliaments shall ensure that the proposals and legislative initiatives submitted under Chapters 4 and 5 comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.

#### Article 64

Without prejudice to Articles III-360 to III-362, the Council may, on a proposal from the Commission, adopt European regulations or decisions laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Chapter by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

#### Article 65

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article III-344, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

#### Article 66

This title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

Member states are at liberty to organise amongst themselves and under their own responsibility forms of cooperation and of coordination that they judge appropriate between the competent services of their administrations that are in charge of ensuring national security.

#### Article 67

The Council shall adopt European regulations to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article III-264, and after consulting the European Parliament.

#### Article 67bis

Where necessary to achieve the objectives set out in Article III-257, as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt measures in order to implement the Framework referred to in the first paragraph.

The acts referred to in this Article shall include necessary provisions on legal safeguards.

#### Article 68

The acts referred to in chapters 4 and 5, and the measures referred to in article III-263 which ensure administrative cooperation in the areas referred to in this sections, are adopted:

- a) On a proposal of the Commission or
- b) On an initiative of a quarter of member states."

## **Border control, asylum and immigration**

**62)** Articles 62 to 64 are replaced by the chapter on the following articles:

“Chapter 2

Policies on border control, asylum and immigration

Article 69

1. The Union shall develop a policy with a view to:
  - a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
  - b) carrying out checks on persons and efficient monitoring of the crossing of external borders;
  - c) the gradual introduction of an integrated management system for external borders.
2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure shall establish measures concerning:
  - (a) the common policy on visas and other short-stay residence permits;
  - (b) the checks to which persons crossing external borders are subject;
  - (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;
  - (d) any measure necessary for the gradual establishment of an integrated management system for external borders;
  - (e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.
3. If action by the Union should prove necessary to facilitate the exercise of the right, referred to in Article I-10(2)(a), and if the treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may establish measures concerning passports, identity cards, residence permits or any other such document and measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.
4. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

Article 69 A

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28

July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure shall lay down measures for a common European asylum system comprising:

- (a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
- (b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection; (c) a common system of temporary protection for displaced persons in the event of a massive inflow;
- (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

#### Article 69 B

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures in the following areas:

- (a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;
- (b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;
- (c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;

(d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

#### Article 69 C

The policies of the Union set out in this Section and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Section shall contain appropriate measures to give effect to this principle.

### **Judicial cooperation in civil matters**

**63)** Article 65 is replaced by the following chapter and articles:

“Chapter 3

Judicial cooperation in civil matters

#### Article 69 D

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:

(a) the mutual recognition and enforcement between Member States of judgments and decisions in extrajudicial cases;

(b) the cross-border service of judicial and extrajudicial documents;



- (c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;
- (d) cooperation in the taking of evidence;
- (e) effective access to justice;
- (f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;
- (g) the development of alternative methods of dispute settlement;
- (h) support for the training of the judiciary and judicial staff.

3. Notwithstanding paragraph 2, the Council, acting in accordance with special legislative procedure, shall establish measures concerning family law with cross-border implications. The Council shall act unanimously after consulting the European Parliament.

4. The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

This proposal shall be transmitted to the national parliaments. If a national Parliament makes known its opposition within six months of the date of such transmission, decision shall not be adopted. In the absence of opposition, the European Council may adopt the decision."

#### **Judicial cooperation in criminal matters**

**64)** Articles 66 and 67 are replaced by the following chapter and articles:

"Chapter 4

Judicial Cooperation in criminal matters

Article 69 E

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article III-271.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:

- (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;

(c) support the training of the judiciary and judicial staff; facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council, acting through directives in accordance with the ordinary legislative procedure, may establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

(a) mutual admissibility of evidence between Member States;

(b) the rights of individuals in criminal procedure;

(c) the rights of victims of crime;

(d) any other specific aspects of criminal procedure which the Council has identified in advance by a Decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the approval of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, the ordinary legislative procedure is suspended. After discussion, and in case of consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

During the same period, in case of disagreement, and if at least nine member states wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such circumstances, authorisation to proceed with enhanced cooperation referred to in article I-44, paragraph 2 and in article III-419 paragraph 1, shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

#### Article 69 F

1. The European Parliament and the Council, acting by way of directive in accordance with the ordinary legislative procedure, may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money

laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

On the basis of developments in crime, the Council may adopt a Decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the approval of the European Parliament.

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted according to an ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article III-264.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft framework law be referred to the European Council. In that case, the ordinary legislative procedure is suspended. After discussion, the European Council shall, within four months of this suspension refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

During the same period, in case of disagreement, and if at least nine member states wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such circumstances, authorisation to proceed with enhanced cooperation referred to in article I-44, paragraph 2 and in article III-419 paragraph 1, shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

#### Article 69 G

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

#### Article 69 H

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

In this context, the European Parliament and the Council, acting by way of regulation in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks. Those tasks may include:

(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;

(b) the coordination of investigations and prosecutions referred to in point (a);

(c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article III-274, formal acts of judicial procedure shall be carried out by the competent national officials.

#### Article 69 I

1. In order to combat crimes affecting the financial interests of the Union, the Council, acting by way of regulation in accordance with the special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the approval of the European Parliament.

In the absence of unanimity, a group of at least nine member states can refer the draft regulation to the European Council. In this case, the procedure in the Council is suspended. After discussion, and in case of consensus, the European Council shall, within four months of this suspension refer the draft back to the Council for adoption.

During the same period, in case of disagreement, and if at least nine member states wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such circumstances, authorisation to proceed with enhanced cooperation referred to in article I-44, paragraph 2 and in article III-419 paragraph 1, shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the regulation provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The regulation referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

4. The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public

Prosecutor's Office to include serious crime having a crossborder dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the approval of the European Parliament and after consulting the Commission.

### **Police co-operation**

**65)** articles 68 and 69 are replaced with the following chapter and articles:

“Chapter 5: police co-operation

#### **Article 69J**

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure may establish measures concerning:

(a) the collection, storage, processing, analysis and exchange of relevant information;

(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;

(c) common investigative techniques in relation to the detection of serious forms of organised crime.

3. The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

In the absence of unanimity, a group composed of at least 9 member states may request that the projected measures be referred to the European Council. In this case, the procedure in Council is suspended. After discussion, and in the case of a consensus, the European Council, in a period of 4 months counted from that suspension, shall send the project back to the Council for adoption.

In the same period, in case of disagreement, and if at least 9 member states wish to establish reinforced co-operation on the basis of the relevant projected measure, they shall inform the European parliament, the Council and the Commission. In such a case, the authorisation to proceed with reinforced co-operation, set out in [article I-44, paragraph 2] and in [article III-419, paragraph 1], is deemed accorded and measures on reinforced co-operation apply.

The specific procedure provided for in the second and third sub-paragraphs does not apply to acts constituting a development of the Schengen agreement.

#### **Article 69 K**

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. The European parliament and the Council, acting in accordance with the normal legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

(a) the collection, storage, processing, analysis and exchange of information forwarded particularly by the authorities of the Member States or third countries or bodies;

(b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

Such rules shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

#### Article 69L

The Council, acting according to a normal legislative procedure, shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles [III-270 and III-275] may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament."

#### **Transport**

**66)** in article 70, the words "of the treaty" are replaced by "of the treaties"

**67)** in article 71, paragraph 2 is replaced by the following text:

"2. When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities."

**68)** at the start of article 72, the words "...without the unanimous approval of the Council" are replaced with "... without the unanimous adoption by the Council, acting in accordance with a special legislative procedure, of a derogation, ..."

**69)** in article 75, paragraph 2, the words "the Council" are replaced by "the European parliament and the Council"

**70)** in article 78, the following sentence is added:

“five years after the implementation of the treaty modifying the treaty on the European Union and the treaty establishing the European Community, the Council, acting on the proposal of the Commission, may adopt a decision repealing the present article.”

**71)** in article 79, the phrase “without prejudice to the powers of the Economic and Social Committee” is deleted.

**72)** in article 80, paragraph 2 is replaced with the following text:

“2. the European parliament and the Council, acting in conformity with the ordinary legislative procedure, may establish appropriate measures for maritime and air navigation. They shall act after consultation with the Committee of the regions and the Economic and Social Committee.”

### **Rules on competition**

**73)** in article 85, the following new paragraph 3 is added:

“3. the Commission may adopt regulations concerning the categories of agreements concerning which the Council has adopted a regulation or a directive in conformity with article [III-163, second sub-paragraph, point b)].”

**74)** article 87 is modified as follows:

a) in paragraph 2, the following sentence is added at the end of point c)

“five years after the implementation of the treaty modifying the treaty on the European Union and the treaty establishing the European Community, the Council, acting on the proposal of the Commission, may adopt a decision repealing the present point.”

b) in paragraph 3, the following phrase is added to the end of point a): “... as well as that of the regions covered in article [III-424], taking into account their structural, economic and social situation”.

**75)** in article 88, the following new paragraph 4 is added:

“4. The Commission may adopt European regulations relating to the categories of State aid that the Council has, pursuant to Article III-169, determined may be exempted from the procedure provided for by paragraph 3 of this Article.”

### **Fiscal provisions**

**76)** in article 93, at the end, the words “...within the time limit laid down in Article 14” are replaced by “... and to avoid distorting competition”

### **Legislative convergence**

**77)** articles 94 and 95 are inverted. Article 94 becomes 95 and article 95 becomes 94.

**78)** article 95, renumbered 94, is modified as follows:

a) at the start of paragraph 1, the words “By way of derogation from Article 94 and” are deleted;

b) at the start of paragraph 4, the phrase “If, after the adoption by the Council or by the Commission of a harmonisation measure” is replaced by “if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission...”

c) at the start of paragraph 5, the phrase “Moreover, without prejudice to paragraph 4, if, after the adoption by the Council or by the Commission of a harmonisation measure” is replaced by “moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission...”

**79)** in article 94, renumbered 95, the words “without prejudice to article 94” are inserted at the start.

**80)** in article 96, second sub-paragraph, first sentence, the words “the Council shall, on a proposal from the Commission, acting by a qualified majority, issue the necessary directives” are replaced by “the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, issue the necessary directives”. The second sentence is replaced with “any other appropriate measures provided for in the treaties may be adopted.”

### **Intellectual property**

**81)** the following new article 97bis is inserted:

#### **“Article 97b**

In the context of the establishment and functioning of the internal market, the European parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures for the creation of European intellectual property rights to provide uniform intellectual property rights protection throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

The Council, acting in accordance with a special legislative procedure, shall establish, by way of regulations, language arrangements for the European intellectual property rights. The Council shall act unanimously, after consulting the European Parliament.”

### **Economic and monetary policy**

**82)** article 97c is inserted, with the wording of article 4; it is modified as follows:

a) in paragraph 1, the words “in accordance with the timetable” are deleted;

b) in paragraph 2, the phrase “Concurrently with the foregoing, and as provided in this Treaty and in accordance with the timetable and the procedures set out therein, these



activities shall include the irrevocable fixing of exchange rates leading to the introduction of a single currency, the ecu..." is replaced with "concurrently with the foregoing, and as provided in the treaties and the procedures set out therein, these activities shall include a single currency, the euro..."

**83)** article 99 is modified as follows:

a) in paragraph 4, the first sentence of the first sub-paragraph is replaced with the following two phrases:

"Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned."

b) the second sub-paragraph of paragraph 4 is numbered paragraph '5' and paragraph 5 is renumbered '6'

c) the following three new sub-paragraphs are inserted into paragraph 4:

"Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with article 205, paragraph 3, point a)."

d) in paragraph 6, the phrase "the Council, acting in accordance with the procedure referred to in article 252, may adopt..." is replaced with the following phrase: "the European parliament and the Council, acting in accordance with ordinary legislative procedure, may adoptt..."

#### **Problems with the provision of certain products (energy)**

**84)** In article 100, paragraph 1 is replaced by the following text:

"1. Without prejudice to other procedures provided for in the treaties, the Council, on a proposal from the Commission, in a spirit of solidarity with the member states, may adopt a decision on measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, particularly in the field of energy."

#### **Other provisions – economic and monetary policy**

**85)** In article 102, paragraph 2 is deleted.

**86)** In article 103, paragraph 2 is replaced by the following text:

“The Council, acting on a proposal from the Commission and after consulting the European Parliament, may, if necessary, lay down definitions for the application of the prohibitions referred to in articles 101 and 102, as well as in the present article.”

### **Excessive deficit procedure**

**87)** Article 104 is modified as follows:

a) paragraph 5 is replaced by the following text:

“if the Commission believes that there is an excessive deficit in a member state or that such a deficit risks emerging, it shall address a warning to the member state concerned and inform the Council”;

b) in paragraph 6, the word “recommendation” is replaced with “proposal”

c) in paragraph 7, the first sentence is replaced with “when the Council, in accordance with paragraph 6, decides that there is an excessive deficit, it shall adopt, without unjustifiable delay, on the recommendation of the Commission, the recommendations which it shall address to the member state concerned in order that the latter might address the situation in a given period of time.”;

d) in paragraph 11, first sub-paragraph, in the introductory sentence, the word “intensify” is replaced by “reinforce”

e) in paragraph 12, at the start of the first sentence, the words “its decisions” are replaced by “its decisions or recommendations”;

f) paragraph 13 is replaced by the following text:

“13. when the Council takes its decisions or recommendations as referred to in paragraphs 8, 9, 11 and 12, the Council shall act on the recommendation of the Commission.

When the Council adopts the measures referred to in paragraphs 6 to 9, 11 and 12, it shall act without taking into account the vote of the member of the Council representing the member state in question.

The qualified majority of the other members of the Council is defined in accordance with article 205, paragraph 3, point a)”

g) in paragraph 14, third sub-paragraph, the words “before 1 January 1994” are deleted.

### **Monetary policy**

**88)** in article 105, the text of paragraph 6 is replaced by the following text:

“6. the Council, acting in accordance with special legislative procedure, unanimously and after consultation with the European parliament and the European Central Bank, may refer to the European Central Bank specific tasks relating to the prudential supervision of

credit institutions and other financial institutions with the exception of insurance undertakings.”

**89)** article 106 is modified as follows:

a) in paragraph 1, first sentence, the words “in euros” are inserted after “... bank notes...”

b) in paragraph 2, first sentence, the words “in euros” are inserted after “... coins...”; at the start of the second sentence, the words “the Council, acting in accordance with the procedure referred to in article 252 and after consulting the European Central Bank...” are replaced with “the Council, on the proposal of the Commission and after consulting the European parliament and the European Central Bank...”

**90)** article 107 is modified as follows:

a) paragraphs 1 and 2 are deleted and paragraphs 3, 4, 5 and 6 are renumbered 1, 2, 3 and 4.;

b) the paragraph renumbered 1 is replaced by the following text:

“1. the European system of central banks, hereafter “ESCB”, shall be directed by the decision-making bodies of the European Central Bank, which shall be the board of governors and the directorate.”;

c) in the paragraph renumbered 2, the words “statutes of the ESCB” are replaced by the following phrase: “statutes of the ESCB and of the European Central Bank, hereafter referred to as “statutes of the ESCB and the ECB”...”;

d) the text of the paragraph renumbered 3 is replaced with the following text:

“3. 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 statutes of the ESCB may be modified by the European parliament and the Council, acting in accordance with ordinary legislative procedure. They shall act either on the recommendation of the ECB and after consultation with the Commission or on the proposal of the Commission and after consultation with the ECB.”

**91)** at the end of article 109, the phrase “... at the latest at the date of establishment of the ESCB” is deleted.

**92)** in article 110, the four first sub-paragraphs of paragraph 2 are deleted.

### **Measures concerning the use of the euro**

**93)** in article 111, the text of paragraphs 1 to 3 and 5 become, respectively, paragraphs 1 to 4 of article 188 O; they are modified as indicated below in point 178)

Article 111 is replaced by the following text:

“Without prejudice to the powers of the European Central Bank, the European parliament and the Council, acting in accordance with ordinary legislative procedure,

shall lay down the measures necessary for use of the euro as the single currency. Such measures shall be adopted after consultation of the European Central Bank.”

### **Institutional provisions (EMU)**

**94)** The texts of articles 112 and 113 become, respectively, articles 245ter and 245quater; they are modified as indicated below in points 231) and 232).

**95)** Article 114 is renumbered “112”; it is modified as follows:

(a) In paragraph 1, first subparagraph, the words “Monetary Committee with advisory status” are replaced with “economic and financial committee”;

(b) In paragraph 1, the second and third subparagraphs are deleted;

(c) In paragraph 2, the first paragraph is deleted;

**96)** Article 115 is renumbered “113”.

### **Provisions specific to member states whose currency is the euro**

**97)** The new chapter 3bis and the new articles 114, 115 and 115bis as follows are inserted:

“Chapter 3bis

Provisions specific to member states whose currency is the euro

Article 114

1. \_In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles III-179 and III-184, with the exception of the procedure set out in Article III-184(13), adopt measures specific to those Member States whose currency is the euro: to strengthen the coordination and surveillance of their budgetary discipline;

(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

The qualified majority of the members concerned is defined in accordance with the Article 205, paragraph 3, point a).

Article 115

Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.

## Article 115bis

1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

The qualified majority of the members concerned is defined in accordance with the Article 205, paragraph 3, point a)."

### **Transitional provisions for member states with a derogation**

**98)** Article 116 is replaced by the following text:

"Article 116

1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as "Member States with a derogation".

2. The following provisions of the Treaties shall not apply to Member States with a derogation:

(a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article III-179(2));

(b) coercive means of remedying excessive deficits (Article III-184(9) and (10));

(c) the objectives and tasks of the European System of Central Banks (Article III-185(1), (2), (3) and (5));

(d) issue of the euro (Article III-186);

(e) acts of the European Central Bank (Article III-190);

(f) measures governing the use of the euro (Article III-191);

(g) monetary agreements and other measures relating to exchange-rate policy (Article III-326);

(h) appointment of members of the Executive Board of the European Central Bank (Article III-382(2));

(i) Decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article III-196(1));

(j) measures to ensure unified representation within the international financial institutions and conferences (Article III-196(2)).

In the Articles referred to in points (a) to (j), "Member States" shall therefore mean Member States whose currency is the euro.

3. Under Chapter IX of the Statute of the European System of Central Banks and of the European Central Bank, Member States with a derogation and their national central banks are excluded from rights and obligations within the European System of Central Banks.

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article III-179(4));

(b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article III-184(6), (7), (8) and (11)).

The qualified majority of the members concerned is defined in accordance with the Article 205, paragraph 3, point a)."

**99)** Article 117 is modified as follows:

(a) Paragraph 1 is replaced by the text of paragraph 1 of article 121, with the following modifications:

- (i) at the beginning of the paragraph, the following sentence is inserted: "At least once every two years, or at the request of a Member State with a derogation, ...";
- (ii) throughout the paragraph, the word "EMI" is replaced by "European Central Bank";
- (iii) in the first subparagraph, first sentence, the words "... the progress made by member states in the fulfillment of their obligations..."
- (iv) In the first subparagraph, first sentence, the words "... each member state..." are replaced by "... each one of these member states...";
- (v) In the third bullet point, the words "exchange mechanism..." are replaced by "the exchange-rate mechanism..." and the words "... with relation to the currency of another member state;" are replaced by "... in relation to the euro.";
- (vi) In the fourth bullet point, the words "... member state..." are replaced by "... the member state with a derogation..." and the words "...in the exchange mechanism of the European monetary system..." are replaced by "... in the exchange-rate mechanism.";

- (vii) In the second sub-paragraph, the words “of the development of Ecu” are deleted;”

Paragraph 2 is modified as follows:

- (i) the first five bullets become the first five bullets of paragraph 2 of article 118; they are modified as indicated hereafter at the point [...]
- (ii) Paragraph 2 of article 117 is replaced by the text of paragraph 2, second sentence, of article 122; the following new second and third subparagraphs are added:

“The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority of the members concerned is defined in accordance with the Article 205, paragraph 3, point a).”;

(c ) paragraph 3 is replaced by the text of paragraph 5 of article 123; it is modified as follows:

- (i) the part of the sentence at the beginning of the paragraph “If it is decided, in accordance with the procedure set out in article 122, paragraph 2, to abrogate a derogation,...” is replaced by “If it is decided, in accordance with the procedure set out in paragraph 2, to put an end to a derogation,...”;
- (ii) the words “fixing the rate...” are replaced by “irrevocably fixing the rate...”; paragraphs 4 to 9 are repealed.

**100)** Article 118 is modified as follows:

- (a) Paragraph 1 is replaced by the text of paragraph 3 of article 123; the words “Of this treaty” are deleted;
- (b) Paragraph 2 is replaced by the text of the five first bullets of paragraph 2 of article 117; the five bullets are preceded by the following introductory sentence:

“If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:”

- (i) in the third bullet, the words “European monetary system” are replaced by “exchange rate mechanism.;
- (ii) the fifth bullet is replaced by the following text: “carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute”;

**101)** An article 118bis is inserted with the wording of article 124; it is modified as follows:

- (a) the part of the sentence “Until the beginning of the third phase, each member state...” is replaced by “Each member state shall treat...”;
- (b) the part of the phrase “...of the European monetary system (EMS) and thanks to the development of the Ecu, in respect of the existing competencies” is replaced by “..of the exchange rate mechanism.”

**102)** Article 119 is modified as follows:

- (a) In paragraph 1, the words, “having a derogation” are inserted, respectively, after “of a member state” in the first subparagraph and “a member state” in the second paragraph and the word “progressive” in the first paragraph is deleted;
- (b) in paragraph 2, point a) the words “with a derogation” are inserted after “the member states” and in point b), the words “the country in difficulty...” are replaced by “the member state with a derogation is in difficulty,...”;
- (c) in paragraph 3, the words “the Commission authorizes the state in difficulty...” by “the Commission authorizes the member state with a derogation, which is in difficulties,...”;
- (d) paragraph 4 is deleted.

**103)** article 120 is modified as follows:

- (a) in paragraph 1, the words, “the interested member state may take...” are replaced by “a member state with a derogation may take...”;
- (b) in paragraph 3, the word “opinion” is replaced by the word “recommendation”;
- (c) paragraph 4 is deleted.

**104)** In article 121, paragraph 1 becomes paragraph 1 of article 117; it is modified as indicated above in point 99).

**105)** In article 122, the second sentence of paragraph 2 becomes the first subparagraph of paragraph 2 of article 117; it is modified as indicated above in point 99). The rest of the article is repealed.

**106)** In article 123, paragraph 3 becomes paragraph 1 of article 118 and paragraph 5 becomes paragraph 3 of article 117; they are modified as indicated above, respectively, in point 100) and in point 99). The rest of article 123 is repealed.

**107)** In article 124, paragraph 1 becomes the new article 118bis; it is modified as indicated above in point 101). The rest of article 124 is repealed.

### **Displaced titles**

**108)** Title IX titled “The Common Commercial Policy” and articles 131 and 133 become, respectively, title II in the fifth part on the external action of the Union and articles 188B and 188 C. Article 131 is modified as indicated later in point 160) and article 133 is replaced by article 188 C.

Articles 132 and 134 are repealed.



**109)** Title X titled “Customs Cooperation” and article 135 become, respectively, chapter 1bis, in the title 1bis entitled “The free circulation of goods” and article 27bis, as indicated above in point 44).

### **Social policy**

**110)** The wording of title XI “Social policy, education, vocational training and youth” is repealed.

**111)** The wording of chapter 1 “Social provisions” is replaced by the following wording: “Title IX Social Policy”

**112)** The following new article 136bis is inserted:

“Article 136bis

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.”

**113)** Article 137 is modified as follows:

(a) in paragraph 2, in the introductory sentence of the first paragraph, the words “the Council:” are replaced by “The European Parliament and the Council:” and the first sentence of the second subparagraph is split into two subparagraphs which read as follows: “the European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consultation with the Economic and Social Committee and the Committee of the Regions.

In the fields referred to in paragraph 1, points c), d), f) and g), of the present article, the Council shall act in accordance with a special legislative procedure, by unanimity, after consultation with the European Parliament and the said Committees.”

The second sentence of the second subparagraph becomes the last subparagraph.

(b) In paragraph 3, first subparagraph, the following phrase is added at the end “... or, where appropriate, the implementation of a Council decision adopted in accordance with article [III-212].”; in the second subparagraph, the words “... a directive must be transposed in accordance with article 249,” are replaced by “,, a directive or a decision must be transposed or implemented”, and the words “...or the decision concerned” are added to the end of the subparagraph.

**114)** In article 138, paragraph 4, first sentence, the words “the consultation...,” shall be replaced by “the consultations referred to in paragraphs 2 and 3, ...” and, in the second sentence, the words, “the duration of the procedure” are replaced by “the duration of this process.”

**115)** Article 139, paragraph 2, is modified as follows:

(a) in the first subparagraph, the following phrase is added to the end: “the European Parliament is informed.”;

(b) in the second subparagraph, the beginning of the first sentence “The Council shall act by qualified majority, except where the agreement...” is replaced by “The Council shall act by unanimity when the agreement,,,” and the last phrase is deleted.

**116)** In article 140, the following phrase is added to the end of the second subparagraph: “...,” in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.”

### **European social fund**

**117)** Chapter 2 is renumbered “Title X”.

### **Displaced titles and chapters**

**118)** Chapter 3 titled “Education, vocational training and youth” and articles 149 and 150 become, respectively, chapter 1 of title XVII entitled, “AREAS WHERE THE UNION MAY TAKE SUPPORTING COORDINATING OR COMPLEMENTARY ACTION” and articles 176 B and 176 C. they are modified as indicated below, respectively in points 141) and 143).

**119)** Title XII entitled “Culture” and article 151 become, respectively, chapter 2 of title XVII entitled “AREAS WHERE THE UNION MAY TAKE SUPPORTING COORDINATING OR COMPLEMENTARY ACTION” and article 176 D. This article is modified as indicated later in point 145).

**120)** Title XVII entitled “Public Health” and article 152 become, respectively, chapter 2 of title XVII entitled “AREAS WHERE THE UNION MAY TAKE SUPPORTING COORDINATING OR COMPLEMENTARY ACTION” and article 176 E. This article is modified as indicated below in point 147).

### **Consumer protection**

**121)** Title XIV is renumbered XI.

**122)** In article 153, paragraph 2 becomes article 7, paragraph 2 is deleted and paragraphs 3, 4 and 5 are renumbered, respectively, 2, 3 and 4.

### **Renumbered or displaced titles**

**123)** title XV is renumbered XII

**124)** title XVI entitled “industry” and article 157 become, respectively, chapter 4 of title XVII entitled “areas where the union may decide to lead support, co-ordination or complementary action” and article 176F. This article is modified as indicated below in point 149).

### **Economic, social and territorial cohesion**

**125)** title XVII is renumbered XIII. The heading is replaced with “economic, social and territorial cohesion.”

**126)** article 158 is modified as follows:

a) in the first sub-paragraph, the words “economic and social cohesion” are replaced with “economic, social and territorial cohesion”

b) in the second sub-paragraph, the words “or islands” and the words “including rural areas” are deleted

c) the following new sub-paragraph is added: “Among the regions concerned, particular attention shall be paid to rural areas, affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.”

**127)** article 161 is modified as follows:

a) at the start of the first sub-paragraph, first sentence, the words “Without prejudice to Article 162, the Council, acting unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament” are replaced with “without prejudice to Article 162, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure...” and in the second sentence, the words “by the Council” and “acting” are deleted.

b) in the second sub-paragraph, the words “by the Council” are deleted;

c) the third sub-paragraph is deleted.

### **Research and technological development**

**128)** title XVIII is renumbered XIV. In the heading, the words “and space” are added.

**129)** article 163 is modified as follows:

a) paragraph 1 is replaced with the following text:

“1. The Union shall aim to strengthen its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encourage it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the treaties.”

b) in paragraph 2, the phrase “...aiming, notably, at enabling undertakings to exploit the internal market potential to the full” is replaced with “... aiming, notably, at enabling researchers to co-operate freely across borders and enabling undertakings to exploit the internal market potential ...”

**130)** in article 165, paragraph 2, the following phrase is added at the end: "...in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed."

**131)** in article 166, the following new paragraph 5 is added:

"5. In keeping with the actions referred to in the multi-annual framework programme, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the economic and social committee, shall establish the necessary measures for the implementation of European space research."

**132)** in article 167, the words "the Council" are replaced with "the Union"

**133)** in article 168, second sub-paragraph, the words "the Council" are replaced with "the Union"

**134)** in article 170, the last part of the phrase "... which are negotiated and concluded in accordance with article 300" is deleted.

### **Space**

**135)** the following new article 172 bis is inserted:

#### **"Article 172b**

1. In order to strengthen scientific and technological progress, industrial competitiveness and the implementation of its policies, the Union shall elaborate a European space policy. With this aim in mind, the Union shall promote common initiatives, support research and technological development and co-ordinate the necessary efforts for the exploration and use of space.

2. For the purposes referred to in paragraph 1 the European parliament and Council shall, acting in accordance with the ordinary legislative procedure, establish the necessary measures which might take the form of a European space programme, at the exclusion of any harmonisation of the legislative and regulatory provisions of the member states.

3. the Union shall establish any appropriate relations with the European Space Agency

4. the present article is without prejudice to other measures in the present title."

### **Environment (climate change)**

**136)** title XIX is renumbered XV

**137)** article 174 is modified as follows:

a) in paragraph 1, the fourth dash is replaced with the following text:

“ – the promotion, on an international level, of measures aimed at addressing regional or global environmental problems, and in particular the fight against climate change.”

b) in paragraph 4, first sub-paragraph, the phrase “... which shall be negotiated and concluded in accordance with article 300” is deleted.

**138)** article 175 is modified as follows:

a) in paragraph 2, the second sub-paragraph is replaced with the following text:

“the Council, acting unanimously on the proposal of the Commission and after consulting the European parliament, the economic and social Committee and the Committee for the regions, may render the ordinary legislative procedure applicable to areas referred to in the first sub-paragraph.”;

b) paragraph 3, the second sub-paragraph is replaced with the following text:

“the necessary measures for the implementation of these programmes shall be adopted in accordance with the conditions set out in paragraph 1 or paragraph 2, depending on the case in question.”

c) in paragraph 5, the words “the Council shall, in the act adopting that measure, lay down appropriate provisions” are replaced with “this measure provides for...”

## **Energy**

**139)** title XX is replaced with the following new title and new article 176 A:

“Title XVI  
ENERGY

### **Article 176 A**

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between member states, to:

(a) ensure the functioning of the energy market;

(b) ensure security of energy supply in the Union, and

(c) promote energy efficiency and energy saving and the development of new and renewable forms of energy.

(d) promote the interconnection of energy networks

2. Without prejudice to the application of other provisions of the treaties, the European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures to attain the objectives in paragraph 1. Such

measures shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to [Article III-234(2)(c)].

3. By way of derogation from paragraph 2, the Council, acting in accordance with a special legislative procedure, shall, after consultation with the European parliament, unanimously establish the measures referred to therein when they are primarily of a fiscal nature.”

### **AREAS WHERE THE UNION MAY TAKE SUPPORTING COORDINATING OR COMPLEMENTARY ACTION**

**140)** a new title XVII entitled “Areas AREAS WHERE THE UNION MAY TAKE SUPPORTING COORDINATING OR COMPLEMENTARY ACTION” is inserted.

#### **Sport**

**141)** in the heading for chapter 1, taken from chapter 3 of title XI, the words “... and youth” are replaced with “... youth and sport”.

**142)** an article 176 B is inserted, with the wording of article 149; it is modified as follows:

a) in paragraph 1, the following sub-paragraph is added:

“The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.”

b) in paragraph 2, the following dash is added at the end:

“ - developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially young sportsmen and sportswomen.”

c) in paragraph 3, the words “in the field of education” are replaced with “in the field of education and sport”

d) in paragraph 4, the words “the Council shall adopt” are deleted; the first dash begins with the words “the European Parliament and the Council, acting...” and the words “shall adopt” are inserted before “incentive measures”; the second dash begins with the words “the Council shall adopt, on the proposal...”

**143)** an article 176 C is inserted, with the wording of article 150; in paragraph 4, the following phrase is added at the end: “and the Council shall, on the proposal of the Commission, adopt recommendations.”

## **Culture**

**144)** chapter 2 “Culture”, which takes up the heading of title XII, is inserted

**145)** article 176 D is inserted, with the wording of article 151; paragraph 5 is modified as follows:

- a) in the introductory sentence, the words “the Council shall adopt” are deleted
- b) the first sentence of the first dash begins with the words “the European parliament and the Council, acting”, the words “shall adopt” are inserted before “incentive measures” and the second sentence of the first dash are deleted;
- c) in the second dash, the words “acting unanimously” are deleted and the dash begins with the words “the Council shall adopt, on the proposal...”

## **Public health**

**146)** chapter 3 “Public health”, which takes up the heading of title XIII, is inserted

**147)** article 176 E is inserted, with the wording of article 152; it is modified as follows:

- a) in paragraph 1, at the end of the second sub-paragraph, the following phrase is added: “as well as the monitoring of serious cross-border health threats, alerts in cases of such threats and the fight against them”
- b) in paragraph 2, at the end of the first sub-paragraph, the following phrase is added: “It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.”
- c) in paragraph 2, at the end of the second sub-paragraph, the following phrase is added: “... notably initiatives aiming at establishing guidelines and indicators, organising exchange of best practice and preparing the necessary elements for periodic monitoring and evaluation. The European parliament shall be kept fully informed.”
- d) paragraph 4 is modified as follows:
  - i) in the introductory sub-paragraph, the following phrase is inserted at the start: “by derogation to article [I-12 (5)], and article [I-17 a)] and in accordance with article [I-14 (2) k)]...” and the following words are added at the end: “... in order to address common security concerns.”;
  - ii) in point b), the words “by derogation to article 37...” are deleted
  - iii) a new point c) is inserted:

“c) “measures setting high standards of quality and safety for medicinal products and devices for medical use”
  - iv) the current point c) is renumbered paragraph 5 and is replaced with the following text:

“5: the European parliament and the Council, acting in accordance with the ordinary legislative procedure and after consultation of the Committee of the Regions and the Economic and Social Committee, may also establish incentive measures designed to protect and improve human health and in particular to combat the major cross-border scourges, measures concerning the monitoring of serious cross-border health threats, the alert in case of such threats and the fight against them, as well as measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States.”

e) the final sub-paragraph of the current paragraph 4 becomes paragraph 6 and paragraph 5, renumbered 7, is replaced with the following text:

“7. Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care, as well as the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.”

### **Industry**

**148)** A Chapter 4 “Industry”, which takes the title of Title XVI, is inserted.

**149)** An article 176 F is inserted, with the wording of article 157; it is modified as follows:

- a) at the end of paragraph 2, the following is added: “...,in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.”
- b) In paragraph 3, first sub-paragraph, the following is added at the end of the second sentence: “...,excluding any harmonisation of the laws and regulations of the Member States.”.

### **Tourism**

**150)** The new Chapter 5 and the new article 176 G below are inserted:

“Chapter 5  
Tourism

Article 176 G

1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.



To that end, Union action shall be aimed at:

(a) encouraging the creation of a favourable environment for the development of undertakings in this sector;

(b) promoting cooperation between the Member States, particularly by the exchange of good practice;

2. The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.”

### **Civil protection**

**151)** The new Chapter 6 and the new article 176 H below are inserted:

“Chapter 6  
Civil Protection

1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters.

Union action shall aim to:

(a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;

(b) promote swift, effective operational cooperation within the Union between national civil-protection services;

(c) promote consistency in international civil-protection work.

2. The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.”

### **Administrative Cooperation**

**152)** The new Chapter 7 and the new article 176 I below are inserted:

“Chapter 7  
Administrative cooperation

Article 176 I

1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.
2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.
3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the treaties providing for administrative cooperation among the Member States and between them and the Union."

#### **Relocated titles**

**153)** Title XX entitled "Development cooperation" and articles 177 and 179 to 181 become, respectively, Chapter 1 of Title III of the fifth part on the external action of the Union and articles 188D to 188G; these articles are changed as indicated below in points 165) to 168). Article 178 is repealed.

**154)** Title XXI entitled "Economic, financial and technical cooperation with third countries" and article 181 A become, respectively, Chapter 2 of Title III in the fifth part on external action of the Union and the new article 188H; this article is modified as indicated in point 170).

#### **Association of the overseas countries and territories**

**155)** In article 182, first subparagraph, the words "of this Treaty", at the end, are repealed.

**156)** In article 186, the clause in the final sentence "shall be governed by agreements to be concluded subsequently with the unanimous approval of Member States." is replaced by "...shall be governed by acts adopted in accordance with article 187."

**157)** In article 187, the words "acting unanimously" shall be replaced by "acting unanimously on a proposal from the Commission" and the following clause added to the end of the article: "when the provisions in question take the form of a legislative act, they shall be adopted after consultation of the European Parliament."

#### **The Union's external action (other than the Common Foreign and Security Policy)**

**158)** A new fifth part is inserted. It is entitled "THE UNION'S EXTERNAL ACTION IN AREAS OTHER THAN THAT OF THE COMMON FOREIGN AND SECURITY POLICY" and contains the following chapters:

Title I:	General provisions on the Union's external action
Title II:	Common commercial policy
Title III:	Cooperation with third countries and humanitarian aid
	Chapter 1: Development cooperation
	Chapter 2: Economic, financial and technical cooperation with third countries
	Chapter 3: Humanitarian aid
Title IV:	Restrictive measures
Title V:	International agreements
Title VI:	The Union's relations with international organisations and third countries and Union delegations
Title VII:	Implementation of the Solidarity Clause

### **General Provisions**

**159)** The new Title I and the new article 188, below, are inserted:

"Title I:  
General provisions on the Union's external action

Article 188 A

The Union's action on the international scene, under the title of the present part, shall be guided by the principles, pursue the objectives and is led according to the general provisions referred to in chapter I of the Treaty on European Union."

### **Common commercial policy**

**160)** A Title II entitled "The Common commercial policy", which takes up the title of Title IX of the third part, is inserted.

**161)** An article 188 B is inserted, with the wording of article 131; it is modified as follows:

a) The first subparagraph is replaced with the following text:

"By establishing a customs union in accordance with Articles 23 to 27, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers."

b) The second subparagraph is repealed.

**162)** An article 188 C is inserted, replacing article 133:

"Article 188 C

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, [Article III-325] shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

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

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

(a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;

(b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to [Section 7 of Chapter III of Title III and to Article III-325].

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the Union

and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States insofar as the treaties exclude such harmonisation.

### **Development Cooperation**

**163)** A Title III entitled “Cooperation with third countries and humanitarian aid” is inserted.

**164)** A Chapter 1 “Development Cooperation”, which takes up the title of Title XX of the third part, is inserted.

**165)** An article 188 D is inserted, with the wording of article 177; it is modified as follows:

a) paragraphs 1 and 2 are replaced with the following text:

1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States shall complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.”

b) Paragraph 3 is renumbered “2”

**166)** An article 188 E is inserted, with the wording of article 179; it is modified as follows:

a) paragraph 1 is replaced by the following text:

“1. The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.”;

b) the new paragraph 2, below, is inserted:

“2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in [Articles III-292 and III-316].

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

c) the current paragraph 2 is renumbered “3” and the current paragraph 3 is deleted.

**167)** An article 188 F is inserted, with the wording of article 180; it is modified as follows:

The following clause is inserted at the beginning of paragraph 1: “In order to promote the complementarity and efficiency of their action, the Union...”.

**168)** An article 188G is inserted, with the wording of article 181; the second sentence of the first sub-paragraph and the second sub-paragraph are deleted.

### **Economic, financial and technical cooperation with third countries**

**169)** A Chapter 2 entitled “Economic, financial and technical cooperation with third countries”, which takes the title of Title XXI of the third part is inserted.

**170)** An article 188H is inserted, with the wording of article 181A; it is modified as follows:

a) the paragraph 1 is replaced by the following text:

“1. Without prejudice to the other provisions of the Treaties, and in particular those of articles [188 D to 188 G], the Union shall carry out economic, financial and technical cooperation, and including assistance in particular in the financial sphere, measures with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be in line with the principles and objectives of its external action. The actions of the Union and member states shall complement and reinforce one another.”

**Comment:** The wording of this has changed slightly from constitution

b) paragraph 2 is replaced by the following text:

“The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures for implementing paragraph 1.”

c) in paragraph 3, first subparagraph, second sentence, the part of the last phrase “..., which are negotiated and concluded in conformity with article 300” is deleted.

**171)** The new article 188 I, below is inserted:

“Article 188 I

When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary decisions on a proposal from the Commission.”

### **Humanitarian aid**

**172)** the following new chapter 3 and article 188 J are inserted:

“Chapter 3: Humanitarian aid

Article 188 J

1. The activities of the Union in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. These activities shall aim, in a prompt manner, to bring assistance and help to populations in third countries, victims of natural or human-caused catastrophes, and to protect them, in order to address the humanitarian needs resulting from these different situations. The Union's development cooperation policy and that of the Member States shall complement and reinforce each other.

2. humanitarian aid actions shall be conducted according to the principles of international law and impartiality, neutrality and non-discrimination.

3. the European parliament and the council, acting in accordance with the ordinary legislative procedure, shall establish measures defining the context in which the humanitarian aid actions of the Union are implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and Article [III-292] of the treaty on European Union.

The first sub-paragraph shall not prejudice the competency of member states to negotiate in international instances and to conclude agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European parliament and the Council, acting in accordance with the ordinary legislative procedure, shall determine the rules and procedures for the operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system."

### **Restrictive measures**

**173)** the following title IV and article 188K are inserted, replacing article 301:

"Title IV  
Restrictive Measures

#### **Article 188K**

1. Where a decision, adopted in accordance with Chapter II of title V of the treaty on the EU, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.

2. Where a decision adopted in accordance with Chapter II of title V of the treaty on the EU so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.

3. The acts referred to in this Article shall include necessary provisions on legal safeguards.”

### **International agreements**

**174) a** title V “international agreements” is inserted

**175)** the following article 188L is inserted:

#### **“Article 188 L**

1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.

2. Agreements concluded by the Union are binding on the institutions of the Union and on its Member States.

**176)** article 188 M is inserted, with the wording of article 310. The word “states” is replaced with “third countries”

**177)** article 188 N, replacing article 300, is inserted:

#### **“Article 188N**

1. Without prejudice to the specific provisions laid down in Article [III-315], agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or head of the Union's negotiating team.

4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.



5. The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.

6. The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the decision concluding the agreement:

(a) after obtaining the consent of the European Parliament in the following cases:

(i) association agreements;

(ii) Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(iii) agreements establishing a specific institutional framework by organising cooperation procedures;

(iv) agreements with important budgetary implications for the Union;

(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for approval.

(b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. Throughout the procedure, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in [Article III-319] with the States which are candidates for accession. The Council equally shall act unanimously on agreements covering adhesion of the Union to the European Convention of Human Rights and fundamental freedoms; the decision on conclusion of this agreement shall enter into force after its approval by member states, in accordance with their respective constitutional rules.

9. The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a Decision suspending

application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The European Parliament shall be immediately and fully informed at all stages of the procedure.

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the treaties. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the treaties are revised.”

**178)** article 188 O is inserted, with the wording of paragraphs 1 to 3 and 5 and article 111; it is modified as followed:

a) in paragraph 1, first sub-paragraph, and in paragraph 2 the words “non-community currencies” are replaced by “currencies of third countries”

b) in paragraph 3, in the first sentence of the first sub-paragraph, the word “states” is replaced with “third states” and the second sub-paragraph is deleted;

c) paragraph 5 is renumbered 4

#### **The Union’s relations with international organisations and third countries and Union delegations**

**179)** the following title VI and articles 188 P and 188 Q are inserted, with article 188 P replacing articles 302 to 304:

“Title VI: The Union’s relations with international organisations and third countries and Union delegations”

##### **Article 188P**

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

The Union shall also maintain such relations as are appropriate with other international organisations.

2. The High Representative of the Union for Foreign Affairs and Security Policy and the Commission shall be instructed to implement this Article.

##### **Article 188 Q**

1. Union delegations in third countries and at international organisations shall represent the Union.

2. Union delegations shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They shall act in close cooperation with Member States' diplomatic and consular missions.

### **Solidarity clause**

**180)** the following new title VII and article 188 R are inserted:

“Title VIII: Solidarity clause

#### **Article 188 R**

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

(a) – prevent the terrorist threat in the territory of the Member States;  
– protect democratic institutions and the civilian population from any terrorist attack;  
– assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;

(b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

2. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. The arrangements for the implementation by the Union of the present solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article III-300(1) where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article III-344, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article III-261; the two committees shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.

### **Functioning of the Union**

**181)** The fifth part is renumbered “sixth part” and its title is replaced by “The functioning of the Union.”

## **European Parliament**

**182)** Article 189 is repealed;

**183)** Article 190 is modified as follows:

- (a) paragraphs 1, 2 and 3 are deleted and paragraphs 4 and 5 are renumbered, respectively, 1 and 2;
- (b) In paragraph 4, renumbered 1, first subparagraph, the words, “of its members” are inserted after “the election”; in the second subparagraph, the words “in accordance with the special legislative procedure” are inserted after “acting”;
- (c) In paragraph 5, renumbered 2, the words “acting on its own initiative in accordance with a special legislative procedure” are inserted after “The European Parliament”.

**184)** In article 191, the first subparagraph is deleted; in the second subparagraph, the words “referring to article [I-46, paragraph 4] of the treaty on the European Union” are inserted after “at the European level.”

**185)** in article 192, the first subparagraph is deleted; in the second the words “of its members” are replaced by “of its component members” and the following sentence is added to the end of the subparagraph: “If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons.”

**186)** Article 193 is modified as follows:

(a) In the first subparagraph, the words “of its members” are replaced by “of its component members”;

(b) the second subparagraph is replaced by the following text:  
“The detailed provisions governing the exercise of the right of inquiry shall be laid down by the European Parliament, acting on its own initiative in accordance with a special legislative procedure, obtaining the consent of the Council and of the Commission.”

**187)** Article 195 is modified as follows:

- (a) In paragraph 1, first subparagraph, the words at the beginning “The European Parliament shall appoint an Ombudsman empowered to receive complaints...” are replaced by “A European Ombudsman, elected by the European Parliament, shall be empowered to receive complaints...”, in the last part of the phrase the words “and the Court of First Instance” are deleted and the last following sentence is added: “He shall investigate these complaints and report on them.”;
- (b) In paragraph 2, first subparagraph, the word “appointed” is replaced by “elected.”;
- (c) In paragraph 3, the words “any body” are replaced by “any institution, body, office or agency”;

- (d) In paragraph 4, the words "... acting on its own initiative in accordance with a special legislative procedure..." are inserted after "The European Parliament..."

**188)** In article 196, second subparagraph, the words "in extraordinary session" are replaced by "in extraordinary part-session" and the words, "of its members" shall be replaced by "of its component members."

**189)** Article 197 is modified as follows:

(a) The first subparagraph is deleted;

(b) The second subparagraph is replaced by the following text: "The Commission may attend all the meetings of the European Parliament and shall, at its request, be heard."

(c) the fourth subparagraph is replaced by the following text: The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council."

**190)** In article 198, first subparagraph, the word "absolute" is deleted.

**191)** in article 199, second subparagraph, the words "... conditions laid down by this regulation" are replaced by "... conditions laid down by the treaties and this regulation."

**192)** In article 201, the second subparagraph is replaced by the following text:  
If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component members of the European Parliament, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Articles I-26 and I-27. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.

### **European Council**

**193)** The new following sections 1bis and the new articles 201bis and 201ter are inserted:

"Section 1bis  
The European Council"

Article 201bis

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

Paragraph [1 of article I-25] of the treaty on European Union and paragraph [2] of article [205] of the present treaty applies to the European Council when it acts by qualified

majority. When the European Council takes a vote, its President and the President of the Commission will not take part.

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

2. The President of the European Parliament may be invited to be heard by the European Council.

3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

Article 201ter

The European Council shall adopt by qualified majority:

A decision establishing the list of formations of the Council other than those referred to in article [I-24, paragraphs 2 and 3] of the treaty on European Union;

A decision relating to the presidency of Council configurations other than that of foreign affairs, in accordance with article [I-24, paragraph 7,] of the treaty on European Union.

## **Council**

**194)** Articles 202 and 203 are repealed.

**195)** Article 205 is modified as follows:

(a) paragraphs 1 and 2 are replaced with the following text:

“1. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.”;

2. By way of derogation from paragraph 1 of the article [I-25] of the treaty on European Union, from 1 November 2014 and save the transitory provisions referred to in article [9 C, paragraph 5,] of the treaty on European Union, when the Council does not act on a proposal from the Commission or the High Representative for Foreign Affairs and Security Policy, the qualified majority shall be defined as being equal to at least 72% of the members of the Council, representing member states comprising at least 65% of the population of the Union.

3. From 1 November 2014, and save the transitional provisions in article [9 C, paragraph 5,] on the treaty on European Union, in the case where all the members of the Council do not take part in the vote, the qualified majority shall be defined as follows:

(a) The qualified majority is defined as being equal to at least 55% of the members of the Council representing the participating Member States, comprising at least 65% of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35% of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

(b) By way of derogation from point a), when the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72% of the members of the Council, representing Member States comprising at least 65% of the population of the Union.

(c) paragraph 4 is deleted and paragraph 3 is renumbered "4".

**196)** Article 207 is replaced by the following text:  
"Article 207

1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council. The Council shall decide on the organisation of the General Secretariat by a simple majority.

3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.

**197)** In article 208, the following phrase is added to the end of the article "If the Commission does not submit a proposal, it shall inform the Council of the reasons."

**198)** In article 209, the word "opinion" shall be replaced by "consultation"

**199)** Article 210 is replaced by the following text:

The Council shall determine the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the High Representative for Foreign Affairs and Security Policy, the members of the Commission, the Presidents, members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council. He also determines any payment to be made instead of remuneration."

### **Commission**

**200)** Article 211 is replaced by the following text:

"In accordance with article [I-26, paragraph 6] of the treaty on European Union the members of the Commission shall be selected by unanimity on the basis of a system of equal rotation between the Member States, and on the basis of the following principles:

(a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission;

consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;

(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States.”

**201)** Article 213, paragraph 1 is deleted, paragraph 2 remaining without a number; its two first subparagraphs are merged and read as follows:

“The members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.”

**203)** Article 214 is repealed.

**204)** Article 215 is modified as follows:

(a) The second subparagraph is replaced by the two following subparagraphs:

“A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the member's term of office by a new member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in Article I-26(4) of the Treaty on European Union. The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the member's term of office is short.”

(b) The following new fifth subparagraph is inserted:

In the event of resignation, compulsory retirement or death, the High Representative of the Union for Foreign Affairs and Security Policy shall be replaced, for the remainder of his or her term of office, in accordance with Article I-28(1) of the treaty on European Union

(c ) The last subparagraph is replaced by the following text:

In the case of the resignation of all the members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, for the remainder of their term of office, in accordance with Articles I-26 and I-27 of the treaty on European Union.

**205)** In article 217, paragraphs 1, 3 and 4 are deleted and paragraph 2 remains without a number. Its first sentence is replaced by the following phrase:

“Without prejudice to Article I-28(4) of the treaty on European Union, the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article I-27(3) of the treaty.”



**206)** In article 218, paragraph 1 is deleted; paragraph 2 is renumbered “1” and the words “in accordance with the provisions of this Treaty” are deleted. A paragraph 2, with the wording of article 212, is inserted.

**207)** In article 219, first subparagraph, the words “the number of Members provided for in Article 213” are replaced by “of its members” and the second subparagraph is replaced by “Its Rules of Procedure shall determine the quorum.”

### **Court of Justice**

**208)** In the title of section 4, the words, “Of the European Union” are added.

**209)** Article 220 is repealed.

**210)** In article 221, the first subparagraph is deleted.

**211)** In article 223, the words “...after consultation of the panel provided for in Article III-357” are added to the end of the first subparagraph. The fifth subparagraph is deleted.

**212)** In article 224, the first paragraph, the first sentence is deleted and the words “of the Tribunal” are inserted after “The number of judges...”. In the second subparagraph, the words “...after consultation of the panel provided for in Article III-357” are inserted at the end of the second sentence. The fourth subparagraph is deleted.

**213)** The following new article 224bis is inserted:

“Article 224bis

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles III-355 and III-356.

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a Decision establishing the panel's operating rules and a Decision appointing its members. It shall act on the initiative of the President of the Court of Justice.”

**214)** In article 225, paragraph 1, first subparagraph, first sentence, the words, “set up under Article [III-359]” are inserted after “a specialized tribunal” and in paragraph 2, first subparagraph, the words “set up under article 225 A” are deleted.

**215)** article 225 A is modified as follows:

(a) the first subparagraph is replaced by the following text: “The European Parliament and the Council, acting in accordance with the ordinary legislative procedure may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. They shall be

adopted either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.”

(b) in the second subparagraph, the words “this chamber” are replaced with “this tribunal”:

(c) in the sixth subparagraph, the following phrase is added to the end: Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.

**216)** Article 228 is modified as follows:

(a) in paragraph 2, the first and second subparagraphs are replaced by the following text which becomes the first subparagraph:

“If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment referred to in paragraph 1, it may bring the case before the Court of Justice of the European Union after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.”

In the second, now the third subparagraph, the words “of justice” after “court” are deleted.

(b ) The following new paragraph 3 is added:

When the Commission brings a case before the Court of Justice of the European Union pursuant to Article III-360 on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a European framework law, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.”

**217)** In article 229 A, the words, “... the Council, “the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament” are replaced by “... the Council, acting by unanimity in accordance with a special legislative procedure and after consultation of the European Parliament...” and the words “Community industrial property rights” are replaced by “European intellectual property rights.”

**218)** Article 230 is modified as follows:

(a) in the first subparagraph, the words “...acts adopted jointly by the European Parliament and the Council” are replaced with “... legislative acts,...”, the words “and of

the European Council” are inserted after “European Parliament”, the words “vis-à-vis” are replaced by “with regard to” and the following phrase is added at the end: “It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects vis-à-vis third parties.”

(b) In the third subparagraph, the words “and by the Committee of the Regions” are inserted after “European Central Bank.”;

(c) The fourth subparagraph is replaced by the following text:

“Any natural or legal person may, under the same conditions institute proceedings against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.”;

(d) the following new fifth subparagraph is inserted:

“Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.”

**219)** In article 231, the second subparagraph is replaced by the following text: “However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.”

**220)** Article 232 is modified as follows:

(a) In the first subparagraph, the words “The European Council” are inserted after “European Parliament”, the words “or the European Central Bank” are inserted after “Commission”, the word “or” before the Commission is deleted and the following sentence is added at the end of the subparagraph: “This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.”

(b) In the third subparagraph, the words “... or to one of the bodies, offices or agencies” are inserted after “one of the institutions”;

(c) The fourth subparagraph is deleted.

**221)** In article 233, first subparagraph, the words “or the institutions” are deleted and the third subparagraph is deleted.

**222)** In article 234, first subparagraph, point b), the words, “and by the ECB” are deleted and point c) is deleted. The following subparagraph is added to the end of the article: “If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court shall act with the minimum of delay.”

**223)** The following new article 235bis is inserted:  
“Article 235bis

The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article I-59 solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.

Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request.”

**224)** In article 236, the words, “...within the limits and under the conditions laid down” are replaced by “...conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.”

**225)** In article 237, point d), at the beginning of the second sentence, the word “governing” is inserted before “Council” and the word “of justice” are deleted at the end after the word “Court”.

**226)** The following two new articles 240bis and 240ter are inserted:

“Article 240bis

The Court of Justice of the European Union shall not have jurisdiction with respect to Articles I-40 and I-41 and the provisions of Chapter II of Title V concerning the common foreign and security policy and Article III-293 insofar as it concerns the common foreign and security policy.

However, the Court shall have jurisdiction to monitor compliance with Article III-308 and to rule on proceedings, brought in accordance with the conditions laid down in Article III-365(4), reviewing the legality of Decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter II of Title V of the treaty on European Union.

Article 240ter

“In exercising its powers regarding the provisions of Sections 4 and 5 of Chapter IV of Title III relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.”

**227)** Article 241 is replaced by the following text:

“Article 241

Notwithstanding the expiry of the period laid down in Article [230, fifth paragraph], any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article [230, second paragraph] in order to invoke before the Court of Justice of the European Union the inapplicability of that act.”

**228)** Article 242, second phrase, the words “of justice” after “Court” are deleted.

**229)** In article 245, the second subparagraph is replaced by the following text:

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may amend the provisions of the Statute, with the exception of Title I and Article 64. It shall be adopted either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice.”

### **European Central Bank**

**230)** The following section 4bis and article 245bis are inserted:

“Section 4bis  
The European Central Bank”

Article 245bis

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.

2. The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives.

3. The European Central Bank shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles III-185 to III-191 and Article III-196, and with the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.

5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.

**231)** An article 245ter is inserted, with the wording of article 112; it is modified as follows:

(a) in paragraph 1, the words “of the Member States without a derogation as referred to in Article III-197” are inserted at the end after “... national central banks”;

(b) in paragraph 2, second subparagraph, the words “appointed... by common accord of the governments of the Member States at the level of Heads of State or Government,” are replaced by “appointed by the European Council, acting by qualified majority.”

**232)** An article 245quater is inserted, with the wording of article 113.

### **Court of Auditors**

**233)** In article 246, the words “of the Union” are inserted at the end and the two following subparagraphs are added:

“It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.

It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.”

**234)** Article 247 is modified as follows:

- (a) paragraph 1 and the first subparagraph of paragraph 4 are deleted.  
Paragraphs 2 to 9 are renumbered, respectively, 1 to 8.
- (b) In paragraph 2, renumbered 1, the word “country” is replaced by “state”
- (c) In paragraph 4, the word “They” is replaced by “the members of the Court of Auditors”.

**235)** In article 248, the word “bodies” is replaced by “body, office or agency”.

### **Legal acts of the Union**

**236)** The wording of Chapter 2 is replaced by the wording following “Legal acts of the Union, adoption procedures and other provisions.”

**237)** A section 1 is inserted, above article 249:

“Section 1

The legal acts of the Union

**238)** Article 249 is modified as follows:

- (a) The first subparagraph is replaced by the following text:

“To exercise the Union's competences the institutions shall adopt regulations,,directives, decisions, recommendations and opinions.”

- (b) the fourth subparagraph is replaced by the following text:

“A decision is binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.”

**239)** The following new articles 249 A to 249 D are inserted:

“Article 249 A

1. "The ordinary legislative procedure shall consist of the adoption of a regulation, a directive or a decision jointly by the European Parliament and the Council, on a proposal from the Commission. This procedure is defined in article [III-396].

2. A special legislative procedure shall consist of the adoption of a regulation, a directive or a decision by the European Parliament with the participation of the Council or by the Council with the participation of the European Parliament.

3. Legal acts adopted by legislative procedure constitute legislative acts.

#### Article 249 B

1. A legislative act may delegate to the Commission the power to adopt delegated European regulations to supplement or amend certain non-essential elements of the law or framework law.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined by the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.

2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated regulation may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

3. The adjective "delegated" is inserted in the wording of the delegated acts.

#### Article 249 C

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article I-40, on the Council.

3. For the purposes of paragraph 2, The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

4. The word "implementing" is inserted into the wording of the implementing acts.

#### Article 249 D

The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the treaties provides that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Treaties, shall adopt recommendations.”

#### **Procedures for the adoption of acts and others provisions**

**240)** Section 2 titled “Procedures for the adoption of acts and other provisions” is inserted, before article 250:

**241)** In article 250, paragraph 1 is replaced by the following text:

1. Where, pursuant to the treaties, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously, except in the cases referred to in Articles I-55, I-56, III-396(10) and (13), III-404 and III-405(2).

#### **Procedures for the adoption of acts and other provisions**

**242)** Article 251 shall be modified as follows:

- a) in paragraph 1, the words “this Article” shall be replaced by “the ordinary legislative procedure”;
- b) from the beginning of the second subparagraph of paragraph 2, the text of the article is replaced by the following text:

##### *“First reading*

3. The European Parliament shall adopt its position at first reading and communicate it to the Council.

4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.

5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

##### *Second reading*

7. If, within three months of such communication, the European Parliament:



(a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;

(b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;

(c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:

(a) approves all those amendments, the act in question shall be deemed to have been adopted;

(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

#### *Conciliation*

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

#### *Third reading*

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

#### *Special provisions*

15. Where, in the cases provided for in the Treaties, a law or framework law is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.

**243)** Article 252 shall be replaced with the following text:

“The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature.”

**244)** Article 253 shall be replaced by the following text:

“Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.

Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

When they have submitted a proposed legislative act, the European Parliament and the Council shall abstain from adopting acts not set out by the legislative procedure applicable to the field concerned.”

**Comment:** This last subpara appears to be new

**245)** Article 254 shall be replaced by the following text:

1. Laws adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

In other cases they shall be signed by the President of the institution which adopted them.

Laws shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.

2. Laws adopted in the form of regulations, directives and decisions, which do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations, directives addressed to all member states, and decisions when the latter do not specify to whom they are addressed, shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Other directives, as well as decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification.

**246)** The new article 254 bis, below, shall be inserted:

“Article 254 bis

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.

2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article [III-427], the European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish provisions to that end.”

**247)** Article 255 shall become article 21bis; it is modified as indicated in point 36).

**248)** In article 256, first sub-paragraph, the word “decisions” shall be replaced by “acts” and the words “or the European Central Bank” shall be inserted after “Commission”.

**Advisory bodies**

**249)** The new Chapter 3 and following article shall be inserted, Chapters 3 and 4 shall become respectively section 1 and section 2 and Chapter 5 shall be renumbered 4:

“Chapter 3  
The Union’s advisory bodies

Article 256[bis]

1. The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.

2. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.

3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.

4. The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.

5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in Articles [III-386 to III-392].

The rules referred to in paragraphs 2 and 3 governing the nature of their composition shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt decisions to that end."

**250)** Articles 257 and 261 are repealed.

**251)** For article 258, the second and third sub-paragraphs shall be replaced by the following subparagraph:

"the Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the composition of the Committee.

**252)** Article 259 shall be changed as follows:

- a) for paragraph 1, the first sentence shall be replaced by the following: "Members of the Committee shall be appointed for five years.";
- b) paragraph 2 shall be replaced by the following text:

"2. The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern."

**253)** In article 260, in the first sub-paragraph, the words "two years" shall be replaced with "two and a half years" and in the third sub-paragraph, the words "of the European Parliament," shall be inserted before the words "of the Council".

**254)** Article 262 shall be modified as follows:

- a) a mention of the European Parliament is inserted before the mention of the Council in the first, second and third sub-paragraphs;
- b) in the first sub-paragraph, the word "must" is taken out
- c) in the third subparagraph, the words "The opinion of... the specialised section" shall be removed
- d) the fourth subparagraph shall be removed

**255)** Article 263 is modified as follows:

- a) the first sub-paragraph shall be deleted;
- b) the third sub-paragraph shall be replaced by the following text:

“the Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the composition of the Committee.”

- c) in the fourth sub-paragraph, in the first sentence, the words “on proposals from the respective Member States” shall be removed and the figure “four” shall be replaced with “five”; in the third sentence, the reference the “first sub-paragraph” shall be replaced with a reference “to the article [I-32], paragraph 2,}”.
- d) The last sub-paragraph shall be deleted.

### **Committee of the Regions**

**256)** For article 264, in the first sub-paragraph, the words “two years” shall be replaced with “two and a half years” and in the third sub-paragraph, the words “of the European Parliament,” shall be inserted before “of the Council”.

**257)** Article 265 is modified as follows:

- a) the fourth subparagraph is deleted;
- b) a mention of the European Parliament is inserted before the mention of the Council in the first, second and third sub-paragraphs;

### **European Investment Bank**

**258)** In article 266, third sub-paragraph, the words “at the request of the Commission” shall be replaced with “on a proposal from the Commission”, the words “in accordance with a special legislative procedure” shall be inserted after “unanimity” and the reference to articles 4, 11 and 12 and article 18 paragraph 5, of the statutes of the bank is removed.

**259)** In article 267, point b) the words “called for” shall be replaced by “resulting from”, the word “progressive” shall be removed and the words “or the functioning” added after “establishment”.

### **Financial provisions**

**260)** Article 268 shall be modified as follows:

- a) in the first sub-paragraph the words “... including those relating to the European Social Fund,...” shall be deleted and the sub-paragraph shall become paragraph 1.

b) The second sub-paragraph shall be replaced with the following text:

“the Union's annual budget shall be established by the European Parliament and the Council in accordance with Article [III-404].”

c) the following new paragraphs shall be inserted:

“2. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law referred to in Article [III-412].

3. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the European law referred to in Article [III-412], except in cases for which that law provides.

4. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article [I-55].

5. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

6. The Union and the Member States, in accordance with Article [III-415], shall counter fraud and any other illegal activities affecting the financial interests of the Union.”

### **The Union's own resources**

**261)** A Chapter 1 entitled “The Union's own resources” shall be inserted, before article 269.

**262)** Article 269 shall be modified as follows:

a) the new first sub-paragraph, below, is inserted:

“The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.”

b) the last sub-paragraph shall be replaced by the two following sub-paragraphs:

“The Council, acting in accordance with a special legislative procedure, shall lay down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. The Council shall act unanimously after consulting the European Parliament. That law shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The Council, acting in accordance with a special legislative procedure, shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the European law adopted on the basis of the first preceding subparagraph. The Council shall act after obtaining the consent of the European Parliament."

**263)** Article 270 is deleted.

### **The multiannual financial framework**

**264)** The new chapter 2 and the new article 270[bis], below, shall be inserted:

"Chapter 2

The multiannual financial framework

#### Article 270[bis]

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure.

It shall be established for a period of at least five years.

The annual budget of the Union shall comply with the multiannual financial framework.

2. The Council, acting in accordance with a special legislative procedure, shall lay down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

The European Council may, unanimously, adopt a decision authorising the Council to act by a qualified majority when adopting the rules referred to in the first sub-paragraph.

3. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.

The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no act of the Council determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that law is adopted.

5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate the successful completion of the procedure."

### **The Union's annual budget**

**265)** a Chapter 3 entitled "The Union's annual budget" shall be inserted, after article 270[bis]

**266)** An article 270[ter] shall be inserted, with the wording of paragraph 1 of article 272.

**267)** The article 271 shall become the new article 273[bis]; it is modified as indicated in point 270).

**268)** For article 271, paragraph 1 shall become article 270[ter] and paragraphs 2 to 10 shall be replaced by the following text:

"The European Parliament and the Council, acting in accordance with a special legislative procedure, shall establish the Union's annual budget in accordance with the following provisions:

1. Each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget which may contain different estimates.

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

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, the European Parliament:

(a) approves the position of the Council, the European law establishing the budget shall be adopted;

(b) has not taken a decision, the European law establishing the budget shall be deemed to have been adopted;

(c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.



5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

(a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the budget shall be deemed to be definitively adopted in accordance with the joint text, or

(b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission, or

(c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission, or

(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation committee on the budget heading which is the subject of the amendment shall be retained. The budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Treaties and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure."

**269)** Article 272 shall be modified as follows:

a) in the first sub-paragraph, the word “voted” shall be replaced by “definitively adopted”, the words “or other subdivision” are deleted and the section of the final sentence “not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget in accordance with the provisions of the Regulations made pursuant to Article 279; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft budget in course of preparation.” shall be replaced by “...a sum equivalent to not more than one twelfth of the budget appropriations entered in the chapter in question of the budget for the preceding financial year may be spent each month in respect of any chapter in accordance with the European law referred to in Article III-412; that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.”

b) in the second sub-paragraph, the words “, on a proposal from the Commission,” shall be inserted after “the Council” and the following added to its end: “..., in accordance with the provisions of the Regulations made pursuant to Article 279. It shall forward the decision immediately to the European Parliament..”;

c) The third sub-paragraph shall be deleted;

d) The last sub-paragraph shall be replaced by the following text:

“the decision referred to in the second sub-paragraph shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the laws referred to in Article [269].

It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component members, has not decided to reduce this expenditure within that time-limit.”

**270)** Article 273[bis] shall be inserted, with the wording of article 271; it shall be modified as follows:

a) the first sub-paragraph is deleted;

b) in the third sub-paragraph, which becomes the second, the words “as far as may be necessary,” are removed

c) in the last sub-paragraph, the words “the Council, the Commission and the Court of Justice” shall be replaced with “the Council, the Commission, as well as the Court of Justice”

#### **Implementation of the budget and discharge**

**271)** A Chapter 4 entitled “Implementation of the budget and discharge” shall be inserted, before article 274, which shall be modified as follows:

- a) in the first sub-paragraph, the section of the opening sentence “The Commission shall implement the budget” shall be replaced with “The Commission shall implement the budget in cooperation with the Member States”;
- b) the second sub-paragraph is replaced with the following text: “the law shall establish the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. It shall establish the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure.”

**272)** In article 275, the reference referring to the Council and the Parliament shall be reversed.

**273)** In article 276, paragraph 1, the words “the accounts and the financial statement referred to in Article [275],” shall be replaced with “the accounts, the financial statement and the evaluation report referred to in Article [275],”.

### **Common financial provisions**

**274)** A chapter 5 titled “Common provisions” is inserted, before article 277.

**275)** Article 277 is replaced by the following text: “the multiannual financial framework and the annual budget shall be established in euros.”

**276)** Article 279 is modified as follows:

(a) paragraph 1 is replaced by the following text:

“1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consultation of the Court of Auditors shall establish:

(a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.

(c) In paragraph 2, the words “by unanimity” and the word “opinion” are deleted.

**277)** The following new articles 279bis and 279ter are inserted:

“Article 279bis

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

Article 279ter

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the

budgetary procedures referred to in this Chapter. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this title.”

### **Fight against fraud**

**278)** A chapter 6 titled “The fight against fraud” is inserted, before article 280.

**279)** In article 280, paragraph 1, the following part of the phrase is added on to the end “...,and in all the Union’s institutions, bodies, offices and agencies” and the last phrase of paragraph 4 is deleted.

### **Enhanced cooperation**

**280)** A title entitled “Enhanced cooperation” is inserted, after article 280.

**281)** The following Articles 280 A to 280 I are inserted:

“Article 280 A

Any enhanced cooperation shall comply with the Treaties and the law of the Union.

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

Article 280 B

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

Article 280 C

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the European authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the High Representative of the Union for Foreign Affairs and Security Policy shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

Article 280 D

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Treaties, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation

proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with enhanced cooperation shall be granted by the Council, which shall act on a proposal from the Commission and after obtaining the approval of the European Parliament.

2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council acting unanimously.

#### Article 280 E

All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined in accordance with article 205, paragraph 3.

#### Article 280 F

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article III-419(1) shall notify its intention to the Council and the Commission. The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article I-44(3). It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, High Representative for Foreign Affairs and Security Policy and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the High Representative for Foreign Affairs and Security Policy and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the High Representative for Foreign Affairs and Security Policy, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.

For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article I-44(3).

#### Article 280 G

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

#### Article 280 H

1. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may adopt a Decision stipulating that it will act by a qualified majority.

2. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts in accordance with a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article I-44(3), may adopt a Decision stipulating that it will act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.

3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

#### Article 280 I

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end."

### **General and final provisions**

**282)** The sixth part is renumbered “seventh part”.

**283)** Articles 281, 286, 293, 305 and 310 to 312 are repealed.

**284)** In article 282, the following phrase is added to the end: “However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation.”

**285)** In article 283, the first part of the phrase “The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting” shall be replaced by “The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish, after consultation...”

**286)** In article 288, the third subparagraph is replaced by the following text:

“Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties.”

**287)** In article 291, the words, “of the European Monetary Institute” are deleted.

**288)** Article 294 becomes article 48bis.

**289)** Article 299 is modified as follows:

(a) paragraph 1 is deleted. The first subparagraph of paragraph 2 and paragraphs 3 to 6 become article 313; they are modified as indicated in point 295) below.

Paragraph 2 remains without a number;

(b) at the beginning of the first subparagraph, the word “however” is deleted and the words “French overseas departments” are replaced by “Guadeloupe, French Guyana, Martinique, La Reunion”; at the end of the subparagraph, the following phrase is added: “these acts take the form of legislative acts when the legal base of the area concerned for the adoption of Union measures stipulates the adoption of legislative acts.”;

(c) at the beginning of the subparagraph, the words “The Council shall, when adopting the relevant measures referred to in the second subparagraph, take into account areas such as...” are replaced by “The acts referred to in the first paragraph concern in particular areas such as...”

**290)** Articles 300 and 301 are replaced, respectively, by articles 188 N and 188 K and articles 302 to 304 are replaced by article 188 P.

**291)** Article 308 is replaced by the following text:  
“Article 308

1. If action by the Union should prove necessary, within the framework of the policies defined in Part III, to attain one of the objectives set out in the treaties, and the treaties have not provided the necessary powers, the Council of Ministers, acting unanimously

on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-11(3), the European Commission shall draw national Parliaments' attention to proposals based on this Article.

3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the treaties excludes such harmonisation.

4. This article may not be used as a basis to reach an objective concerning the common foreign and security policy and shall respect the limits set down by article [III-308, second subparagraph].”

**292)** The following new article 308bis is inserted:

“Article 308bis

Article [IV-444] of the treaty on European Union shall not apply in the following articles:

- 201 ter point a)
- 201 ter point b)
- 211
- 256bis, paragraph 3, second subparagraph
- 269, third and fourth subparagraphs
- 270bis, paragraph 2
- 308
- 309 and
- 313, paragraph 6.”

**293)** Article 309 will be replaced by the following text:

“Article 309

For the purposes of article [I-59] of the treaty, concerning the suspension of certain rights resulting from Union membership, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2. Abstentions by members present in person or represented shall not prevent the adoption of Decisions referred to in paragraph 2.

For the adoption of the Decisions referred to in paragraphs 3 and 4, a qualified majority shall be defined in accordance with article 205, paragraph 3, point b).

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the treaties, that qualified majority shall be defined as in the second subparagraph, or, where the Council acts on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with article 205, paragraph 3, point a).



For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members.”

**294)** Article 310 becomes article 188 M.

**295)** Article 313 is replaced by a text which takes up the wording of paragraph 2, first subparagraph, and paragraphs 3 to 6 of article 299; this text is modified as follows:

(a) paragraph 2, first subparagraph, and 3 to 6 are renumbered 1 to 5 and the following new introductory sentence is inserted at the beginning of the article:

“In addition to the provisions in article [IV-440] of the treaty on European Union concerning the territorial application of the treaties: the following provisions apply:”

(b) In the first subparagraph of paragraph 2, renumbered paragraph 1, the words “...in the French overseas departments,...” are replaced by “... in Guadeloupe, in French Guiana, in Martinique, in la Reunion,...” and the words “... in accordance with article [III-424]” are added at the end;

(c) in paragraph 3, renumbered 2, the words “of this treaty” are deleted and the words “of this treaty” at the end are deleted;

(d) In paragraph 6, renumbered 5, the introductory phrase, “Notwithstanding the preceding paragraphs:” is replaced by “Notwithstanding article [IV-440] of the treaty on European Union and paragraphs 1 to 4:”;

(e) the following new paragraph is inserted at the end of the article:

“6. The European Council may, on the initiative of the Member State concerned, adopt a Decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 2 and 3. The European Council shall act unanimously after consulting the Commission.”

**296)** Article 314 is replaced by the following text:

“The final provisions of the Treaty on European Union are applicable in the present treaty.”

## **FINAL PROVISIONS**

### **Article 3**

This Treaty is concluded for an unlimited period.

### **Article 4**

1. The protocol [no. 11] annexed to this treaty contains the modifications to the protocols annexed to the treaty on European Union, the treaty establishing the European Community and/or the treaty establishing the European atomic energy community.

1. The protocol [no. 12] annexed to this treaty contains the modifications to the treaty establishing the European atomic energy community.

#### Article 5

1. The articles, parts, titles, chapters and sections of the treaty on European Union and the treaty on the functioning of the Union, as modified by this treaty, are renumbered, in accordance with the correspondent tables found in the annex of this treaty.
2. The cross references to articles, parts, titles, chapters and sections in the treaty on European Union and the treaty on the functioning of the Union, even between them, are consequently adapted. The same goes for the references to articles, parts, titles, chapters and sections of the treaty on European Union and the treaty on the functioning of the Union contained in other treaties and acts of primary law which establish the Union.
3. the references to articles, parts, titles, chapters and sections of the treaty on European Union and of the treaty on the functioning of the Union contained in other instrument or acts behave as references to articles, parts, titles, chapters and sections in these treaties such as they have been renumbered in accordance with paragraph 1, and, respectively, with the paragraphs of these articles, such as they are renumbered by certain provisions of this treaty.

#### Article 6

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.
2. This Treaty shall enter into force on 1 November 2009, provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.

#### Article 7

This Treaty, drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

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

