

Rules of Procedure of the Council of the European Union (22 July 2002)

Caption: Council Decision 2002/682/EC, Euratom of 22 July 2002 adopting the Council's Rules of Procedure.

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Council Decision of 22 July 2002 adopting the Council's Rules of Procedure (2002/682/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 207(3), first subparagraph thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 121(3) thereof,

Whereas the Council's Rules of Procedure are applicable to the Council in the fields of Titles V and VI of the Treaty on European Union, in accordance with Articles 28(1) and 41(1) thereof,

HAS DECIDED AS FOLLOWS:

Sole Article

The Rules of Procedure of the Council of 5 June 2000 (2000/396/EC, ECSC, Euratom) ⁽¹⁾ shall be replaced by the following, which shall enter into force on 23 July 2002:

‘RULES OF PROCEDURE OF THE COUNCIL

Article 1

Notice and venue of meetings

1. The Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission ⁽²⁾.
2. Seven months before the beginning of its term of office, after consulting the Presidencies preceding and following its term of office where appropriate, the Presidency shall make known the dates which it envisages for meetings that the Council will have to hold in order to complete its legislative work or take operational decisions.
3. The Council shall have its seat in Brussels. During the months of April, June and October the Council shall hold its meetings in Luxembourg ⁽³⁾.

In exceptional circumstances and for duly substantiated reasons, the Council or the Permanent Representatives Committee (Coreper), acting unanimously, may decide that a Council meeting will be held elsewhere.

Article 2

Configurations of the Council, role of the General Affairs and External Relations Council and programming

1. The Council may meet in different configurations according to the subject-matter dealt with. The Council in its General Affairs and External Relations configuration (hereinafter ‘General Affairs and External Relations Council’), convened in a meeting as referred to in paragraph 2(a), shall fix the list of these configurations, which is set out in Annex I.
2. The General Affairs and External Relations Council shall cover the following two main areas of activity, for which it shall hold separate meetings, with separate agendas and possibly on different dates, dealing respectively with:

(a) preparation for and follow-up to the European Council meetings, including the necessary coordination of

all preparatory work, overall coordination of policies, institutional and administrative questions, horizontal dossiers which affect several of the Union's policies and any dossier entrusted to it by the European Council, having regard to operating rules for the Economic and Monetary Union;

(b) the whole of the Union's external action, namely common foreign and security policy, European security and defence policy, foreign trade, development cooperation and humanitarian aid.

3. For the purpose of preparing the meetings of the European Council, the General Affairs and External Relations Council convened in a meeting as referred to in paragraph (2)(a) shall:

(a) draw up an annotated draft agenda on a proposal by the Presidency at least four weeks before the meeting of the European Council;

(b) hold a final preparatory meeting on the eve of the European Council meeting and approve the agenda.

Contributions to the proceedings of the European Council by other Council configurations shall be forwarded to the General Affairs and External Relations Council, convened in a meeting as referred to in paragraph (2)(a), at the latest two weeks before the meeting of the European Council.

Except for urgent and unforeseeable reasons linked, for example, to current international events, no other configuration of the Council or Council preparatory committee may meet between the final preparatory meeting referred to in subparagraph (b) and the European Council meeting.

4. The General Affairs and External Relations Council, convened in a meeting as referred to in paragraph (2)(a), shall recommend to the European Council for adoption a multiannual strategic programme for the three years to come, which shall be based on a joint proposal drawn up by the Presidencies concerned, in consultation with the Commission.

5. In the light of that multiannual strategic programme, and following appropriate consultations, the two Presidencies due to hold office in the following year shall jointly submit a draft annual operational programme of Council activities during that year. This draft programme shall be submitted every year in December to the General Affairs and External Relations Council. This draft programme shall also have regard, inter alia, to relevant points arising from the dialogue on the political priorities for the year, conducted at the Commission's initiative. The two Presidencies concerned shall finalise this programme on the basis of the discussion of the General Affairs and External Relations Council convened in a meeting as referred to in paragraph (2)(a).

6. The incoming Presidency shall establish indicative provisional agendas for Council meetings scheduled for the next six-month period, showing the legislative work and operational decisions envisaged. These indicative provisional agendas shall be established at the latest one week before the beginning of its term of office, on the basis of the annual operational programme and after consulting the Commission. Where necessary, extra Council meetings may be provided for, in addition to those previously planned.

Similar indicative provisional agendas for Council meetings scheduled for the six-month period following that referred to in the first subparagraph shall be established by the Presidency concerned, after consulting the Commission and the next Presidency, at the latest one week before the beginning of its term of office.

If during a six-month period any of the meetings planned during that period proves to be no longer warranted, the Presidency shall not convene it.

Article 3 (4)

Agenda

1. Taking into account the Council annual programme, the President shall draw up the provisional agenda for each meeting. The agenda shall be sent to the other members of the Council and to the Commission at

least 14 days before the beginning of the meeting.

2. The provisional agenda shall contain the items in respect of which a request for inclusion on the agenda, together with any documents relating thereto, has been received by the General Secretariat from a member of the Council or from the Commission at least 16 days before the beginning of that meeting. The provisional agenda shall also indicate by way of an asterisk the items on which the Presidency, a member of the Council or the Commission may request a vote. Such an indication shall be made once all the procedural requirements provided for by the Treaties have been complied with.

3. Items relating to the adoption of an act or a common position on a legislative proposal or a proposal for a measure to be adopted under Title VI of the Treaty on European Union shall not be placed on the provisional agenda for a decision until the six-week period provided for in point 3 of the Protocol on the role of national parliaments in the European Union has elapsed.

The Council may unanimously derogate from the six-week period where the entry of an item is subject to the exception on grounds of urgency provided for in point 3 of that Protocol.

4. Only items in respect of which the documents have been sent to the members of the Council and to the Commission at the latest by the date on which the provisional agenda is sent may be placed on that agenda.

5. The General Secretariat shall transmit to the members of the Council and to the Commission requests for the inclusion of items in the agenda and documents in respect of which the time limits specified above were not respected.

If, by the end of the week preceding the week prior to a Council meeting, Coreper has not completed its examination of legislative items within the meaning of Article 7, the Presidency shall, unless considerations of urgency require otherwise and without prejudice to paragraph 2, remove them from the provisional agenda.

6. The provisional agenda shall be divided into Part A and Part B. Items for which approval by the Council is possible without discussion shall be included in Part A, but this does not exclude the possibility of any member of the Council or of the Commission expressing an opinion at the time of the approval of these items and having statements included in the minutes.

7. The agenda shall be adopted by the Council at the beginning of each meeting. The inclusion in the agenda of an item other than those appearing on the provisional agenda shall require unanimity in the Council. Items entered in this way may be put to the vote if all the procedural requirements provided for by the Treaties have been complied with.

8. However, an 'A' item shall be withdrawn from the agenda, unless the Council decides otherwise, if a position on an 'A' item might lead to further discussion thereof or if a member of the Council or the Commission so requests.

9. Any request for the inclusion of an 'other business' item shall be accompanied by an explanatory document.

Article 4

Representation of a Council member unable to attend

Subject to the provisions of Article 11 on the delegation of voting rights, a member of the Council who is prevented from attending a meeting may arrange to be represented.

Article 5

Meetings

1. Meetings of the Council shall not be public except in the cases referred to in Article 8.
2. The Commission shall be invited to take part in meetings of the Council. The same applies to the European Central Bank in cases where it exercises its right of initiative. The Council may, however, decide to deliberate without the presence of the Commission or of the European Central Bank.
3. The members of the Council and of the Commission may be accompanied by officials who assist them. The names and functions of those officials shall be notified in advance to the General Secretariat. The maximum number of persons per delegation in the Council meeting room at the same time, including members of the Council, may be laid down by the Council.
4. Admission to meetings of the Council shall be subject to the production of a pass delivered by the General Secretariat.

Article 6

Professional secrecy and production of documents in legal proceedings

1. Without prejudice to Articles 8 and 9 and to provisions on public access to documents, the deliberations of the Council shall be covered by the obligation of professional secrecy, except insofar as the Council decides otherwise.
2. The Council or Coreper may authorise the production for use in legal proceedings of a copy of or an extract from Council documents which have not already been released to the public in accordance with the provisions on public access to documents.

Article 7

Cases where the Council acts in its legislative capacity

The Council acts in its legislative capacity within the meaning of the second subparagraph of Article 207(3) of the EC Treaty when it adopts rules which are legally binding in or for the Member States, by means of regulations, directives, framework decisions or decisions, on the basis of the relevant provisions of the Treaties, with the exception of discussions leading to the adoption of internal measures, administrative or budgetary acts, acts concerning inter-institutional or international relations or non-binding acts (such as conclusions, recommendations or resolutions).

Where legislative proposals or initiatives are submitted to it the Council shall refrain from adopting acts which are not provided for by the Treaties, such as resolutions or declarations other than those referred to in Article 9.

Article 8

Council deliberations open to the public and public debates

1. Council deliberations on acts to be adopted in accordance with the co-decision procedure under Article 251 of the EC Treaty shall be open to the public as follows:
 - (a) the presentation by the Commission of its most important legislative proposals and the ensuing debate in the Council shall be open to the public. The list of such proposals shall be adopted at the beginning of each six-month period by the General Affairs and External Relations Council convened in a meeting as referred to in Article 2(2)(a), on a recommendation from the Presidency, after consulting the Commission;
 - (b) the vote on legislative acts shall be open to the public, as well as the final Council deliberations leading to that vote and the explanations of voting accompanying it ⁽⁵⁾.

In such cases, Council deliberations shall be open to the public through transmission of the Council meeting by audiovisual means, notably in an overflow room. The outcome of voting shall be indicated by visual

means.

The General Secretariat shall as far as possible inform the public in advance of the dates and approximate time on which such audiovisual transmissions will take place and shall take all practical measures to ensure proper implementation of this paragraph.

2. The General Affairs and External Relations Council convened in a meeting as referred to in Article 2(2) (a) shall hold a public policy debate every year on the Council's annual operational programme and, if appropriate, on the Commission's annual work programme. This annual policy debate shall be the subject of public transmission by audiovisual means.

3. On a decision taken by the Council or by Coreper, acting by a qualified majority, the Council shall hold at least one public debate on important new legislative proposals other than those referred to in paragraph 1.

The Council or Coreper may decide by a qualified majority on a case-by-case basis that other public debates are to be held on important issues affecting the interests of the Union.

It shall be for the Presidency, any member of the Council, or the Commission to propose issues or specific subjects for such debates.

Such debates shall be the subject of public transmission by audiovisual means.

Article 9 **Making public votes, explanations of votes and minutes**

1. In addition to cases where Council deliberations are open to the public under Article 8(1), where the Council acts in its legislative capacity within the meaning of Article 7, the results of votes and explanations of votes by Council members, as well as the statements in the Council minutes and the items in those minutes relating to the adoption of legislative acts, shall be made public.

The same rule shall apply for:

(a) results of votes and explanations of votes, as well as the statements in the Council minutes and the items in those minutes relating to the adoption of a common position pursuant to Article 251 or 252 of the EC Treaty;

(b) results of votes and explanations of votes by members of the Council or their representatives on the Conciliation Committee set up by Article 251 of the EC Treaty, as well as the statements in the Council minutes and the items in those minutes relating to the Conciliation Committee meeting;

(c) results of votes and explanations of votes, as well as the statements in the Council minutes and the items in those minutes relating to the establishment by the Council of a convention on the basis of Title VI of the Treaty on European Union.

2. Moreover, the results of votes shall be made public:

(a) when the Council acts pursuant to Title V of the Treaty on European Union, by a unanimous Council or Coreper decision taken at the request of one of their members;

(b) when the Council adopts a common position within the meaning of Title VI of the Treaty on European Union, by a unanimous Council or Coreper decision taken at the request of one of their members;

(c) in other cases, by Council or Coreper decision taken at the request of one of their members.

When the result of a vote in the Council is made public in accordance with subparagraphs (a), (b) and (c),

the explanations of votes made when the vote was taken shall also be made public at the request of the Council members concerned, with due regard for these Rules of Procedure, legal certainty and the interests of the Council.

Statements entered in the Council minutes and items in those minutes relating to the adoption of the acts referred to in subparagraphs (a), (b) and (c) shall be made public by Council or Coreper decision taken at the request of one of their members.

3. Votes shall not be made public in the case of discussions leading to indicative votes or the adoption of preparatory acts.

Article 10 **Public access to Council documents**

The specific provisions regarding public access to Council documents are set out in Annex II.

Article 11 **Voting arrangements and quorum**

1. The Council shall vote on the initiative of its President.

The President shall, furthermore, be required to open a voting procedure on the initiative of a member of the Council or of the Commission, provided that a majority of the Council's members so decides.

2. The members of the Council shall vote in the order of the Member States laid down in Article 203 of the EC Treaty, beginning with the member who, according to that order, follows the member holding the office of President.

3. Where a vote is taken, any member of the Council may also act on behalf of not more than one other member ⁽⁶⁾.

4. The presence of a majority of the members of the Council who are, under the Treaties, entitled to vote is required to enable the Council to vote. When the vote is taken, the President, assisted by the General Secretariat, shall check that there is a quorum.

Article 12 (7) **Written procedure**

1. Acts of the Council on an urgent matter may be adopted by a written vote where the Council or Coreper unanimously decides to use that procedure. In special circumstances, the President may also propose the use of that procedure; in such a case, written votes may be used where all members of the Council agree to that procedure.

2. Agreement by the Commission to the use of the written procedure shall be required where the written vote is on a matter which the Commission has brought before the Council.

3. A summary of acts adopted by the written procedure shall be drawn up every month by the General Secretariat.

4. On the initiative of the Presidency, the Council may also act for the purpose of implementing the common foreign and security policy by means of the simplified written procedure (COREU). In that case the proposal shall be deemed to be adopted at the end of the period laid down by the Presidency depending on the urgency of the matter, except where a member of the Council objects ⁽⁸⁾.

5. The General Secretariat shall establish that the written procedures have been completed.

Article 13

Minutes

1. Minutes of each meeting shall be drawn up and, when approved, shall be signed by the Secretary-General/High Representative for the Common Foreign and Security Policy (hereinafter referred to as 'the Secretary-General') or the Deputy Secretary-General. They may delegate their power to sign to Directors-General of the General Secretariat.

The minutes shall as a general rule indicate in respect of each item on the agenda:

- the documents submitted to the Council,
- the decisions taken or the conclusions reached by the Council,
- the statements made by the Council and those whose entry has been requested by a member of the Council or the Commission.

2. The draft minutes shall be drawn up by the General Secretariat within 15 days and submitted to the Council or to Coreper for approval.

3. Prior to such approval any member of the Council, or the Commission, may request that more details be inserted in the minutes regarding any item on the agenda. These requests may be made in Coreper.

Article 14

Deliberations and decisions on the basis of documents and drafts drawn up in the languages provided for by the language rules in force

1. Except as otherwise decided unanimously by the Council on grounds of urgency, the Council shall deliberate and take decisions only on the basis of documents and drafts drawn up in the languages specified in the rules in force governing languages.

2. Any member of the Council may oppose discussion if the texts of any proposed amendments are not drawn up in such of the languages referred to in paragraph 1 as he or she may specify.

Article 15

Signing of acts

The text of the acts adopted by the Council and that of the acts adopted jointly by the European Parliament and the Council shall be signed by the President-in-Office at the time of their adoption and by the Secretary-General or the Deputy Secretary-General. The Secretary-General and the Deputy Secretary-General may delegate their power to sign to Directors-General of the General Secretariat.

Article 16 (9)

Absence of the possibility to participate in the vote

For the purposes of application of these Rules of Procedure, due account will be taken, in accordance with Annex III, of cases in which, under the Treaties, one or more members of the Council may not participate in the vote.

Article 17

Publication of acts in the Official Journal

1. The following shall be published in the Official Journal by the Secretary-General or the Deputy Secretary-General:

- (a) the acts referred to in Article 254(1) and (2) of the EC Treaty;
- (b) the acts referred to in the first paragraph of Article 163 of the Euratom Treaty;
- (c) the common positions adopted by the Council in accordance with the procedures referred to in Articles 251 and 252 of the EC Treaty, and the reasons underlying those common positions;
- (d) the framework decisions and decisions referred to in Article 34(2) of the Treaty on European Union;
- (e) the conventions established by the Council in accordance with Article 34(2) of the Treaty on European Union.

Reference shall be made in the Official Journal to the entry into force of such conventions;

- (f) the conventions signed between Member States on the basis of Article 293 of the EC Treaty.
Reference shall be made in the Official Journal to the entry into force of such conventions;

- (g) international agreements concluded by the Community.
Reference shall be made in the Official Journal to the entry into force of such agreements;

- (h) international agreements concluded in accordance with Article 24 of the Treaty on European Union, unless the Council decides otherwise on the grounds of Articles 4 and 9 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁰⁾.

Reference shall be made in the Official Journal to the entry into force of such agreements.

2. Unless the Council or Coreper decides otherwise, the following shall be published in the Official Journal by the Secretary-General or the Deputy Secretary-General:

- (a) initiatives presented to the Council by a Member State pursuant to Article 67(1) of the EC Treaty;
- (b) initiatives presented to the Council by a Member State pursuant to Article 34(2) of the Treaty on European Union;
- (c) the common positions referred to in Article 34(2) of the Treaty on European Union;
- (d) directives other than those referred to in Article 254(1) and (2) of the EC Treaty, decisions other than those referred to in Article 254(1) of the EC Treaty, recommendations and opinions.

3. The Council or Coreper shall decide unanimously, on a case-by-case basis, whether there should be publication in the Official Journal by the Secretary-General or the Deputy Secretary-General of the common strategies, the joint actions and the common positions referred to in Article 12 of the Treaty on European Union;

4. The Council or Coreper shall decide, on a case-by-case basis and taking account of possible publication of the basic act, whether the following should be published in the Official Journal by the Secretary-General or the Deputy Secretary-General:

- (a) the measures implementing the joint actions referred to in Article 12 of the Treaty on European Union;
- (b) the joint actions, the common positions or any other decision adopted on the basis of a common strategy, as provided for in the first indent of Article 23(2) of the Treaty on European Union.

(c) any measures implementing the decisions referred to in Article 34(2) of the Treaty on European Union and any measures implementing conventions drawn up by the Council in accordance with Article 34(2) of the Treaty on European Union.

(d) other Council acts, such as sui generis decisions or resolutions.

5. Where an agreement concluded between the Communities and one or more States or international organisations sets up a body vested with powers of decision, the Council shall decide, when such an agreement is concluded, whether decisions to be taken by that body should be published in the Official Journal.

Article 18

Notification of acts

1. Directives other than those referred to in Article 254(1) and (2) of the EC Treaty and Decisions other than those referred to in Article 254(1) of the EC Treaty shall be notified to their addressees by the Secretary-General, the Deputy Secretary-General or a Director-General acting on their behalf.

2. When they are not published in the Official Journal, the following acts shall be notified to their addressees by the Secretary-General, the Deputy Secretary-General or a Director-General acting on their behalf:

(a) recommendations;

(b) the common strategies, joint actions and common positions referred to in Article 12 of the Treaty on European Union;

(c) the common positions referred to in Article 34(2) of the Treaty on European Union;

(d) measures implementing the acts adopted on the basis of Articles 12 and 34 of the Treaty on European Union.

3. The Secretary-General, the Deputy Secretary-General or a Director-General acting on their behalf shall send to the Governments of the Member States and to the Commission authentic copies of Council Directives other than those referred to in Article 254(1) and (2) of the EC Treaty and Council Decisions and recommendations.

Article 19 (11)

Coreper, committees and working parties

1. Coreper shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council. It shall in any case ⁽¹²⁾ ensure consistency of the Union's policies and actions and see to it that the following principles and rules are observed:

(a) the principles of legality, subsidiarity, proportionality and providing reasons for acts;

(b) rules establishing the powers of Union institutions and bodies;

(c) budgetary provisions;

(d) rules on procedure, transparency and the quality of drafting.

2. All items on the agenda for a Council meeting shall be examined in advance by Coreper unless the latter decides otherwise. Coreper shall endeavour to reach agreement at its level to be submitted to the Council for adoption. It shall ensure adequate presentation of the dossiers to the Council and, where appropriate, shall present guidelines, options or suggested solutions. In the event of an emergency, the Council, acting

unanimously, may decide to settle the matter without prior examination.

3. Committees or working parties may be set up by, or with the approval of, Coreper with a view to carrying out certain preparatory work or studies defined in advance.

The General Secretariat shall update and publish the list of preparatory bodies. Only the committees and working parties on this list may meet as Council preparatory bodies.

4. Coreper shall be chaired, depending on the items on the agenda, by the Permanent Representative or the Deputy Permanent Representative of the Member State which holds the Presidency of the Council. Unless the Council decides otherwise, the various committees provided for in the Treaties shall also be chaired by a delegate of that Member State. The same shall apply to the committees and working parties referred to in paragraph 3, unless Coreper decides otherwise.

5. For the preparation of meetings of Council configurations meeting once every six months, where held during the first half of this period, the meetings of committees other than Coreper and those of working parties held during the preceding six months shall be chaired by a delegate of the Member State whose turn it is to chair the said Council meetings.

6. When a dossier will essentially be dealt with during a six-month period, a delegate of the Member State holding the Presidency during that six-month period may, during the preceding six-month period, chair meetings of committees, other than Coreper, and working parties when they discuss that dossier. The practical implementation of this subparagraph shall be the subject of an agreement between the two Presidencies concerned.

In the specific case of the examination of the Community budget for a given financial year, meetings of Council preparatory bodies, other than Coreper, dealing with the preparation of Council agenda items on the examination of the budget shall be chaired by a delegate of the Member State which will hold the Council Presidency during the second six-month period of the year prior to the financial year in question. The same shall apply, with the agreement of the other Presidency, to the chairing of Council meetings at the time when the said budget items are discussed. The Presidencies concerned will consult on the practical arrangements.

7. In accordance with the relevant provisions referred to below, Coreper may adopt the following procedural decisions, provided that the items relating thereto have been included on its provisional agenda at least three working days before the meeting. Unanimity on the part of Coreper shall be required for any derogation from that period ⁽¹³⁾:

- (a) decision to hold a Council meeting in a place other than Brussels or Luxembourg (Article 1(3));
- (b) authorisation to produce a copy of or an extract from a Council document for use in legal proceedings (Article 6(2));
- (c) decision to hold a public debate in the Council (Article 8(3));
- (d) decision to make the results of votes public in the cases laid down in Article 9(2) and (3);
- (e) decision to use the written procedure (Article 12(1));
- (f) approval or amendment of Council minutes (Article 13(2) and (3));
- (g) decision to publish or not to publish a text or an act in the Official Journal (Article 17(2), (3) and (4));
- (h) decision to consult an institution or body;
- (i) decision setting or extending a time-limit for consultation of an institution or body;

- (j) decision to extend the periods laid down in Article 251(7) of the EC Treaty;
- (k) approval of the wording of a letter to be sent to an institution or body.

Article 20

The Presidency and the businesslike conduct of discussions

1. The Presidency shall be responsible for the application of these Rules of Procedure and for ensuring that discussions are conducted in a businesslike manner. It may, unless the Council decides otherwise, take any appropriate measure necessary to achieve the best possible use of the time available during meetings and in particular:

- (a) restrict the numbers per delegation present in the meeting room for discussion of a particular item, and decide whether to authorise the opening of an overflow room;
- (b) set the order in which items are to be taken and determine the duration of discussions on them;
- (c) organise the time allotted for discussion of a particular item, in particular through limiting the time during which participants may speak and determining the order in which they may take the floor;
- (d) ask delegations to present in writing their proposals for amendment of a text under discussion before a given date, together with a brief explanation if appropriate;
- (e) ask delegations which have identical or similar positions on a particular item, text or part thereof to choose one of them to express their shared position at the meeting or in writing before the meeting.

2. Without prejudice to the provisions of Article 19(4) to (6) and to its powers and its overall political responsibility, the Presidency shall be assisted by the representative of the Member State next holding the Presidency. At the Presidency's request and acting on its instructions, the latter shall replace it as and when required, shall relieve it, where necessary, of certain tasks and shall ensure the continuity of the Council's proceedings.

Article 21 (14) (15)

Reports from committees and working parties

Notwithstanding the other provisions of these Rules of Procedure, the Presidency shall organise the meetings of the various committees and working parties so that their reports are available before the Coreper meetings at which they are to be examined.

Unless considerations of urgency require otherwise, the Presidency shall postpone to a subsequent Coreper meeting any legislative items within the meaning of Article 7 on which the committee or working party has not completed its discussions at least five working days prior to Coreper's meeting.

Article 22

Quality of drafting (16)

In order to assist the Council in its task of ensuring the drafting quality of the legislative acts which it adopts, the Legal Service shall be responsible for checking the drafting quality of proposals and draft acts at the appropriate stage, as well as for bringing drafting suggestions to the attention of the Council and its bodies, pursuant to the Interinstitutional Agreement of 22 December 1998.

Throughout the legislative process, those who submit texts in connection with the Council's proceedings shall pay special attention to the quality of the drafting.

Article 23**The Secretary-General and the General Secretariat**

1. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council acting unanimously.

2. The Council shall decide on the organisation of the General Secretariat ⁽¹⁷⁾. Under its authority the Secretary-General and the Deputy Secretary-General shall take all the measures necessary to ensure the smooth running of the General Secretariat.

3. The General Secretariat shall be closely and continually involved in organising, coordinating and ensuring the coherence of the Council's work and implementation of its annual programme. Under the responsibility and guidance of the Presidency, it shall assist the latter in seeking solutions.

In accordance with the provisions of the Treaty on European Union, the Secretary-General shall assist the Council and the Presidency in matters concerning the common foreign and security policy, including coordination of the work of the Special Representatives.

If appropriate, the Secretary-General may ask the Presidency to convene a committee or working party, in particular in relation to matters concerning the common foreign and security policy, or to place an item on the agenda for a committee or working party.

4. The Secretary-General or the Deputy Secretary-General shall submit to the Council the draft estimate of the expenditure of the Council in sufficient time to ensure that the time limits laid down by the financial provisions are met.

5. The Secretary-General, assisted by the Deputy Secretary-General, shall have full responsibility for administering the appropriations entered in Section II, Council, of the budget and shall take all measures necessary to ensure that they are properly managed. He shall implement the appropriations in question in accordance with the provisions of the Financial Regulation applicable to the general budget of the European Communities.

Article 24**Security**

The rules on security shall be adopted by the Council acting by a qualified majority.

Article 25**Duties as depositary of agreements and conventions**

In the event of the Secretary-General of the Council being designated as depositary of an agreement concluded in accordance with Article 24 of the Treaty on European Union or concluded by the Community and one or more States or international organisations, of a convention concluded between Member States or of a convention established pursuant to Article 34 of the Treaty on European Union, the acts of ratification, acceptance or approval of those agreements or conventions shall be deposited at the address of the Council.

In such instances the Secretary-General shall perform the duties of a depositary and shall also ensure that the dates of entry into force of such agreements or conventions are published in the Official Journal.

Article 26**Representation before the European Parliament**

The Council may be represented before the European Parliament or its committees by the Presidency or,

with the latter's agreement, by the following Presidency or by the Secretary-General. The Council may also be represented before those committees by its Deputy Secretary-General or senior officials of the General Secretariat, acting on instructions from the Presidency.

The Council may also present its views to the European Parliament by means of a written statement.

Article 27

Provisions concerning the form of acts

The provisions concerning the form of acts are set out in Annex IV.

Article 28

Correspondence addressed to the Council

Correspondence to the Council shall be sent to the President at the following address of the Council:

Council of the European Union
Rue de la Loi 175
B - 1048 Brussels

(¹) OJ L 149, 23.6.2000, p. 21. Decision as amended by Decision 2001/216/EC (OJ L 81, 21.3.2001, p. 30) and by Decision 2001/840/EC (OJ L 313, 30.11.2001, p. 40).

(²) This paragraph reproduces Article 204 of the EC Treaty.

(³) This paragraph reproduces paragraph (b) of the sole article of the Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol annexed to the Treaties.

(⁴) See statements (a) and (b) set out below:

(a) Re Article 3(1) and (2)

'The President will endeavour to ensure that, in principle, the provisional agenda for each meeting of the Council dealing with implementation of Title IV of Part Three of the EC Treaty and Title VI of the Treaty on European Union and any documents relating to the items involved reach members of the Council at least 21 days before the beginning of the meeting.'

(b) Re Articles 1 and 3

'Without prejudice to Article 22(2) of the Treaty on European Union, which specifies that an extraordinary Council meeting may be convened at very short notice in cases requiring a rapid decision, the Council is aware of the need for matters relating to the common foreign and security policy to be dealt with swiftly and efficiently. The arrangements in Article 3 shall not prevent this need from being met.'

(⁵) See statement (c) set out below:

(c) Re Article 8(1)(b)

'Article 8(1)(b) will be implemented in the following way: the Presidency will indicate in the provisional agenda, using the words 'Public deliberation', those items on which the Council will take a vote at the end of the deliberations.

This practical arrangement shall have no effect on the rule under Article 11(1) of the Council's Rules of Procedure.'

(⁶) This paragraph reproduces Article 206 of the EC Treaty.

(⁷) See statement (d) set out below:

(d) Re Article 12

'The Council agrees to consider the advisability of including in the Rules of Procedure the option of using a simplified written procedure when the Council is acting pursuant to Title VI of the Treaty on European Union.'

(⁸) See statement (e) set out below:

(e) Re Article 12(4)

'The Council would point out that the COREU network must be used in accordance with the Council conclusions of 12 June 1995 concerning the Council's working methods.'

(⁹) See statement (f) set out below:

(f) Re Article 16 and Annex III

'The Council agrees that the provisions of Article 16 and Annex III apply to acts for the adoption of which some members of the Council are, under the Treaties, not entitled to vote. However, application of Article 7 of the Treaty on European Union is not covered by those provisions.

In the first application of Articles 43 and 44 of the Treaty on European Union, the Council will, in the light of experience acquired in other fields, consider any adaptations necessary to Article 16 of and Annex III to these Rules of Procedure.'

(¹⁰) OJ L 145, 31.5.2001, p. 43.

(¹¹) These provisions are without prejudice to the role of the Economic and Financial Committee as laid down in Article 114 of the EC Treaty and to existing Council Decisions thereon (OJ L 358, 31.12.1998, p. 109 and OJ L 5, 1.1.1999, p. 71).

(¹²) See statement (g) set out below:

(g) Re Article 19(1)

'Coreper will ensure consistency and observance of the principles set out in paragraph 1, in particular for matters where substantive preparation is undertaken in other fora.'

(¹³) See statement (h) set out below:

(h) Re Article 19(7)

'If a member of the Council considers that a draft procedural decision submitted to Coreper for adoption in accordance with Article 19(7) raises a question of substance, the draft decision will be submitted to the Council.'

(¹⁴) These provisions are without prejudice to the role of the Economic and Financial Committee as laid down in Article 114 of the EC Treaty and to existing Council Decisions thereon (OJ L 358, 31.12.1998, p. 109 and OJ L 5, 1.1.1999, p. 71).

(¹⁵) See statement (i) set out below:

(i) Re Article 21

'Reports from working parties and any other documents used as a basis for Coreper's discussions should be sent to delegations in time to allow for their examination.'

(¹⁶) See statements (j) and (k) set out below:

(j) Re Article 22

'The Council Legal Service has also been instructed to provide assistance to a Member State responsible for an initiative within the meaning of Article 67(1) of the EC Treaty or Article 34(2) of the Treaty on European Union for the purpose, inter alia, of checking the quality of drafting of such initiatives if that assistance is requested by the Member State concerned.'

(k) Re Article 22

'Members of the Council will comment on proposals for official codification of legislative texts within thirty days of the circulation of such proposals by the General Secretariat.

Members of the Council will ensure that those provisions of a proposal for the recasting of legislative texts which have been taken from the preceding act without substantive amendment are examined in accordance with the principles established for examination of codification proposals.'

(¹⁷) Paragraph 1 and paragraph 2, first subparagraph, reproduce Article 207(2) of the EC Treaty.

ANNEX I - LIST OF COUNCIL CONFIGURATIONS

1. General Affairs and External Relations (¹).
2. Economic and Financial Affairs (²).
3. Justice and Home Affairs (³).
4. Employment, Social Policy, Health and Consumer Affairs.
5. Competitiveness (Internal Market, Industry and Research) (⁴).
6. Transport, Telecommunications and Energy.
7. Agriculture and Fisheries.
8. Environment.
9. Education, Youth and Culture (⁵).

It is up to each Member State to determine the way in which it is represented in the Council, in conformity with Article 203 of the EC Treaty.

Several Ministers may participate as full members of the same Council configuration, with the agenda and the organisation of proceedings being adjusted accordingly (⁶).

In the case of the General Affairs and External Relations Council, each government shall be represented at the different meetings of this configuration by the Minister or State Secretary of its choice.

(¹) Including European security and defence policy and development cooperation.

(²) Including budget.

(³) Including civil protection.

(⁴) Including tourism.

(⁵) Including audiovisual affairs.

(⁶) See statement (l) set out below:

(l) Re Annex I, second subparagraph

‘The Presidency will organise Council agendas by grouping together related agenda items, in order to facilitate attendance by the relevant national representatives, particularly where a given Council configuration has to deal with clearly distinguishable sets of topics.’

ANNEX II - SPECIFIC PROVISIONS REGARDING PUBLIC ACCESS TO COUNCIL DOCUMENTS

Article 1

Scope

Any natural or legal person shall have access to Council documents subject to the principles, conditions and limits laid down in Regulation (EC) No 1049/2001 and the specific provisions laid down in this Annex.

Article 2

Consultation as regards third-party documents

1. For the purpose of applying Article 4(5) and Article 9(3) of Regulation (EC) No 1049/2001 and unless it is clear, upon examination of the document in the light of Article 4(1), (2) and (3) of Regulation (EC) No 1049/2001, that it shall not be disclosed, the third party concerned shall be consulted if:

(a) the document is a sensitive document as defined in Article 9(1) of Regulation (EC) No 1049/2001;

(b) the document originates from a Member State and

– was submitted to the Council before 3 December 2001, or

– the Member State concerned requested that it not be disclosed without its prior agreement.

2. In all other cases, where the Council receives an application for a third-party document in its possession, the General Secretariat, for the purpose of applying Article 4(4) of Regulation (EC) No 1049/2001, shall consult the third party concerned unless it is clear, upon examination of the document in the light of Article 4(1), (2) and (3) of Regulation (EC) No 1049/2001, that it shall or shall not be disclosed.

3. The third party shall be consulted in writing (including by e-mail) and be given a reasonable time limit for its reply, taking into account the time limit laid down in Article 7 of Regulation (EC) No 1049/2001. In the cases referred to in paragraph 1, the third party shall be asked to give its opinion in writing.

4. Where the document does not fall within paragraph 1(a) or (b) and the General Secretariat, in the light of the third party's negative opinion, is not satisfied that Article 4(1) or (2) of Regulation (EC) No 1049/2001 is applicable, the Council shall be seized of the matter.

If the Council envisages the release of the document, the third party shall be informed immediately in writing of the Council's intention to release the document after a time period of at least 10 working days. At the same time, the third party's attention shall be drawn to Article 243 of the Treaty establishing the European Community.

Article 3

Requests for consultation received from other institutions or from Member States

Requests for consultations with the Council made by another institution or a Member State concerning an

application for a Council document shall be sent via e-mail to access@consilium.eu.int or by fax to + 32 (0) 22 85 63 61.

The General Secretariat shall give its opinion on behalf of the Council promptly, taking into account any time limit required for a decision to be made by the institution or the Member State concerned, and at the latest within five working days.

Article 4 **Documents originating from Member States**

Any request by a Member State under Article 4(5) of Regulation (EC) No 1049/2001 shall be made in writing to the General Secretariat.

Article 5 **Referral of requests by Member States**

When a Member States refers to a request to the Council, it shall be handled in accordance with Articles 7 and 8 of Regulation (EC) No 1049/2001 and the relevant provisions of this Annex. In the event of a total or partial refusal of access, the applicant shall be informed that any confirmatory application must be addressed directly to the Council.

Article 6 **Address for applications**

Applications for access to a document shall be addressed in writing to the Secretary-General of the Council/High Representative, rue de la Loi/Wetstraat 175, B-1048 Brussels, by e-mail to access@consilium.eu.int or by fax to + 32 (0) 22 85 63 61.

Article 7 **Processing of initial applications**

Subject to Article 9(2) and (3) of Regulation (EC) No 1049/2001, any application for access to a Council document shall be handled by the General Secretariat.

Article 8 **Processing of confirmatory applications**

Subject to Article 9(2) and (3) of Regulation (EC) No 1049/2001, any confirmatory application shall be decided upon by the Council.

Article 9 **Charges**

The charges for producing and sending copies of Council documents shall be set by the Secretary-General.

Article 10 **Public register of Council documents**

1. The General Secretariat shall be responsible for providing public access to the register of Council documents.

2. In addition to the references to documents, it shall be indicated in the register which documents drawn up after 1 July 2000 have already been released to the public. Subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of

such data ⁽¹⁾ and Article 16 of Regulation (EC) No 1049/2001, their content shall be made available on the Internet.

Article 11

Documents directly accessible to the public

1. This Article shall apply to all Council documents, provided that they are not classified and without prejudice to the possibility of making a written application in accordance with Article 6 of Regulation (EC) No 1049/2001.

2. For the purpose of this Article:

– ‘circulation’ shall mean distribution of the final version of a document to the members of the Council, their representatives or delegates;

– ‘legislative document’ shall mean any document concerning the examination and adoption of a legislative act within the meaning of Article 7 of the Council's Rules of Procedure.

3. The General Secretariat shall make the following documents available to the public as soon as they have been circulated:

(a) documents of which neither the Council nor a Member State is the author, which have been made public by their author or with his agreement;

(b) provisional agenda of meetings of the Council in its various formations;

(c) any text adopted by the Council and intended to be published in the Official Journal.

4. Provided that they are clearly not covered by any of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001, the General Secretariat may also make the following documents available to the public as soon as they have been circulated:

(a) provisional agenda of committees and working parties;

(b) other documents, such as information notes, reports, progress reports and reports on the state of discussions in the Council or one of its preparatory bodies which do not reflect individual positions of delegations, excluding Legal Service opinions and contributions.

5. The General Secretariat shall make the following legislative documents available to the public, in addition to the documents referred to in paragraphs 3 and 4, as soon as they have been circulated:

(a) cover notes and copies of letters concerning legislative acts addressed to the Council by other institutions or bodies of the European Union or, subject to Article 4(5) of Regulation (EC) No 1049/2001, by a Member State;

(b) notes submitted to Coreper and/or to the Council for approval (‘I/A’ and ‘A’ Item Notes), as well as the draft legislative acts to which they refer;

(c) decisions adopted by the Council during the procedure referred to in Article 251 of the EC Treaty and joint texts approved by the Conciliation Committee.

6. After adoption of one of the decisions referred to in paragraph 5(c) or final adoption of the act concerned, the General Secretariat shall make available to the public any legislative documents relating to this act which were drawn up before one of such decisions and which are not covered by any of the exceptions laid down in Article 4(1), (2) and (3), second subparagraph, of Regulation (EC) No 1049/2001, such as information

notes, reports, progress reports and reports on the state of discussions in the Council or in one of its preparatory bodies (outcomes of proceedings), excluding Legal Service opinions and contributions.

At the request of a Member State, documents which are covered by the first subparagraph and reflect the individual position of that Member State's delegation in the Council shall not be made available to the public under these provisions.

(¹) OJ L 8, 12.1.2001, p. 1.

ANNEX III

1. In application of the following provisions of these Rules of Procedure and for decisions in respect of which, under the Treaties, members of the Council or of Coreper may not participate in the vote, account is not to be taken of votes by such members:

- (a) Article 1(3), second subparagraph (holding of a meeting in a place other than Brussels or Luxembourg);
- (b) Article 3(7) (inclusion on the agenda of an item other than those appearing on the provisional agenda);
- (c) Article 3(8) (maintaining as a 'B' item on the agenda an 'A' item which would otherwise have had to be withdrawn from the agenda);
- (d) Article 5(2), as regards the presence of the European Central Bank only (deliberation without the presence of the European Central Bank);
- (e) Article 9(2), first subparagraph, points (b) and (c), second and third subparagraphs (making public the results of votes, explanations of votes, statements in the Council minutes and items in those minutes relating to the adoption of a common position under Title VI of the Treaty on European Union; making public the results of votes, explanations of votes, statements in the Council minutes and items in those minutes relating to cases other than those referred to in paragraph 2);
- (f) Article 11(1), second subparagraph (opening of a voting procedure);
- (g) Article 12(1) (use of the written procedure);
- (h) Article 14(1) (decision to deliberate and take decisions exceptionally on the basis of documents and drafts not drawn up in all the languages) (¹);
- (i) Article 17(2)(a) and (b) (non-publication in the Official Journal of an initiative presented by a Member State pursuant to Article 67(1) of the EC Treaty or Article 34(2) of the Treaty on European Union);
- (j) Article 17(2)(c) and (d) (non-publication in the Official Journal of a common position adopted on the basis of Article 34 of the Treaty on European Union or certain directives, decisions, recommendations and opinions);
- (k) Article 17(4)(c) (publication in the Official Journal of any measures implementing decisions or conventions referred to in Article 34(2) of the Treaty on European Union);
- (l) Article 17(5) (whether to publish in the Official Journal decisions taken by a body set up under an international agreement).

2. A member of the Council or of Coreper may not make use of the following provisions of these Rules of Procedure in connection with decisions on which, under the Treaties, that member may not participate in the

vote:

- (a) Article 3(8) (possibility of a member of the Council requesting withdrawal of an 'A' item from the agenda);
- (b) Article 11(1), second subparagraph (possibility of a member of the Council requesting the opening of a voting procedure);
- (c) Article 11(3) (possibility of a member of the Council acting on behalf of another in a vote);
- (d) Article 14(2) (possibility for any member of the Council to oppose discussion if the texts of any proposed amendments are not drawn up in the language he or she has specified).

(¹) See statement (m) set out below:

(m) Re Annex III, paragraph 1(h)

'The Council confirms that present practice whereby the texts serving as a basis for its deliberations are drawn up in all the languages will continue to apply.'

ANNEX IV - PROVISIONS CONCERNING THE FORM OF ACTS

A. Form of Regulations:

1. Regulations adopted jointly by the European Parliament and the Council and Council regulations shall include:
 - (a) in their title the word 'Regulation', followed by a serial number, the date of their adoption and an indication of their subject matter;
 - (b) the words 'The European Parliament and the Council of the European Union' or 'The Council of the European Union', as appropriate;
 - (c) a reference to the provisions under which the regulation is adopted, preceded by the words 'Having regard to';
 - (d) a citation containing a reference to proposals submitted and to opinions obtained and consultations held;
 - (e) a statement of the reasons on which the Regulation is based, preceded by the word 'Whereas:', the recitals being numbered;
 - (f) the words 'have adopted this Regulation' or 'has adopted this Regulation', as appropriate, followed by the enacting terms of the regulation.
2. Regulations shall be divided into articles, if appropriate grouped into chapters and sections.
3. The final Article of a Regulation shall fix the date of entry into force, where that date is before or after the twentieth day following publication.
4. The final Article of a Regulation shall be followed by:
 - (a)

(i) the words ‘This Regulation shall be binding in its entirety and directly applicable in all Member States.’
or

(ii) the words ‘This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community’, in any cases in which an act is not applicable to, and in, all Member States ⁽¹⁾;

(b) the words ‘Done at ...’, followed by the date on which the Regulation was adopted, and

(c) in the case of:

(i) a Regulation adopted jointly by the European Parliament and the Council, the formula:

‘For the European Parliament For the Council
The President The President’

followed by the name of the President of the European Parliament and of the President-in-Office of the Council at the time when the Regulation is adopted;

(ii) a Council Regulation, the formula:

‘For the Council
The President’

followed by the name of the President-in-Office of the Council at the time when the Regulation is adopted.

B. Form of Directives, Decisions, Recommendations and Opinions (EC Treaty)

1. Directives and decisions adopted jointly by the European Parliament and the Council, and directives and decisions of the Council, shall include in their titles the word ‘Directive’ or ‘Decision’.

2. Recommendations and opinions issued by the Council shall include in their titles the word ‘Recommendation’ or ‘Opinion’.

3. The provisions relating to Regulations set out in A above shall apply *mutatis mutandis*, subject to the relevant provisions of the EC Treaty, to directives and decisions.

C. Form of Common Strategies of the European Council, Joint Actions and Common Positions referred to in Article 12 of the Treaty on European Union

Common strategies, joint actions and common positions within the meaning of Article 12 of the Treaty on European Union shall bear one of the following headings, as appropriate:

- (a) 'European Council Common Strategy', a serial number (year/number/CFSP), the date of adoption and the subject matter;
- (b) 'Council Joint Action', a serial number (year/number/CFSP), the date of adoption and the subject matter;
- (c) 'Council Common Position', a serial number (year/number/CFSP), the date of adoption and the subject matter.

D. Form of Common Positions, Framework Decisions, Decisions and Conventions referred to in Article 34(2) of the Treaty on European Union

Common positions, framework decisions, decisions and conventions within the meaning of Article 34(2) of the Treaty on European Union shall bear one of the following headings, as appropriate:

- (a) 'Council Common Position', a serial number (year/number/JHA), the date of adoption and the subject matter;
- (b) 'Council Framework Decision', a serial number (year/number/JHA), the date of adoption and the subject matter;
- (c) 'Council Decision', a serial number (year/number/JHA), the date of adoption and the subject matter;
- (d) 'Convention established by the Council in accordance with Article 34 of the Treaty on European Union' and the subject matter.

Done at Brussels, 22 July 2002.

For the Council
The President
P. S. Møller

(¹) See statement (n) set out below:

(n) Re Annex IV, paragraph A.4(a)(ii)

'The Council would point out that, in the cases provided for in the Treaties where an act is not applicable to or in all Member States, it is necessary to make clear its territorial application in the reasons given for and content of the act concerned.'