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Studies**



Basic Treaty of the European Union

Draft



EUROPEAN UNIVERSITY INSTITUTE
Robert Schuman Centre for Advanced Studies

Basic Treaty of the European Union

– Draft –

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¹ . This document is a draft for a Basic Treaty of the European Union. It has been presented by the Robert Schuman Centre at the European University Institute in a report to the European Commission entitled "A Basic Treaty for the European Union – A study of the reorganisation of the Treaties. Report submitted on 15 May 2000 to Mr Romano Prodi, President of the European Commission".

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RESOLVED to mark a new stage in the process of European integration undertaken with the establishment of the European Communities,

RECALLING the historic importance of the ending of the division of the European continent and the need to create firm bases for the construction of the future Europe,

CONFIRMING their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law,

CONFIRMING their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers,

DESIRING to deepen the solidarity between their peoples while respecting their history, their culture and their traditions,

DESIRING to enhance further the democratic and efficient functioning of the institutions so as to enable them better to carry out, within a single institutional framework, the tasks entrusted to them,

RESOLVED to achieve the strengthening and the convergence of their economies and to establish an economic and monetary union including, in accordance with the provisions of this Treaty, a single and stable currency,

DETERMINED to promote economic and social progress for their peoples, taking into account the principle of sustainable development and within the context of the accomplishment of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields,

RESOLVED to establish a citizenship common to nationals of their countries,

RESOLVED to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 17, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world,

RESOLVED to facilitate the free movement of persons, while ensuring the safety and security of their peoples, by establishing an area of freedom, security and justice, in accordance with the provisions of this Treaty,

RESOLVED to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity,

IN VIEW of further steps to be taken in order to advance European integration,

DESIRING to make the institutional structure of the Union, its principles and its objectives more coherent and more accessible to its citizens and to the world Community

HAVE DECIDED to provide the European Union and its citizens with the following Basic Treaty, and to this end have designated as their Plenipotentiaries :

...

TITLE I . — FOUNDATIONS OF THE UNION

CLAUSE 1 : The European Union

The European Union established by THE HIGH CONTRACTING PARTIES marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

The European Union, hereinafter called "the Union", shall be founded on the European Communities, supplemented by a common foreign and security policy and a police and judicial cooperation in criminal matters. Its task shall be to organise, in a manner demonstrating consistency and solidarity, relations between the Member States and between their peoples.

CLAUSE 2 : Principles of the Union

1. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

2. The Union shall respect the national identities of its Member States.

CLAUSE 3 : General objectives of the Union

1. The Union shall set itself the following objectives :

– to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of the Treaties ;

– to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence, in accordance with the provisions of Clause 47;

- to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union;
- to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime;
- to maintain in full the *acquis communautaire* and build on it with a view to considering to what extent the common foreign and security policy and the police and judicial cooperation in criminal matters may need to be revised with the aim of ensuring the effectiveness of the mechanisms and the institutions of the Community.

The objectives of the Union shall be achieved as provided in this Treaty and in accordance with the conditions and the timetable set out therein while respecting the principle of subsidiarity as defined in Clause 16.

2. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

TITLE II. ? FUNDAMENTAL RIGHTS

CLAUSE 4 : Fundamental rights

The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.

CLAUSE 5 : Non discrimination

The Council may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in accordance with Article 13 of the Treaty establishing the European Community

TITLE III. — CITIZENSHIP OF THE UNION

CLAUSE 6 : Citizenship of the Union

1. Citizenship of the Union is established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship.

Citizens of the Union shall enjoy the rights conferred by **the Treaties** and shall be subject to the duties imposed thereby.

2. On the basis of the report referred to in Article 22 of the Treaty establishing the European Community, and without prejudice to the other provisions of the said

Treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may adopt provisions to strengthen or to add to the rights laid down in this Title, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

CLAUSE 7 : Non discrimination on grounds of nationality

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

The Council may adopt rules designed to prohibit such discrimination in accordance with Article 12 of the said Treaty.

CLAUSE 8 : Freedom of movement and residence

Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaty establishing the European Community and by the measures adopted to give it effect.

The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1 in accordance with Article 18 of the said Treaty.

CLAUSE 9 : Electoral rights

1. Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State.

Without prejudice to Clause 56, § 2 and to the provisions adopted for its implementation, every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State.

The electoral rights referred to in this paragraph shall be exercised subject to detailed arrangements adopted by the Council in accordance with Article 19 of the Treaty establishing the European Community.

2. Political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union.

CLAUSE 10 : Diplomatic protection

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the

nationals of that State. Member States shall establish the necessary rules among themselves and start the international negotiations required to secure this protection.

CLAUSE 11 : Petition

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and which affects him, her or it directly.

CLAUSE 12 : Ombudsman

Every citizen of the Union or any natural or legal person residing or having its registered office in a Member State may apply to the Ombudsman. The Ombudsman is empowered to receive complaints concerning instances of maladministration in the Community activities of the institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

CLAUSE 13 : Language

Every citizen of the Union may, within the framework of the Treaty establishing the European Community, write to the European Parliament and its Ombudsman, the Council, the Commission, the Court of Justice, the Court of Auditors, the Economic and Social Committee, the Committee of Regions in one of the languages mentioned in Article 314 of the said Treaty and have an answer in the same language.

CLAUSE 14 : Access to documents

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to European Parliament, Council and Commission documents, subject to the principles and the conditions to be defined in accordance with Article 255 (2) and (3) of the Treaty establishing the European Community.

TITLE IV. — OBJECTIVES AND ACTIVITIES OF THE UNION

I. ? Within the framework of the European Community

CLAUSE 15 : Objectives of the European Community

The European Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Clauses 18 and 19 to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of

the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

CLAUSE 16 : Subsidiarity

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

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

Any action by the European Community shall not go beyond what is necessary to achieve its objectives.

CLAUSE 17 : Sincere cooperation

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

They shall abstain from any measure which could jeopardise the attainment of the objectives of the European Community.

CLAUSE 18 : Activities of the European Community

1. For the purposes set out in Clause 15 the activities of the European Community shall include, as provided in the Treaty establishing the European Community and in accordance with the timetable set out therein :

- (a) the prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;
- (b) a common commercial policy;
- (c) an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;
- (d) measures concerning the entry and movement of persons as provided for in Clause 31 and in Title IV of Part three of the said Treaty;
- (e) a common policy in the sphere of agriculture and fisheries;
- (f) a common policy in the sphere of transport;

- (g) a system ensuring that competition in the internal market is not distorted;
- (h) the approximation of the laws of Member States to the extent required for the functioning of the common market;
- (i) the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- (j) a policy in the social sphere comprising a European Social Fund;
- (k) the strengthening of economic and social cohesion;
- (l) a policy in the sphere of the environment;
- (m) the strengthening of the competitiveness of Community industry;
- (n) the promotion of research and technological development;
- (o) encouragement for the establishment and development of trans-European networks;
- (p) a contribution to the attainment of a high level of health protection;
- (q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (r) a policy in the sphere of development cooperation;
- (s) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- (t) a contribution to the strengthening of consumer protection;
- (u) measures in the spheres of energy, civil protection and tourism.

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

2. Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in paragraph 1, in particular with a view to promoting sustainable development.

CLAUSE 19 : Economic and Monetary Union

1. For the purposes set out in Clause 15, the activities of the Member States and the European Community shall include, as provided in the Treaty establishing the European Community and in accordance with the timetable and the procedures set out, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of

common objectives, and conducted in accordance with the principle of an open market economy with free competition.

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

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

CLAUSE 20 : Services of general economic interest

Without prejudice to the rules governing State aids provided in Articles 73, 86 and 87 of the Treaty establishing the European Community, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Community and the Member States, each within their respective powers and within the scope of application of the said Treaty, shall take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions.

CLAUSE 21 : Internal Market

1. The Community shall adopt measures with the aim of establishing the internal market, in accordance with this Clause and the provisions of the Treaty establishing the European Community.

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

CLAUSE 22 : Free movement of goods

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

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

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

4. The provisions of paragraphs 2 and 3 and of Articles 30 and 31 of the Treaty establishing the European Community shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

CLAUSE 23 : Free movement of persons

1. Freedom of movement for workers shall be secured within the European Community.

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

2. Restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

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

CLAUSE 24 : Free movement of services

Restrictions on freedom to provide services within the European Community shall be prohibited in respect of nationals of Member States who are established in a State of the Community other than that of the person for whom the services are intended.

CLAUSE 25 : Free movement of capital and payments

All restrictions on the movement of capital and on payments between Member States and between Member States and third countries shall be prohibited.

CLAUSE 26 : Conditions and limitations to free movement

The foregoing provisions on free movement are to be applied within the framework of the provisions set out in the Treaty establishing the European Community and subject to the conditions and limitations provided for therein.

CLAUSE 27 : Common agricultural policy

1. The objectives of the common agricultural policy shall be:
 - (a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;

- (b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;
 - (c) to stabilise markets;
 - (d) to assure the availability of supplies;
 - (e) to ensure that supplies reach consumers at reasonable prices.
2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:
- (a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;
 - (b) the need to effect the appropriate adjustments by degrees;
 - (c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.

CLAUSE 28 : Transport

1. The objectives the European Community shall be pursued by Member States within the framework of a common transport policy.
2. For that purpose, and taking into account the distinctive features of transport, the Council shall lay down, in accordance with article 71 of the Treaty establishing the European Community :
- (a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;
 - (b) the conditions under which non-resident carriers may operate transport services within a Member State;
 - (c) measures to improve transport safety;
 - (d) any other appropriate provisions.

CLAUSE 29 : Common rules on competition

In view of ensuring that competition in the internal market is not distorted, there shall be common rules on competition applying to undertakings and concerning aids granted by states, in accordance with articles 81 to 89 of the Treaty establishing the European Community.

CLAUSE 30 : Common commercial policy

1. By establishing a customs union between themselves Member States aim to contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and the lowering of customs barriers.

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

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

CLAUSE 31 : Visas, asylum, immigration and other policies related to free movement of persons

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

- (a) within a period of five years after the entry into force of the Treaty of Amsterdam, measures aimed at ensuring the free movement of persons in accordance with Clause 21, in conjunction with directly related flanking measures with respect to external border controls, asylum and immigration, in accordance with the provisions of Article 62(2) and (3) and Article 63(1)(a) and (2)(a) of the Treaty establishing the European Community, and measures to prevent and combat crime in accordance with the provisions of *Article 31(e)* of the annexed Special Protocol on police and judicial cooperation in criminal matters ;
- (b) other measures in the fields of asylum, immigration and safeguarding the rights of nationals of third countries, in accordance with the provisions of Article 63 of the Treaty establishing the European Community;
- (c) measures in the field of judicial cooperation in civil matters as provided for in Article 65 of the said Treaty;
- (d) appropriate measures to encourage and strengthen administrative cooperation, as provided for in Article 66 of the said Treaty;
- (e) measures in the field of police and judicial cooperation in criminal matters aimed at a high level of security by preventing and combating crime within the Union in accordance with the provisions of this Treaty and the annexed Special Protocol on police and judicial cooperation in criminal matters.

CLAUSE 32 : Economic policy

Member States shall conduct their economic policies with a view to contributing to the achievement of the objectives of the European Community, as defined in Clause 15, and in the context of the broad guidelines referred to in Article 99(2) of the Treaty

establishing the European Community. The Member States and the Community shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Clause 19.

CLAUSE 33 : Monetary policy

The primary objective of the ESCB shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the European Community with a view to contributing to the achievement of the objectives of the Community as laid down in Clause 15. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Clause 19.

CLAUSE 34 : Employment

Member States and the European Community shall, in accordance with Title VIII of Part three of the Treaty establishing the European Community, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Clauses 3 and 15.

CLAUSE 35 : Social policy

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

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

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

CLAUSE 36 : Education, vocational training and youth

1. The European Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of

the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

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

CLAUSE 37 : Culture

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

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

CLAUSE 38 : Environment

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

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

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;
- promoting measures at international level to deal with regional or worldwide environmental problems.

CLAUSE 39 : Public health

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

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

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

CLAUSE 40 : Consumer protection

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

Consumer protection requirements shall be taken into account in defining and implementing other European Community policies and activities.

CLAUSE 41 : Trans-european networks

To help achieve the objectives referred to in Clauses 21 and 43 paragraph 1 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the European Community shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

CLAUSE 42 : Industry

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

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

- speeding up the adjustment of industry to structural changes;
- encouraging an environment favourable to initiative and to the development of undertakings throughout the Community, particularly small and medium-sized undertakings;
- encouraging an environment favourable to cooperation between undertakings;
- fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

2. The European Community shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of the Treaty establishing the European Community, in accordance with Article 157 (3) of the said Treaty.

Title XVI of the third part of the said Treaty shall not provide a basis for the introduction by the European Community of any measure which could lead to a distortion of competition.

CLAUSE 43 : Economic and social cohesion

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

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

2. Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in paragraph 1 of this Clause. The formulation and implementation of the Community's policies and actions and the implementation of the internal market shall take into account the objectives set out in paragraph 1 of this Clause and shall contribute to their achievement. The European Community shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing financial instruments.

CLAUSE 44 : Research and technological development

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

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

CLAUSE 45 : Development cooperation

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

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

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

2. The European Community shall take account of the objectives referred to in this Clause in the policies that it implements which are likely to affect developing countries.

II. — Within the framework of common foreign and security policy

CLAUSE 46 : Common foreign and security policy

The Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy, the objectives of which shall be:

- to safeguard the common values, fundamental interests, independence and integrity of the Union in conformity with the principles of the United Nations Charter;
- to strengthen the security of the Union in all ways;
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter, as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter, including those on external borders;
- to promote international cooperation;
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

CLAUSE 47 : Common defence policy

1. The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, in accordance with the second subparagraph, which might lead to a common defence, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The Western European Union (WEU) is an integral part of the development of the Union providing the Union with access to an operational capability notably in the context of paragraph 2. It supports the Union in framing the defence aspects of the common foreign and security policy as set out in this Article. The Union shall accordingly foster closer institutional relations with the WEU with a view to the possibility of the integration of the WEU into the Union, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Clause shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.

The progressive framing of a common defence policy will be supported, as Member States consider appropriate, by cooperation between them in the field of armaments.

2. Questions referred to in this Clause shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking.

3. The Union will avail itself of the WEU to elaborate and implement decisions and actions of the Union which have defence implications, in accordance with *Article 17* of the annexed Special Protocol on common foreign and security policy.

4. The provisions of this Clause shall not prevent the development of closer cooperation between two or more Member States on a bilateral level, in the framework of the WEU and the Atlantic Alliance, provided such cooperation does not run counter to or impede that provided for in this Treaty and the annexed Special Protocol on common foreign and security policy.

CLAUSE 48 : Loyalty and solidarity

The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity.

The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.

The Council shall ensure that these principles are complied with.

III. — Within the framework of police and judicial cooperation in criminal matters

CLAUSE 49 : Police and judicial cooperation in criminal matters

1. Without prejudice to the powers of the European Community, the Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the fields of police and judicial cooperation in criminal matters and by preventing and combating racism and xenophobia.

That objective shall be achieved by preventing and combating crime, organised or otherwise, in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud, through:

— closer cooperation between police forces, customs authorities and other competent authorities in the Member States, both directly and through the European Police Office (Europol), in accordance with the provisions of *Articles 30 and 32* of the annexed Special Protocol on police and judicial cooperation in criminal matters;

— closer cooperation between judicial and other competent authorities of the Member States in accordance with the provisions of *Articles 31(a) to (d) and 32* of the said Protocol;

— approximation, where necessary, of rules on criminal matters in the Member States, in accordance with the provisions of *Article 31(e)* of the said Protocol.

2. The Council, acting unanimously on the initiative of the Commission or a Member State, and after consulting the European Parliament, may decide that action in areas referred to in paragraph 1 shall fall under Title IV of Part Three of the Treaty establishing the European Community, and at the same time determine the relevant voting conditions relating to it. It shall recommend the Member States to adopt that decision in accordance with their respective constitutional requirements.

TITLE V. — INSTITUTIONAL PROVISIONS

CLAUSE 50 : Single institutional framework of the Union

The Union shall be served by a single institutional framework which shall ensure the consistency and the continuity of the activities carried out in order to attain its objectives while respecting and building upon the *acquis communautaire*.

The Union shall in particular ensure the consistency of its external activities as a whole in the context of its external relations, security, economic and development policies. The Council and the Commission shall be responsible for ensuring such consistency and shall cooperate to this end. They shall ensure the implementation of these policies, each in accordance with its respective powers.

CLAUSE 51 : The European Council

The European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof.

The European Council shall bring together the Heads of State or Government of the Member States and the President of the Commission. They shall be assisted by the Ministers for Foreign Affairs of the Member States and by a Member of the Commission. The European Council shall meet at least twice a year, under the chairmanship of the Head of State or Government of the Member State which holds the Presidency of the Council.

The European Council shall submit to the European Parliament a report after each of its meetings and a yearly written report on the progress achieved by the Union.

CLAUSE 52 : Institutions

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

– The EUROPEAN PARLIAMENT,

- The COUNCIL,
- The COMMISSION,
- The COURT OF JUSTICE,
- The COURT OF AUDITORS.

2. In the tasks entrusted to the European Community, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

CLAUSE 53 : Principle of attribution of powers

The European Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors shall exercise their powers under the conditions and for the purposes provided for by the Treaties.

CLAUSE 54 : The European System of Central Banks and the European Central Bank

A European System of Central Banks (hereinafter referred to as "ESCB") and a European Central Bank (hereinafter referred to as "ECB") shall act within the limits of the powers conferred upon them by the Treaty establishing the European Community and by the Statute of the ESCB and of the ECB (hereinafter referred to as "Statute of the ESCB") annexed thereto.

CLAUSE 55 : The European Investment Bank

A European Investment Bank shall act within the limits of the powers conferred upon it by the Treaty establishing the European Community and the Statute annexed thereto.

I. — The European Parliament

CLAUSE 56 : Composition

1. The European Parliament shall consist of representatives of the peoples of the States brought together in the Union . The representatives shall be elected by direct universal suffrage for a term of five years .

2. The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States. The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements .

3. The number of representatives elected in each Member State must ensure appropriate representation of the peoples of the States brought together in the European

Union. The number of Members of the European Parliament shall not exceed seven hundred.

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

CLAUSE 57 : Functions

1. Insofar as provided in the Treaty establishing the European Community, the European Parliament shall participate in the process leading up to the adoption of Community acts by exercising its powers under the co-decision and cooperation procedures laid down in Articles 251 and 252 of the said Treaty and by giving its assent or delivering advisory opinions.

The European Parliament may, acting by a majority of its Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Community act is required for the purpose of implementing the said Treaty.

2. The Presidency of the Council shall consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and shall ensure that the views of the European Parliament are duly taken into consideration. The European Parliament shall be kept regularly informed by the Presidency and the Commission of the development of the Union's foreign and security policy.

3. The Council shall consult the European Parliament before adopting any measure referred to in *Article 34(2)(b), (c) and (d)* of the annexed Special Protocol on police and judicial cooperation in criminal matters. The European Parliament shall deliver its opinion within a time-limit which the Council may lay down, which shall not be less than three months. In the absence of an opinion within that time-limit, the Council may act.

The Presidency and the Commission shall regularly inform the European Parliament of discussions in the areas covered by police and judicial cooperation in criminal matters.

CLAUSE 58 : Motion of censure

If a motion of censure on the European Community activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the Members of the European Parliament, the Members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 214 of the Treaty establishing the European Community. 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.

CLAUSE 59 : Voting

Save as where the European Parliament is required to act by an absolute majority of its members or otherwise provided, the European Parliament shall act by an absolute majority of the votes cast.

II. ? The Council

CLAUSE 60 : Composition and presidency

The Council shall consist of a representative of each Member State at ministerial level, authorised to commit the government of that Member State.

The office of President shall be held in turn by each Member State in the Council for a term of six months in the order decided by the Council acting unanimously.

CLAUSE 61 : Functions

1. To ensure that the objectives set out in the Treaty establishing the European Community are attained the Council shall :

- ensure coordination of the general economic policies of the Member States;
- have power to take decisions;
- confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down. The Council may impose certain requirements in respect of the exercise of these powers. The Council may also reserve the right, in specific cases, to exercise directly implementing powers itself. The procedures referred to above must be consonant with principles and rules to be laid down in advance by the Council, acting unanimously on a proposal from the Commission and after obtaining the Opinion of the European Parliament.

2. With regard to the common foreign and security policy the Council shall :

- take the decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines defined by the European Council.
- shall recommend common strategies to the European Council and shall implement them, in particular by adopting joint actions and common positions.
- shall adopt joint actions and common positions, as defined *in Articles 14 and 15* of the annexed Special Protocol on common foreign and security policy.

The Council shall ensure the unity, consistency and effectiveness of action by the Union.

3. With regard to police and judicial cooperation in criminal matters, the Council shall take measures and promote cooperation, using the appropriate form and procedure set out in Clause 49 and in the annexed Special Protocol on police and judicial cooperation in criminal matters, contributing to the pursuit of the objectives of the Union .

In particular, the Council shall, in accordance *with Article 34* of the said Special Protocol :

– adopt common positions, framework decisions, and other decisions for purposes consistent with the objectives of Clause 49, § 1, excluding any approximation of the laws and regulations of the Member States.

– establish conventions.

The Council shall promote cooperation through Europol, in accordance with *Article 30* of the said Special Protocol.

Member States shall inform and consult one another within the Council with a view to coordinating their action.

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

CLAUSE 62 : External representation

1. The Presidency shall represent the Union in matters coming within the common foreign and security policy.

2. The Presidency shall be responsible for the implementation of decisions taken within the framework of common foreign and security policy; in that capacity it shall in principle express the position of the Union in international organisations and international conferences.

3. The Presidency shall be assisted by the Secretary-General of the Council who shall exercise the function of High Representative for the common foreign and security policy.

4. The Commission shall be fully associated in the tasks referred to in paragraphs 1 and 2. The Presidency shall be assisted in those tasks if need be by the next Member State to hold the Presidency.

5. The Council may, whenever it deems it necessary, appoint a special representative with a mandate in relation to particular policy issues.

CLAUSE 63 : Voting

1. Within the framework of the European Community, the Council shall act by a majority of its members, save where provided that the Council is required to act by a qualified majority or by unanimity.
2. Within the framework of common foreign and security policy and of police and judicial cooperation in criminal matters, the Council shall act by unanimity, save as otherwise provided .
3. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as provided for in Article 205 (2) of the Treaty establishing the European Community.
4. Abstentions by members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

III. ? The Commission

CLAUSE 64 : Composition

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

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

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

2. The Members of the Commission shall, in the general interest of the European Community, be completely independent in the performance of their duties.

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

CLAUSE 65 : Appointment

1. The Members of the Commission shall be appointed for a period of five years, subject, if need be, to the motion of censure referred to in Clause 58.

Their term of office shall be renewable.

2. The governments of the Member States shall nominate by common accord the person they intend to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

The governments of the Member States shall, by common accord with the nominee for President, nominate the other persons whom they intend to appoint as Members of the Commission.

The President and the other Members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament. After approval by the European Parliament, the President and the other Members of the Commission shall be appointed by common accord of the governments of the Member States.

CLAUSE 66 : Presidency

The Commission shall work under the political guidance of its President. The Commission may appoint a Vice-President or two Vice-Presidents from among its Members.

CLAUSE 67 : Functions

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

- ensure that the provisions of the Treaty establishing the European Community and the measures taken by the institutions pursuant thereto are applied;
- formulate recommendations or deliver opinions on matters dealt with in the said Treaty, if it expressly so provides or if the Commission considers it necessary;
- have its own power of decision and participate in the shaping of measures taken by the Council and by the European Parliament in the manner provided for in the said Treaty;
- exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.

2. Where, in pursuance of the Treaty establishing the European Community, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal, subject to Article 251(4) and (5) of the said Treaty.

As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Community act.

3. The Commission shall be fully associated with the work carried out in the common foreign and security policy field and in the areas falling under police and judicial cooperation in criminal matters.

CLAUSE 68 : Voting

The Commission shall act by a majority of the number of its Members

IV. ? The Court of Justice

CLAUSE 69 : Composition and Appointment

1. The Court of Justice shall consist of judges and shall be assisted by Advocates-General.

2. The Judges and Advocates-General shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years.

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

CLAUSE 70 : Functions

The Court of Justice shall ensure that in the interpretation and application of the Treaties the law is observed, in accordance with Clause 87 .

CLAUSE 71 : Court of first instance

1. A Court of First Instance shall be attached to the Court of Justice with jurisdiction to hear and determine at first instance, subject to a right of appeal to the Court of Justice on points of law only and in accordance with the conditions laid down by the Statute, certain classes of action or proceeding defined in accordance with the conditions laid down in Article 225 paragraph 2 of the Treaty establishing the European Community. The Court of First Instance shall not be competent to hear and determine questions referred for a preliminary ruling under Article 234 of the said Treaty..

2. The members of the Court of First Instance shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office; they shall be appointed by common accord of the governments of the Member States for a term of six years. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

V. ? The Court of Auditors

CLAUSE 72 : Composition and appointment

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

2. The Members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the European Parliament.

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

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

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

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

CLAUSE 73 : Functions

1. The Court of Auditors shall carry out the audit.

2. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community insofar as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Communities*.

VI. ? The consultative Committees

CLAUSE 74 : The Economic and Social Committee

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

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

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community.

3. The Committee must be consulted by the Council or by the Commission where the Treaty establishing the European Community so provides. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

CLAUSE 75 : The Committee of the Regions

1. The Committee of Regions shall consist of representatives of regional and local bodies.

2. The members of the Committee and an equal number of alternate members shall

be appointed for four years by the Council acting unanimously on proposals from the respective Member States. Their term of office shall be renewable . No member of the Committee shall at the same time be a Member of the European Parliament.

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of Community.

3. The Committee of the Regions shall be consulted by the Council or by the Commission where the Treaty establishing the European Community so provides and in all other cases, in particular those which concern cross-border cooperation, in which one of these two institutions considers it appropriate.

VII. ? The European System of Central Banks and the European Central Bank

CLAUSE 76 : General

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

The ECB shall have legal personality.

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

CLAUSE 77 : The Governing Council and the Executive Board

1. The Governing Council of the ECB shall comprise the members of the Executive Board of the ECB and the Governors of the national central banks.

2. (a) The Executive Board shall comprise the President, the Vice-President and four other members.

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

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

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

CLAUSE 78 : Independence

When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaty establishing the European Community and the Statute of the ESCB, neither the ECB, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Community institutions or bodies, from any

government of a Member State or from any other body. The Community institutions and bodies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the ECB or of the national central banks in the performance of their tasks

CLAUSE 79 : Functions

1. The basic tasks to be carried out through the ESCB shall be :
 - to define and implement the monetary policy of the European Community;
 - to conduct foreign exchange operations consistent with the provisions of Article 111 of the Treaty establishing the European Community;
 - to hold and manage the official foreign reserves of the Member States;
 - to promote the smooth operation of payment systems.

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

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

Member States may issue coins subject to approval by the ECB of the volume of the issue.

VIII.? The European Investment Bank

CLAUSE 80 : General

The European Investment Bank shall have legal personality.

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

CLAUSE 81 : Functions

1. The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the common market in the interest of the European Community. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of projects in all sectors of the economy as provided for in Article 267 of the Treaty establishing the European Community.

2. In carrying out its task, the Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Community financial instruments.

TITLE VI. – FINANCIAL PROVISIONS

CLAUSE 82 : Budget

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

Administrative expenditure occasioned for the institutions in the framework of common foreign and security policy and to cooperation and of police and judicial cooperation in criminal matters shall be charged to the budget. The operational expenditure occasioned by the implementation of the said provisions may, under the conditions referred to therein, be charged to the budget.

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

2. Without prejudice to other revenue, the budget shall be financed wholly from own resources.

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, shall lay down provisions relating to the system of own resources of the European Community, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

CLAUSE 83 : Budgetary discipline

With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Community act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the European Community's own resources arising under provisions laid down by the Council pursuant to Clause 82, § 2.

CLAUSE 84 : Financial interests of the European Community

1. The European Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Community through measures to be taken in accordance with Article 280 of the Treaty establishing the European Community, which shall act as a deterrent and be such as to afford effective protection in the Member States.

2. Member States shall take the same measures to counter fraud affecting the financial interests of the European Community as they take to counter fraud affecting their own financial interests.

3. Without prejudice to other provisions of the said Treaty, the Member States shall coordinate their action aimed at protecting the financial interests of the European Community against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

TITLE VII. — PROVISIONS ON CLOSER COOPERATION

CLAUSE 85 : General conditions

1. Member States which intend to establish closer cooperation between themselves may make use of the institutions, procedures and mechanisms laid down by the Treaties provided that the cooperation:

- (a) is aimed at furthering the objectives of the Union and at protecting and serving its interests;
- (b) respects the principles of the said Treaties and the single institutional framework of the Union;
- (c) is only used as a last resort, where the objectives of the said Treaties could not be attained by applying the relevant procedures laid down therein;
- (d) concerns at least a majority of Member States;
- (e) does not affect the "acquis communautaire" and the measures adopted under the other provisions of the said Treaties;
- (f) does not affect the competences, rights, obligations and interests of those Member States which do not participate therein;
- (g) is open to all Member States and allows them to become parties to the cooperation at any time, provided that they comply with the basic decision and with the decisions taken within that framework;
- (h) complies with the specific additional criteria laid down in Article 11 of the Treaty establishing the European Community and *Article 40* of the annexed Special Protocol on police and judicial cooperation in criminal matters depending on the area concerned, and is authorised by the Council in accordance with the procedures laid down therein.

2. Member States shall apply, as far as they are concerned, the acts and decisions adopted for the implementation of the cooperation in which they participate. Member States not participating in such cooperation shall not impede the implementation thereof by the participating Member States.

CLAUSE 86 : Implementation of closer cooperation

1. For the purposes of the adoption of the acts and decisions necessary for the implementation of the cooperation referred to in Clause 85, the relevant institutional

provisions of the Treaties shall apply. However, while all members of the Council shall be able to take part in the deliberations, only those representing participating Member States shall take part in the adoption of decisions. The qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community. Unanimity shall be constituted by only those Council members concerned.

2. Expenditure resulting from implementation of the cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless the Council, acting unanimously, decides otherwise.

3. The Council and the Commission shall regularly inform the European Parliament of the development of closer cooperation established on the basis of this Title.

TITLE VIII. — FINAL PROVISIONS

CLAUSE 87 : Jurisdiction of the Court of Justice

The provisions of the Treaty establishing the European Community concerning the powers of the Court of Justice and the exercise of those powers shall apply to this Treaty, without prejudice to the following paragraphs.

They shall apply to Clause 31 and Title IV of Part Three of the Treaty establishing the European Community, to police and judicial cooperation in criminal matters, and to the closer cooperation referred to in Title VII of this Treaty under the conditions provided by the Treaties.

They shall not apply to common foreign and security policy.

They shall not apply to Title I of this Treaty, nor to Clauses 50, 51 and 91.

They shall apply to Clause 4 with regard to action of the institutions, insofar as the Court has jurisdiction under the Treaties.

CLAUSE 88 : The Basic Treaty and the other treaties

1. The Treaty on the European Union, the Treaty establishing the European Community and their subsequent modifications are repealed. They are replaced by the Basic Treaty, by the annexed protocols Special Protocols on common foreign and security policy and on police and judicial cooperation in criminal matters, and by the consolidated version of the Treaty establishing the European Community annexed to the Final Act of the Treaty of Amsterdam as modified in accordance with the following paragraph.

Articles ... of the consolidated version of the Treaty establishing the European Community annexed to the Final Act of the Treaty of Amsterdam are repealed.

All the protocols annexed to the Treaty on the European Union shall be henceforth annexed to the Basic Treaty. All the protocols annexed to the Treaty establishing the European Community shall be henceforth annexed to the consolidated version of the said Treaty and to the Basic Treaty.

All the protocols referred to in the previous paragraph shall be set out in the Annex to this Treaty.

2. Where this Treaty refers to the “treaties”, it refers to the Basic Treaty itself, the consolidated version of the Treaty establishing the European Community, and where appropriate to the Treaties establishing the European Coal and Steel Community and the European Atomic Energy Community.

Where this Treaty, the consolidated version of the Treaty establishing the European Community, and any other instruments or acts refer to the “Treaty establishing the European Community” as a whole, they also refer to Clauses ... of the Basic Treaty .

Where any other instruments or acts refer to a specific Title, Chapter, Section or provision of the Treaty establishing the European Community, they also refer to the corresponding Clauses of the Basic Treaty among those mentioned in the previous paragraph.

CLAUSE 89 : Association

The European Community may conclude with one or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.

CLAUSE 90 : Accession to the Union

Any European State which respects the principles set out in Clause 2, § 1 may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

The conditions of admission and the adjustments to the Treaties on which the Union is founded which such admission entails shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

CLAUSE 91 : Suspension of Members States' rights

1. The Council, meeting in the composition of the Heads of State or Government and acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of principles mentioned in Clause 2, § 1, after inviting the government of the Member State in question to submit its observations.

2. Where such a determination has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty, subject to Article 309 of the Treaty establishing the European Community, to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under this Treaty, subject to Article 309 of the Treaty establishing the European Community, shall in any case continue to be binding on that State.

3. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 2 in response to changes in the situation which led to their being imposed.

4. For the purposes of this Clause, the Council shall act without taking into account the vote of the representative of the government of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 1. A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 2.

5. For the purposes of this Clause, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its members.

CLAUSE 92 : Revision procedure

The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Treaties on which the Union is founded.

If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to those Treaties. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

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

CLAUSE 93 : Duration

This Treaty is concluded for an unlimited period.

CLAUSE 94 : Ratification and entry into force

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

2. This Treaty shall enter into force on ..., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step.

CLAUSE 95 : Authenticity

This Treaty, drawn up in a single original in the Danish, Dutch, English, Finish, French, German, Greek, Irish, Italian, Portuguese, Spanish, and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the government of ... , 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.