

## Treaty establishing the European Atomic Energy Community (Rome, 25 March 1957) — Consolidated version 2001

**Caption:** Treaty establishing the European Atomic Energy Community as amended by the Treaty of Nice of 26 February 2001.

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## Treaty establishing the European Atomic Energy Community

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[Consolidated version including the amendments of the Treaty of Nice of 26 February 2001].

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

RECOGNIZING that nuclear energy represents an essential resource for the development and invigoration of industry and will permit the advancement of the cause of peace,

CONVINCED that only a joint effort undertaken without delay can offer the prospect of achievements commensurate with the creative capacities of their countries,

RESOLVED to create the conditions necessary for the development of a powerful nuclear industry which will provide extensive energy resources, lead to the modernization of technical processes and contribute, through its many other applications, to the prosperity of their peoples,

ANXIOUS to create the conditions of safety necessary to eliminate hazards to the life and health of the public,

DESIRING to associate other countries with their work and to cooperate with international organizations concerned with the peaceful development of atomic energy,

HAVE DECIDED to create a EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM) and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Mr Paul Henri SPAAK, Minister for Foreign Affairs,

Baron J. Ch. SNOY ET D'OPPUERS, Secretary General of the Ministry of Economic Affairs, Head of the Belgian Delegation to the Intergovernmental Conference;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Dr Konrad ADENAUER, Federal Chancellor,

Professor Dr Walter HALLSTEIN, State Secretary of the Federal Foreign Office;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr Christian PINEAU, Minister for Foreign Affairs,

Mr Maurice FAURE, Under Secretary of State for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr Antonio SEGNI, President of the Council of Ministers,

Professor Gaetano MARTINO, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:

Mr Joseph BECH, President of the Government, Minister for Foreign Affairs,

Mr Lambert SCHAUS, Ambassador, Head of the Luxembourg Delegation to the Intergovernmental Conference;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr Joseph LUNS, Minister for Foreign Affairs,

Mr J. LINTHORST HOMAN, Head of the Netherlands Delegation to the Intergovernmental Conference;

WHO, having exchanged their full powers, found in good and due form, have agreed as follows.

## **TITLE I — The tasks of the Community**

### **Article 1**

By this Treaty the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM).

It shall be the task of the Community to contribute to the raising of the standard of living in the Member States and to the development of relations with the other countries by creating the conditions necessary for the speedy establishment and growth of nuclear industries.

### **Article 2**

In order to perform its task, the Community shall, as provided in this Treaty:

- (a) promote research and ensure the dissemination of technical information;
- (b) establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied;
- (c) facilitate investment and ensure, particularly by encouraging ventures on the part of undertakings, the establishment of the basic installations necessary for the development of nuclear energy in the Community;
- (d) ensure that all users in the Community receive a regular and equitable supply of ores and nuclear fuels;
- (e) make certain, by appropriate supervision, that nuclear materials are not diverted to purposes other than those for which they are intended;
- (f) exercise the right of ownership conferred upon it with respect to special fissile materials;
- (g) ensure wide commercial outlets and access to the best technical facilities by the creation of a common market in specialized materials and equipment, by the free movement of capital for investment in the field of nuclear energy and by freedom of employment for specialists within the Community;
- (h) establish with other countries and international organizations such relations as will foster progress in the

peaceful uses of nuclear energy.

### **Article 3**

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

— a EUROPEAN PARLIAMENT,

— a COUNCIL,

— a COMMISSION,

— a COURT OF JUSTICE,

— a COURT OF AUDITORS.

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

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

## **TITLE II — Provisions for the encouragement of progress in the field of nuclear energy**

### **CHAPTER 1 — Promotion of research**

#### **Article 4**

1. The Commission shall be responsible for promoting and facilitating nuclear research in the Member States and for complementing it by carrying out a Community research and training programme.

2. The activity of the Commission in this respect shall be carried out within the fields listed in Annex I to this Treaty.

This list may be amended by the Council, acting by a qualified majority on a proposal from the Commission. The latter shall consult the Scientific and Technical Committee established under Article 134.

#### **Article 5**

For purposes of coordinating and complementing research undertaken in Member States, the Commission shall, either by a specific request addressed to a given recipient and conveyed to the government concerned, or by a general published request, call upon Member States, persons or undertakings to communicate to it their programmes relating to the research which it specifies in the request.

After giving those concerned full opportunity to comment, the Commission may deliver a reasoned opinion on each of the programmes communicated to it. The Commission shall deliver such an opinion if the State, person or undertaking which has communicated the programme so requests.

By such opinions the Commission shall discourage unnecessary duplication and shall direct research towards sectors which are insufficiently explored. The Commission may not publish these programmes without the consent of the State, person or undertaking which has communicated them.

The Commission shall publish at regular intervals a list of those sectors of nuclear research which it considers to be insufficiently explored.

The Commission may bring together representatives of public and private research centres as well as any experts engaged in research in the same or related fields for mutual consultation and exchanges of information.

#### **Article 6**

To encourage the carrying out of research programmes communicated to it the Commission may:

- (a) provide financial assistance within the framework of research contracts, without, however, offering subsidies;
- (b) supply, either free of charge or against payment, for carrying out such programmes, any source materials or special fissile materials which it has available;
- (c) place installations, equipment or expert assistance at the disposal of Member States, persons or undertakings, either free of charge or against payment;
- (d) promote joint financing by the Member States, persons or undertakings concerned.

#### **Article 7**

Community research and training programmes shall be determined by the Council, acting unanimously on a proposal from the Commission, which shall consult the Scientific and Technical Committee.

These programmes shall be drawn up for a period of not more than five years.

The funds required for carrying out these programmes shall be included each year in the research and investment budget of the Community.

The Commission shall ensure that these programmes are carried out and shall submit an annual report thereon to the Council.

The Commission shall keep the Economic and Social Committee informed of the broad outlines of Community research and training programmes.

#### **Article 8**

1. After consulting the Scientific and Technical Committee, the Commission shall establish a Joint Nuclear Research Centre.

This Centre shall ensure that the research programmes and other tasks assigned to it by the Commission are carried out.

It shall also ensure that a uniform nuclear terminology and a standard system of measurements are established.

It shall set up a central bureau for nuclear measurements.

2. The activities of the Centre may, for geographical or functional reasons, be carried out in separate establishments.

### **Article 9**

1. After obtaining the opinion of the Economic and Social Committee the Commission may, within the framework of the Joint Nuclear Research Centre, set up schools for the training of specialists, particularly in the fields of prospecting for minerals, the production of high purity nuclear materials, the processing of irradiated fuels, nuclear engineering, health and safety and the production and use of radioisotopes.

The Commission shall determine the details of such training.

2. An institution of university status shall be established; the way in which it will function shall be determined by the Council, acting by a qualified majority on a proposal from the Commission.

### **Article 10**

The Commission may, by contract, entrust the carrying out of certain parts of the Community research programme to Member States, persons or undertakings, or to third countries, international organizations or nationals of third countries.

### **Article 11**

The Commission shall publish the research programmes referred to in Articles 7, 8 and 10, and also regular progress reports on their implementation.

## **CHAPTER 2 — Dissemination of information**

### **Section 1 — Information over which the Community has power of disposal**

#### **Article 12**

Member States, persons or undertakings shall have the right, on application to the Commission, to obtain non exclusive licences under patents, provisionally protected patent rights, utility models or patent applications owned by the Community, where they are able to make effective use of the inventions covered thereby.

Under the same conditions, the Commission shall grant sublicences under patents, provisionally protected patent rights, utility models or patent applications, where the Community holds contractual licences conferring power to do so.

The Commission shall grant such licences or sublicences on terms to be agreed with the licensees and shall furnish all the information required for their use. These terms shall relate in particular to suitable remuneration and, where appropriate, to the right of the licensee to grant sublicences to third parties and to the obligation to treat the information as a trade secret.

Failing agreement on the terms referred to in the third paragraph, the licensees may bring the matter before the Court of Justice so that appropriate terms may be fixed.

### **Article 13**

The Commission shall communicate to Member States, persons and undertakings information acquired by the Community which is not covered by the provisions of Article 12, whether such information is derived from its own research programme or communicated to the Commission with authority to make free use of it.

The Commission may, however, make the disclosure of such information conditional on its being treated as confidential and not passed on to third parties.

The Commission may not disclose information which has been acquired subject to restrictions on its use or dissemination such as information known as classified information unless it ensures compliance with these restrictions.

### **Section 2 — Other information**

#### *(a) Dissemination by amicable agreement*

### **Article 14**

The Commission shall endeavour, by amicable agreement, to secure both the communication of information which is of use to the Community in the attainment of its objectives and the granting of licences under patents, provisionally protected patent rights, utility models or patent applications covering such information.

### **Article 15**

The Commission shall establish a procedure by which Member States, persons and undertakings may use it as an intermediary for exchanging provisional or final results of their research, in so far as these results have not been acquired by the Community under research contracts awarded by the Commission.

This procedure must be such as to ensure the confidential nature of the exchange. The results communicated may, however, be transmitted by the Commission to the Joint Nuclear Research Centre for documentation purposes; this shall not entail any right of use to which the communicating party has not agreed.

#### *(b) Compulsory communication to the Commission*

### **Article 16**

1. As soon as an application for a patent or a utility model relating to a specifically nuclear subject is filed with a Member State, that State shall ask the applicant to agree that the contents of the application be communicated to the Commission forthwith.



If the applicant agrees, this communication shall be made within three months of the date of filing the application. If the applicant does not agree, the Member State shall, within the same period, notify the Commission of the existence of the application.

The Commission may require a Member State to communicate the contents of an application of whose existence it has been notified.

The Commission shall make any such request within two months of the date of notification. Any extension of this period shall entail a corresponding extension of the period referred to in the sixth subparagraph of this paragraph.

On receiving such a request from the Commission, the Member State shall again ask the applicant to agree to communication of the contents of the application. If the applicant agrees, communication shall be made forthwith.

If the applicant does not agree, the Member State shall nevertheless be required to make this communication to the Commission within 18 months of the date on which the application was filed.

2. Member States shall inform the Commission, within 18 months of the filing date, of the existence of any as yet unpublished application for a patent or utility model which seems to them, *prima facie*, to deal with a subject which, although not specifically nuclear, is directly connected with and essential to the development of nuclear energy in the Community.

If the Commission so requests, the contents of the application shall be communicated to it within two months.

3. In order that publication may take place as soon as possible, Member States shall reduce to a minimum the time taken to process applications for patents or utility models relating to subjects referred to in paragraphs 1 and 2 concerning which a request has been made by the Commission.

4. The Commission shall treat the abovementioned communications as confidential. They may only be made for documentation purposes. The Commission may, however, make use of the inventions communicated to it, either with the consent of the applicant or in accordance with Articles 17 to 23.

5. The provisions of this Article shall not apply when an agreement concluded with a third State or an international organization precludes communication.

*(c) Grant of licences by arbitration or under compulsory powers*

#### **Article 17**

1. Failing amicable agreement, non exclusive licences may be granted either by arbitration or under compulsory powers in accordance with Articles 18 to 23:

(a) to the Community or to Joint Undertakings accorded this right under Article 48 in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with nuclear research, where the granting of such licences is necessary for the continuance of their own research or indispensable to the operation of their installations.

If the Commission so requests, such licences shall include the right to authorize third parties to make use of the invention, where they are carrying out work for or orders placed by the Community or Joint Undertakings;

(b) to persons or undertakings which have applied to the Commission for them in respect of patents,

provisionally protected patent rights or utility models relating to inventions directly connected with and essential to the development of nuclear energy in the Community, provided that all the following conditions are fulfilled:

- (i) at least four years have elapsed since the filing of the patent application, save in the case of an invention relating to a specifically nuclear subject;
- (ii) the requirements arising out of the development of nuclear energy, in the Commission's conception of such development, in the territory of a Member State where an invention is protected, are not being met with regard to that invention;
- (iii) the proprietor, having been called upon to meet such requirements either himself or through his licensees, has not complied with this request;
- (iv) the persons or undertakings applying for licences are in a position to meet such requirements effectively by making use of the invention.

Member States may not, in order to meet such requirements, take any coercive measures provided for in their national legislation which will limit the protection accorded to the invention, save at the prior request of the Commission.

2. A non exclusive licence may not be granted as provided for in paragraph 1 where the proprietor can establish the existence of legitimate reasons, in particular that he has not had sufficient time at his disposal.

3. The granting of a licence pursuant to paragraph 1 shall confer a right to full compensation, the amount of which shall be agreed between the proprietor of the patent, provisionally protected patent right or utility model and the licensee.

4. The provisions of this Article shall not affect those of the Paris Convention for the Protection of Industrial Property.

#### **Article 18**

An Arbitration Committee is hereby established for the purposes provided for in this Section. The Council shall appoint the members and lay down the Rules of Procedure of this Committee, acting on a proposal from the Court of Justice.

An appeal, having suspensory effect, may be brought by the parties before the Court of Justice against a decision of the Arbitration Committee within one month of notification thereof. The Court of Justice shall confine its examination to the formal validity of the decision and to the interpretation of the provisions of this Treaty by the Arbitration Committee.

The final decisions of the Arbitration Committee shall have the force of *res judicata* between the parties concerned. They shall be enforceable as provided in Article 164.

#### **Article 19**

Where, failing amicable agreement, the Commission intends to secure the granting of licences in one of the cases provided for in Article 17, it shall give notice of its intention to the proprietor of the patent, provisionally protected patent right, utility model or patent application, and shall specify in such notice the name of the applicant for and the scope of the licence.

## Article 20

The proprietor may, within one month of receipt of the notice referred to in Article 19, propose to the Commission and, where appropriate, to the applicant that they conclude a special agreement to refer the matter to the Arbitration Committee.

Should the Commission or the applicant refuse to enter into such an agreement, the Commission shall not require the Member State or its appropriate authorities to grant the licence or cause it to be granted.

If, when the matter is referred to it under a special agreement, the Arbitration Committee finds that the request from the Commission complies with the provisions of Article 17, it shall give a reasoned decision containing a grant of the licence to the applicant and laying down the terms of the licence and the remuneration therefor, to the extent that the parties have not reached agreement on these points.

## Article 21

If the proprietor does not propose that the matter be referred to the Arbitration Committee, the Commission may call upon the Member State concerned or its appropriate authorities to grant the licence or cause it to be granted.

If, having heard the proprietor's case, the Member State, or its appropriate authorities, considers that the conditions of Article 17 have not been complied with, it shall notify the Commission of its refusal to grant the licence or to cause it to be granted.

If it refuses to grant the licence or to cause it to be granted, or if, within four months of the date of the request, no information is forthcoming with regard to the granting of the licence, the Commission shall have two months in which to bring the matter before the Court of Justice.

The proprietor must be heard in the proceedings before the Court of Justice.

If the judgment of the Court of Justice establishes that the conditions of Article 17 have been complied with, the Member State concerned, or its appropriate authorities, shall take such measures as enforcement of that judgment may require.

## Article 22

1. If the proprietor of the patent, provisionally protected patent right or utility model and the licensee fail to agree on the amount of compensation, the parties concerned may conclude a special agreement to refer the matter to the Arbitration Committee.

By doing so, the parties waive the right to institute any proceedings other than those provided for in Article 18.

2. If the licensee refuses to conclude a special agreement, the licence he has been granted shall be deemed void.

If the proprietor refuses to conclude a special agreement, the compensation referred to in this Article shall be determined by the appropriate national authorities.

## Article 23

After the lapse of one year, the decisions of the Arbitration Committee or the appropriate national authorities may, if there are new facts to justify it, be revised with respect to the terms of the licence.

Such revision shall be a matter for the body which gave the decision.

### Section 3 — Security provisions

#### Article 24

Information which the Community acquires as a result of carrying out its research programme, and the disclosure of which is liable to harm the defence interests of one or more Member States, shall be subject to a security system in accordance with the following provisions.

(1) The Council shall, acting on a proposal from the Commission, adopt security regulations which, account being taken of the provisions of this Article, lay down the various security gradings to be applied and the security measures appropriate to each grading.

(2) Where the Commission considers that the disclosure of certain information is liable to harm the defence interests of one or more Member States, it shall provisionally apply to that information the security grading required in that case by the security regulations.

It shall communicate such information forthwith to the Member States, which shall provisionally ensure its security in the same manner.

Member States shall inform the Commission within three months whether they wish to maintain the grading provisionally applied, substitute another or declassify the information.

Upon the expiry of this period, the highest grading of those requested shall be applied. The Commission shall notify the Member States accordingly.

At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

(3) The provisions of Articles 12 and 13 shall not apply to information subject to a security grading.

Nevertheless, provided that the appropriate security measures are observed,

(a) the information referred to in Articles 12 and 13 may be communicated by the Commission:

(i) to a Joint Undertaking;

(ii) to a person or undertaking other than a Joint Undertaking, through the Member State in whose territory that person or undertaking operates;

(b) the information referred to in Article 13 may be communicated by a Member State to a person or to an undertaking other than a Joint Undertaking, operating in the territory of that State, provided that the Commission is notified of this communication;

(c) each Member State has, however, the right to require the Commission to grant a licence under Article 12

to meet the needs of that State or those of a person or undertaking operating in its territory.

## Article 25

1. A Member State notifying the existence or communicating the contents of an application for a patent or utility model relating to a subject specified in Article 16(1) or (2) shall, where appropriate, draw attention to the need to apply a given security grading for defence reasons, at the same time stating the probable duration of such grading.

The Commission shall pass on to the other Member States all communications received in accordance with the preceding subparagraph. The Commission and the Member States shall take those measures which, under the security regulations, correspond to the grading required by the State of origin.

2. The Commission may also pass on these communications to Joint Undertakings or, through a Member State, to a person or to an undertaking other than a Joint Undertaking operating in the territory of that State.

Inventions which are the subject of applications referred to in paragraph 1 may be used only with the consent of the applicant or in accordance with Articles 17 to 23.

The communications and, where appropriate, the use referred to in this paragraph shall be subject to the measures which, under the security regulations, correspond to the security grading required by the State of origin.

The communications shall in all cases be subject to the consent of the State of origin. Consent to communication and use may be withheld only for defence reasons.

3. At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

## Article 26

1. Where information covered by patents, patent applications, provisionally protected patent rights, utility models or applications for utility models has been classified in accordance with Articles 24 and 25, the States which have applied for such classification may not refuse to allow corresponding applications to be filed in the other Member States.

Each Member State shall take the necessary measures to maintain the security of such rights and applications in accordance with the procedure laid down in its own laws and regulations.

2. No applications relating to information classified in accordance with Article 24 may be filed outside the Member States except with the unanimous consent of the latter. Should Member States fail to make known their attitude, their consent shall be deemed to have been obtained on the expiry of six months from the date on which the information was communicated to the Member States by the Commission.

## Article 27

Compensation for any damage suffered by the applicant as a result of classification for defence reasons shall be governed by the provisions of the national laws of the Member States and shall be the responsibility of the State which applied for such classification or which either obtained the upgrading or extension of the classification or caused the filing of applications outside the Community to be prohibited.

Where several Member States have either obtained the upgrading or extension of the classification or caused

the filing of applications outside the Community to be prohibited, they shall be jointly responsible for making good any damage arising out of their action.

The Community may not claim any compensation under this Article.

## **Section 4 — Special provisions**

### **Article 28**

Where, as a result of their communication to the Commission, unpublished applications for patents or utility models, or patents or utility models classified for defence reasons, are improperly used or come to the knowledge of an unauthorized person, the Community shall make good the damage suffered by the party concerned.

Without prejudice to its own rights against the person responsible for the damage, the Community shall, to the extent that it has made good such damage, acquire any rights of action enjoyed by those concerned against third parties. This shall not affect the right of the Community to take action against the person responsible for the damage in accordance with the general provisions in force.

### **Article 29**

Where an agreement or contract for the exchange of scientific or industrial information in the nuclear field between a Member State, a person or an undertaking on the one hand, and a third State, an international organization or a national of a third State on the other, requires, on either part, the signature of a State acting in its sovereign capacity, it shall be concluded by the Commission.

Subject to the provisions of Articles 103 and 104, the Commission may, however, on such conditions as it considers appropriate, authorize a Member State, a person or an undertaking to conclude such agreements.

## **CHAPTER 3 — Health and safety**

### **Article 30**

Basic standards shall be laid down within the Community for the protection of the health of workers and the general public against the dangers arising from ionizing radiations.

The expression 'basic standards' means:

- (a) maximum permissible doses compatible with adequate safety;
- (b) maximum permissible levels of exposure and contamination;
- (c) the fundamental principles governing the health surveillance of workers.

### **Article 31**

The basic standards shall be worked out by the Commission after it has obtained the opinion of a group of persons appointed by the Scientific and Technical Committee from among scientific experts, and in particular public health experts, in the Member States. The Commission shall obtain the opinion of the

Economic and Social Committee on these basic standards.

After consulting the European Parliament the Council shall, on a proposal from the Commission, which shall forward to it the opinions obtained from these Committees, establish the basic standards; the Council shall act by a qualified majority.

### **Article 32**

At the request of the Commission or of a Member State, the basic standards may be revised or supplemented in accordance with the procedure laid down in Article 31.

The Commission shall examine any request made by a Member State.

### **Article 33**

Each Member State shall lay down the appropriate provisions, whether by legislation, regulation or administrative action, to ensure compliance with the basic standards which have been established and shall take the necessary measures with regard to teaching, education and vocational training.

The Commission shall make appropriate recommendations for harmonizing the provisions applicable in this field in the Member States.

To this end, the Member States shall communicate to the Commission the provisions applicable at the date of entry into force of this Treaty and any subsequent draft provisions of the same kind.

Any recommendations the Commission may wish to issue with regard to such draft provisions shall be made within three months of the date on which such draft provisions are communicated.

### **Article 34**

Any Member State in whose territories particularly dangerous experiments are to take place shall take additional health and safety measures, on which it shall first obtain the opinion of the Commission.

The assent of the Commission shall be required where the effects of such experiments are liable to affect the territories of other Member States.

### **Article 35**

Each Member State shall establish the facilities necessary to carry out continuous monitoring of the level of radioactivity in the air, water and soil and to ensure compliance with the basic standards.

The Commission shall have the right of access to such facilities; it may verify their operation and efficiency.

### **Article 36**

The appropriate authorities shall periodically communicate information on the checks referred to in Article 35 to the Commission so that it is kept informed of the level of radioactivity to which the public is exposed.

**Article 37**

Each Member State shall provide the Commission with such general data relating to any plan for the disposal of radioactive waste in whatever forms will make it possible to determine whether the implementation of such plan is liable to result in the radioactive contamination of the water, soil or airspace of another Member State.

The Commission shall deliver its opinion within six months, after consulting the group of experts referred to in Article 31.

**Article 38**

The Commission shall make recommendations to the Member States with regard to the level of radioactivity in the air, water and soil.

In cases of urgency, the Commission shall issue a directive requiring the Member State concerned to take, within a period laid down by the Commission, all necessary measures to prevent infringement of the basic standards and to ensure compliance with regulations.

Should the State in question fail to comply with the Commission directive within the period laid down, the Commission or any Member State concerned may forthwith, by way of derogation from Articles 141 and 142, bring the matter before the Court of Justice.

**Article 39**

The Commission shall set up within the framework of the Joint Nuclear Research Centre, as soon as the latter has been established, a health and safety documentation and study section.

This section shall in particular have the task of collecting the documentation and information referred to in Articles 33, 36 and 37 and of assisting the Commission in carrying out the tasks assigned to it by this Chapter.

**CHAPTER 4 — Investment****Article 40**

In order to stimulate action by persons and undertakings and to facilitate coordinated development of their investment in the nuclear field, the Commission shall periodically publish illustrative programmes indicating in particular nuclear energy production targets and all the types of investment required for their attainment.

The Commission shall obtain the opinion of the Economic and Social Committee on such programmes before their publication.

**Article 41**

Persons and undertakings engaged in the industrial activities listed in Annex II to this Treaty shall communicate to the Commission investment projects relating to new installations and also to replacements



or conversions which fulfil the criteria as to type and size laid down by the Council on a proposal from the Commission.

The list of industrial activities referred to above may be altered by the Council, acting by a qualified majority on a proposal from the Commission, which shall first obtain the opinion of the Economic and Social Committee.

#### **Article 42**

The projects referred to in Article 41 shall be communicated to the Commission and, for information purposes, to the Member State concerned not later than three months before the first contracts are concluded with the suppliers or, if the work is to be carried out by the undertaking with its own resources, three months before the work begins.

The Council may, acting on a proposal from the Commission, alter this time limit.

#### **Article 43**

The Commission shall discuss with the persons or undertakings all aspects of investment projects which relate to the objectives of this Treaty.

It shall communicate its views to the Member State concerned.

#### **Article 44**

The Commission may, with the consent of the Member States, persons and undertakings concerned, publish any investment projects communicated to it.

### **CHAPTER 5 — Joint undertakings**

#### **Article 45**

Undertakings which are of fundamental importance to the development of the nuclear industry in the Community may be established as Joint Undertakings within the meaning of this Treaty, in accordance with the following Articles.

#### **Article 46**

1. Every project for establishing a Joint Undertaking, whether originating from the Commission, a Member State or any other quarter, shall be the subject of an inquiry by the Commission.

For this purpose, the Commission shall obtain the views of Member States and of any public or private body which in its opinion can usefully advise it.

2. The Commission shall forward to the Council any project for establishing a Joint Undertaking, together with its reasoned opinion.

If the Commission delivers a favourable opinion on the need for the proposed Joint Undertaking, it shall submit proposals to the Council concerning:

- (a) location;
- (b) statutes;
- (c) the scale of and timetable for financing;
- (d) possible participation by the Community in the financing of the Joint Undertaking;
- (e) possible participation by a third State, an international organization or a national of a third State in the financing or management of the Joint Undertaking;
- (f) the conferring of any or all of the advantages listed in Annex III to this Treaty.

The Commission shall attach a detailed report on the project as a whole.

#### **Article 47**

The Council may, when the matter has been submitted to it by the Commission, request the latter to supply such further information or to undertake such further inquiries as the Council may consider necessary.

If the Council, acting by a qualified majority, considers that a project forwarded by the Commission with an unfavourable opinion should nevertheless be carried out, the Commission shall submit to the Council the proposals and the detailed report referred to in Article 46.

Where the opinion of the Commission is favourable or in the case referred to in the preceding paragraph, the Council shall act by a qualified majority on each of the proposals from the Commission.

The Council shall, however, act unanimously in respect of:

- (a) participation by the Community in the financing of the Joint Undertaking;
- (b) participation by a third State, an international organization or a national of a third State in the financing or management of the Joint Undertaking.

#### **Article 48**

The Council may, acting unanimously on a proposal from the Commission, make applicable to each Joint Undertaking any or all of the advantages listed in Annex III to this Treaty; each Member State shall for its part ensure that these advantages are conferred.

The Council may, in accordance with the same procedure, lay down the conditions governing the conferment of these advantages.

#### **Article 49**

Joint Undertakings shall be established by Council decision.

Each Joint Undertaking shall have legal personality.

In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under their respective national laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

Save as otherwise provided in this Treaty or in its own statutes, each Joint Undertaking shall be governed by the rules applying to industrial or commercial undertakings; its statutes may make subsidiary reference to the national laws of the Member States.

Save where jurisdiction is conferred upon the Court of Justice by this Treaty, disputes in which Joint Undertakings are concerned shall be determined by the appropriate national courts or tribunals.

#### **Article 50**

The statutes of Joint Undertakings shall be amended, where necessary, in accordance with the special provisions which they contain for this purpose.

Such amendments shall not, however, enter into force until they have been approved by the Council, acting in accordance with the procedure laid down in Article 47 on a proposal from the Commission.

#### **Article 51**

The Commission shall be responsible for carrying out all decisions of the Council relating to the establishment of Joint Undertakings until the bodies responsible for the operation of such undertakings have been set up.

### **CHAPTER 6 — Supplies**

#### **Article 52**

1. The supply of ores, source materials and special fissile materials shall be ensured, in accordance with the provisions of this Chapter, by means of a common supply policy on the principle of equal access to sources of supply.

2. For this purpose and under the conditions laid down in this Chapter:

(a) all practices designed to secure a privileged position for certain users shall be prohibited;

(b) an Agency is hereby established; it shall have a right of option on ores, source materials and special fissile materials produced in the territories of Member States and an exclusive right to conclude contracts relating to the supply of ores, source materials and special fissile materials coming from inside the Community or from outside.

The Agency may not discriminate in any way between users on grounds of the use which they intend to

make of the supplies requested unless such use is unlawful or is found to be contrary to the conditions imposed by suppliers outside the Community on the consignment in question.

## **Section 1 —The Agency**

### **Article 53**

The Agency shall be under the supervision of the Commission, which shall issue directives to it, possess a right of veto over its decisions and appoint its Director General and Deputy Director General.

Any act, whether implied or expressed, performed by the Agency in the exercise of its right of option or of its exclusive right to conclude supply contracts, may be referred by the parties concerned to the Commission, which shall give a decision thereon within one month.

### **Article 54**

The Agency shall have legal personality and financial autonomy.

The Council shall lay down the statutes of the Agency, acting by a qualified majority on a proposal from the Commission.

The statutes may be amended in accordance with the same procedure.

The statutes shall determine the Agency's capital and the terms upon which it is to be subscribed. The major part of the capital shall always belong to the Community and to the Member States. The contributions to the capital shall be determined by common accord of the Member States.

The rules for the commercial management of the activities of the Agency shall be laid down in the statutes. The latter may provide for a charge on transactions to defray the operating expenses of the Agency.

### **Article 55**

The Member States shall communicate or cause to be communicated to the Agency all the information necessary to enable it to exercise its right of option and its exclusive right to conclude supply contracts.

### **Article 56**

The Member States shall be responsible for ensuring that the Agency may operate freely in their territories.

They may establish one or more bodies having authority to represent, in relations with the Agency, producers and users in the non European territories under their jurisdiction.

## **Section 2 — Ores, source materials and special fissile materials coming from inside the Community**

### **Article 57**

1. The right of option of the Agency shall cover:

(a) the acquisition of rights to use and consume materials owned by the Community under the provisions of Chapter 8;

(b) the acquisition of the right of ownership in all other cases.

2. The Agency shall exercise its right of option by concluding contracts with producers of ores, source materials and special fissile materials.

Subject to Articles 58, 62 and 63, every producer shall offer to the Agency the ores, source materials or special fissile materials which he produces within the territories of Member States before they are used, transferred or stored.

#### **Article 58**

Where a producer carries out several stages of production from extraction of the ore up to and including production of the metal, he may offer the product to the Agency at whichever stage of production he chooses.

The same shall apply to two or more connected undertakings, where the connection has been duly communicated to the Commission and discussed with it in accordance with the procedures laid down in Articles 43 and 44.

#### **Article 59**

If the Agency does not exercise its right of option on the whole or any part of the output of a producer, the latter:

(a) may, either by using his own resources or under contract, process or cause to be processed the ores, source materials or special fissile materials, provided that he offers to the Agency the product of such processing;

(b) shall be authorized by a decision of the Commission to dispose of his available production outside the Community, provided that the terms he offers are not more favourable than those previously offered to the Agency. However, special fissile materials may be exported only through the Agency and in accordance with the provisions of Article 62.

The Commission may not grant such authorization if the recipients of the supplies fail to satisfy it that the general interests of the Community will be safeguarded or if the terms and conditions of such contracts are contrary to the objectives of this Treaty.

#### **Article 60**

Potential users shall periodically inform the Agency of the supplies they require, specifying the quantities, the physical and chemical nature, the place of origin, the intended use, delivery dates and price terms, which are to form the terms and conditions of the supply contract which they wish to conclude.

Similarly, producers shall inform the Agency of offers which they are able to make, stating all the specifications, and in particular the duration of contracts, required to enable their production programmes to be drawn up. Such contracts shall be of not more than 10 years duration save with the agreement of the Commission.

The Agency shall inform all potential users of the offers and of the volume of applications which it has received and shall call upon them to place their orders by a specified time limit.

When the Agency has received all such orders, it shall make known the terms on which it can meet them.

If the Agency cannot meet in their entirety all the orders received, it shall, subject to the provisions of Articles 68 and 69, share out the supplies proportionately among the orders relating to each offer.

Agency rules, which shall require approval by the Commission, shall determine the manner in which demand is to be balanced against supply.

#### **Article 61**

The Agency shall meet all orders unless prevented from so doing by legal or material obstacles.

When concluding a contract, the Agency may, while complying with the provisions of Article 52, require users to make appropriate advance payments either as security or to assist in meeting the Agency's own long term commitments to producers where these are essential to carrying out the order.

#### **Article 62**

1. The Agency shall exercise its right of option on special fissile materials produced in the territories of Member States in order:

(a) to meet demand from users within the Community in accordance with Article 60; or

(b) to store such materials itself; or

(c) to export such materials with the authorization of the Commission which shall comply with the second subparagraph of Article 59(b).

2. Nevertheless, while continuing to be subject to the provisions of Chapter 7, such materials and any fertile wastes shall be left in the possession of the producer, so that he may:

(a) store them with the authorization of the Agency; or

(b) use them within the limits of his own requirements; or

(c) make them available to undertakings in the Community, within the limits of their requirements, where for carrying out a programme duly communicated to the Commission, these undertakings have with the producer a direct connection which has neither the aim nor the effect of limiting production, technical development or investment or of improperly creating inequalities between users in the Community.

3. The provisions of Article 89(1)(a) shall apply to special fissile materials which are produced in the territories of Member States and on which the Agency has not exercised its right of option.

#### **Article 63**

Ores, source materials and special fissile materials produced by Joint Undertakings shall be allotted to users in accordance with the rules laid down in the statutes or agreements of such undertakings.

### **Section 3 — Ores, source materials and special fissile materials coming from outside the Community**

#### **Article 64**

The Agency, acting where appropriate within the framework of agreements concluded between the Community and a third State or an international organization, shall, subject to the exceptions provided for in this Treaty, have the exclusive right to enter into agreements or contracts whose principal aim is the supply of ores, source materials or special fissile materials coming from outside the Community.

#### **Article 65**

Article 60 shall apply applications from users and to contracts between users and the Agency relating to the supply of ores, source materials or special fissile materials coming from outside the Community.

The Agency may, however, decide on the geographical origin of supplies provided that conditions which are at least as favourable as those specified in the order are thereby secured for the user.

#### **Article 66**

Should the Commission find, on application by the users concerned, that the Agency is not in a position to deliver within a reasonable period of time all or part of the supplies ordered, or that it can only do so at excessively high prices, the users shall have the right to conclude directly contracts relating to supplies from outside the Community, provided that such contracts meet in essential respects the requirements specified in their orders.

This right shall be granted for a period of one year; it may be extended if the situation which justified its granting continues.

Users who avail themselves of the right provided for in this Article shall communicate to the Commission the direct contracts which they propose to conclude. The Commission may, within one month, object to the conclusion of such contracts if they are contrary to the objectives of this Treaty.

#### **Section 4 — Prices**

##### **Article 67**

Save where exceptions are provided for in this Treaty, prices shall be determined as a result of balancing supply against demand as provided in Article 60; the national regulations of the Member States shall not contravene such provisions.

##### **Article 68**

Pricing practices designed to secure a privileged position for certain users in violation of the principle of equal access laid down in the provisions of this Chapter shall be prohibited.

If the Agency finds that any such practices are being employed it shall report them to the Commission.

The Commission may, if it accepts the findings, set the prices of the offers in issue at a level compatible with the principle of equal access.

##### **Article 69**

The Council may fix prices, acting unanimously on a proposal from the Commission.

When the Agency lays down, in pursuance of Article 60, the terms on which orders can be met, it may propose to the users who have placed orders that prices be equalized.

#### **Section 5 — Provisions relating to supply policy**

##### **Article 70**

Within the limits set by the budget of the Community, the Commission may, on such conditions as it shall determine, give financial support to prospecting programmes in the territories of Member States.

The Commission may make recommendations to the Member States with a view to the development of prospecting for and exploitation of mineral deposits.

The Member States shall submit annually to the Commission a report on the development of prospecting and production, on probable reserves and on investment in mining which has been made or is planned in their territories. The reports shall be submitted to the Council, together with an opinion from the Commission which shall state in particular what action has been taken by Member States on recommendations made to them under the preceding paragraph.

If, when the matter has been submitted to it by the Commission, the Council finds by a qualified majority that, although the prospects for extraction appear economically justified on a long term basis, prospecting activities and the expansion of mining operations continue to be markedly inadequate, the Member State concerned shall, for as long as it has failed to remedy this situation, be deemed to have waived, both for itself and for its nationals, the right of equal access to other sources of supply within the Community.

#### **Article 71**

The Commission shall make all appropriate recommendations to Member States with regard to revenue or mining regulations.

#### **Article 72**

The Agency may, from material available inside or outside the Community, build up the necessary commercial stocks to facilitate supplies to or normal deliveries by the Community.

The Commission may, where necessary, decide to build up emergency stocks. The method of financing such stocks shall be approved by the Council, acting by a qualified majority on a proposal from the Commission.

### **Section 6 — Special provisions**

#### **Article 73**

Where an agreement or contract between a Member State, a person or an undertaking on the one hand, and a third State, an international organization or a national of a third State on the other, provides inter alia for delivery of products which come within the province of the Agency, the prior consent of the Commission shall be required for the conclusion or renewal of that agreement or contract, as far as delivery of the products is concerned.

#### **Article 74**

The Commission may exempt from the provisions of this Chapter the transfer, import or export of small quantities of ores, source materials or special fissile materials such as are normally used in research.

The Agency shall be notified of every transfer, import or export operation effected by virtue of this provision.

#### **Article 75**

The provisions of this Chapter shall not apply to commitments relating to the processing, conversion or shaping of ores, source materials or special fissile materials and entered into:



(a) by several persons or undertakings, where the material is to return to the original person or undertaking after being processed, converted or shaped; or

(b) by a person or undertaking and an international organization or a national of a third State, where the material is processed, converted or shaped outside the Community and then returned to the original person or undertaking; or

(c) by a person or undertaking and an international organization or a national of a third State, where the material is processed, converted or shaped inside the Community and is then returned either to the original organization or national or to any other consignee likewise outside the Community designated by such organization or national.

The persons and undertakings concerned shall, however, notify the Agency of the existence of such commitments and, as soon as the contracts are signed, of the quantities of material involved in the movements. The Commission may prevent the commitments referred to in subparagraph (b) from being undertaken if it considers that the conversion or shaping cannot be carried out efficiently and safely and without the loss of material to the detriment of the Community.

The materials to which such commitments relate shall be subject in the territories of the Member States to the safeguards laid down in Chapter 7. The provisions of Chapter 8 shall not, however, be applicable to special fissile materials covered by the commitments referred to in subparagraph (c).

#### **Article 76**

On the initiative of a Member State or of the Commission, and particularly if unforeseen circumstances create a situation of general shortage, the Council may, acting unanimously on a proposal from the Commission and after consulting the European Parliament, amend the provisions of this Chapter. The Commission shall inquire into any request made by a Member State.

Seven years after 1 January 1958, the Council may confirm these provisions in their entirety. Failing confirmation, new provisions relating to the subject matter of this Chapter shall be adopted in accordance with the procedure laid down in the preceding paragraph.

### **CHAPTER 7 — Safeguards**

#### **Article 77**

In accordance with the provisions of this Chapter, the Commission shall satisfy itself that, in the territories of Member States:

(a) ores, source materials and special fissile materials are not diverted from their intended uses as declared by the users;

(b) the provisions relating to supply and any particular safeguarding obligations assumed by the Community under an agreement concluded with a third State or an international organization are complied with.

#### **Article 78**

Anyone setting up or operating an installation for the production, separation or other use of source materials or special fissile materials or for the processing of irradiated nuclear fuels shall declare to the Commission

the basic technical characteristics of the installations, to the extent that knowledge of these characteristics is necessary for the attainment of the objectives set out in Article 77.

The Commission must approve the techniques to be used for the chemical processing of irradiated materials, to the extent necessary to attain the objectives set out in Article 77.

#### **Article 79**

The Commission shall require that operating records be kept and produced in order to permit accounting for ores, source materials and special fissile materials used or produced. The same requirement shall apply in the case of the transport of source materials and special fissile materials.

Those subject to such requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 78 and to the first paragraph of this Article.

The nature and the extent of the requirements referred to in the first paragraph of this Article shall be defined in a regulation made by the Commission and approved by the Council.

#### **Article 80**

The Commission may require that any excess special fissile materials recovered or obtained as by products and not actually being used or ready for use shall be deposited with the Agency or in other stores which are or can be supervised by the Commission.

Special fissile materials deposited in this way must be returned forthwith to those concerned at their request.

#### **Article 81**

The Commission may send inspectors into the territories of Member States. Before sending an inspector on his first assignment in the territory of a Member State, the Commission shall consult the State concerned; such consultation shall suffice to cover all future assignments of this inspector.

On presentation of a document establishing their authority, inspectors shall at all times have access to all places and data and to all persons who, by reason of their occupation, deal with materials, equipment or installations subject to the safeguards provided for in this Chapter, to the extent necessary in order to apply such safeguards to ores, source materials and special fissile materials and to ensure compliance with the provisions of Article 77. Should the State concerned so request, inspectors appointed by the Commission shall be accompanied by representatives of the authorities of that State; however, the inspectors shall not thereby be delayed or otherwise impeded in the performance of their duties.

If the carrying out of an inspection is opposed, the Commission shall apply to the President of the Court of Justice for an order to ensure that the inspection be carried out compulsorily. The President of the Court of Justice shall give a decision within three days.

If there is danger in delay, the Commission may itself issue a written order, in the form of a decision, to proceed with the inspection. This order shall be submitted without delay to the President of the Court of Justice for subsequent approval.

After the order or decision has been issued, the authorities of the State concerned shall ensure that the inspectors have access to the places specified in the order or decision.

## Article 82

Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in Article 79. They shall report any infringement to the Commission.

The Commission may issue a directive calling upon the Member State concerned to take, by a time limit set by the Commission, all measures necessary to bring such infringement to an end; it shall inform the Council thereof.

If the Member State does not comply with the Commission directive by the time limit set, the Commission or any Member State concerned may, in derogation from Articles 141 and 142, refer the matter to the Court of Justice direct.

## Article 83

1. In the event of an infringement on the part of persons or undertakings of the obligations imposed on them by this Chapter, the Commission may impose sanctions on such persons or undertakings.

These sanctions shall be in order of severity:

- (a) a warning;
  - (b) the withdrawal of special benefits such as financial or technical assistance;
  - (c) the placing of the undertaking for a period not exceeding four months under the administration of a person or board appointed by common accord of the Commission and the State having jurisdiction over the undertaking;
  - (d) total or partial withdrawal of source materials or special fissile materials.
2. Decisions taken by the Commission in implementation of paragraph 1 and requiring the surrender of materials shall be enforceable. They may be enforced in the territories of Member States in accordance with Article 164.

By way of derogation from Article 157, appeals brought before the Court of Justice against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice may, however, on application by the Commission or by any Member State concerned, order that the decision be enforced forthwith.

There shall be an appropriate legal procedure to ensure the protection of interests that have been prejudiced.

3. The Commission may make any recommendations to Member States concerning laws or regulations

which are designed to ensure compliance in their territories with the obligations arising under this Chapter.

4. Member States shall ensure that sanctions are enforced and, where necessary, that the infringements are remedied by those committing them.

#### **Article 84**

In the application of the safeguards, no discrimination shall be made on grounds of the use for which ores, source materials and special fissile materials are intended.

The scope of and procedure for the safeguards and the powers of the bodies responsible for their application shall be confined to the attainment of the objectives set out in this Chapter.

The safeguards may not extend to materials intended to meet defence requirements which are in the course of being specially processed for this purpose or which, after being so processed, are, in accordance with an operational plan, placed or stored in a military establishment.

#### **Article 85**

Where new circumstances so require, the procedures for applying the safeguards laid down in this Chapter may, at the request of a Member State or of the Commission, be adapted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament. The Commission shall examine any such request made by a Member State.

### **CHAPTER 8 — Property ownership**

#### **Article 86**

Special fissile materials shall be the property of the Community.

The Community's right of ownership shall extend to all special fissile materials which are produced or imported by a Member State, a person or an undertaking and are subject to the safeguards provided for in Chapter 7.

#### **Article 87**

Member States, persons or undertakings shall have the unlimited right of use and consumption of special fissile materials which have properly come into their possession, subject to the obligations imposed on them by this Treaty, in particular those relating to safeguards, the right of option conferred on the Agency and health and safety.

#### **Article 88**

The Agency shall keep a special account in the name of the Community, called 'Special Fissile Materials Financial Account'.

#### **Article 89**

1. In the Special Fissile Materials Financial Account:

(a) the value of special fissile materials left in the possession of or put at the disposal of a Member State, person or undertaking shall be credited to the Community and debited to that Member State, person or undertaking;

(b) the value of special fissile materials which are produced or imported by a Member State, person or undertaking and become the property of the Community shall be debited to the Community and credited to that Member State, person or undertaking. A similar entry shall be made when a Member State, person or undertaking restores to the Community special fissile materials previously left in the possession of or put at the disposal of that State, person or undertaking.

2. Variations in value affecting the quantities of special fissile material shall be expressed for accounting purposes in such a way as not to give rise to any loss or gain to the Community. Any loss or gain shall be borne by or accrue to the holder.

3. Balances arising from the transactions referred to above shall become payable forthwith upon the request of the creditor.

4. Where the Agency undertakes transactions for its own account, it shall, for the purposes of this Chapter, be deemed to be an undertaking.

#### **Article 90**

Where new circumstances so require, the provisions of this Chapter relating to the Community's right of ownership may, at the request of a Member State or of the Commission, be adjusted by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament. The Commission shall examine any such request made by a Member State.

#### **Article 91**

The system of ownership applicable to all objects, materials and assets which are not vested in the Community under this Chapter shall be determined by the law of each Member State.

### **CHAPTER 9 — The nuclear common market**

#### **Article 92**

The provisions of this Chapter shall apply to the goods and products specified in the lists forming Annex IV to this Treaty.

These lists may, at the request of the Commission or of a Member State, be amended by the Council, acting on a proposal from the Commission.

#### **Article 93**

Member States shall prohibit between themselves all customs duties on imports and exports or charges having equivalent effect, and all quantitative restrictions on imports and exports, in respect of:

(a) products in List A1 and A2;

(b) products in List B if subject to a Common Customs Tariff and accompanied by a certificate issued by the Commission stating that they are intended to be used for nuclear purposes.

Non-European territories under the jurisdiction of a Member State may, however, continue to levy import and export duties or charges having equivalent effect where they are of an exclusively fiscal nature. The rates of such duties and charges and the system governing them shall not give rise to any discrimination between that State and the other Member States.

#### **Article 94**

(Repealed)

#### **Article 95**

(Repealed)

#### **Article 96**

The Member States shall abolish all restrictions based on nationality affecting the right of nationals of any Member State to take skilled employment in the field of nuclear energy, subject to the limitations resulting from the basic requirements of public policy, public security or public health.

After consulting the European Parliament, the Council may, acting by a qualified majority on a proposal from the Commission, which shall first request the opinion of the Economic and Social Committee, issue directives for the application of this Article.

#### **Article 97**

No restrictions based on nationality may be applied to natural or legal persons, whether public or private, under the jurisdiction of a Member State, where they desire to participate in the construction of nuclear installations of a scientific or industrial nature in the Community.

#### **Article 98**

Member States shall take all measures necessary to facilitate the conclusion of insurance contracts covering nuclear risks.

The Council, acting by a qualified majority on a proposal from the Commission, which shall first request the opinion of the Economic and Social Committee, shall, after consulting the European Parliament, issue directives for the application of this Article.

#### **Article 99**

The Commission may make any recommendations for facilitating movements of capital intended to finance the industrial activities listed in Annex II to this Treaty.

#### **Article 100**

(Repealed)

### **CHAPTER 10 — External relations**

#### **Article 101**

The Community may, within the limits of its powers and jurisdiction, enter into obligations by concluding agreements or contracts with a third State, an international organization or a national of a third State.

Such agreements or contracts shall be negotiated by the Commission in accordance with the directives of the Council: they shall be concluded by the Commission with the approval of the Council, which shall act by a qualified majority.

Agreements or contracts whose implementation does not require action by the Council and can be effected within the limits of the relevant budget shall, however, be negotiated and concluded solely by the Commission; the Commission shall keep the Council informed.

#### **Article 102**

Agreements or contracts concluded with a third State, an international organization or a national of a third State to which, in addition to the Community, one or more Member States are parties, shall not enter into force until the Commission has been notified by all the Member States concerned that those agreements or contracts have become applicable in accordance with the provisions of their respective national laws.

#### **Article 103**

Member States shall communicate to the Commission draft agreements or contracts with a third State, an international organization or a national of a third State to the extent that such agreements or contracts concern matters within the purview of this Treaty.

If a draft agreement or contract contains clauses which impede the application of this Treaty, the Commission shall, within one month of receipt of such communication, make its comments known to the State concerned.

The State shall not conclude the proposed agreement or contract until it has satisfied the objections of the Commission or complied with a ruling by the Court of Justice, adjudicating urgently upon an application from the State, on the compatibility of the proposed clauses with the provisions of this Treaty. An application may be made to the Court of Justice at any time after the State has received the comments of the Commission.

#### **Article 104**

No person or undertaking concluding or renewing an agreement or contract with a third State, an international organization or a national of a third State after 1 January 1958 or, for acceding States, after the date of accession, may invoke that agreement or contract in order to evade the obligations imposed by this Treaty.

Each Member State shall take such measures as it considers necessary in order to communicate to the Commission, at the request of the latter, all information relating to agreements or contracts concluded after the dates referred to in the first paragraph, within the scope of this Treaty, by a person or undertaking with a third State, an international organization or a national of a third State. The Commission may require such communication only for the purpose of verifying that such agreements or contracts do not contain clauses impeding the implementation of this Treaty.

On application by the Commission, the Court of Justice shall give a ruling on the compatibility of such agreements or contracts with the provisions of this Treaty.

### **Article 105**

The provisions of this Treaty shall not be invoked so as to prevent the implementation of agreements or contracts concluded before 1 January 1958 or, for acceding States, before the date of their accession, by a Member State, a person or an undertaking with a third State, an international organization or a national of a third State where such agreements or contracts have been communicated to the Commission not later than 30 days after the aforesaid dates.

Agreements or contracts concluded between 25 March 1957 and 1 January 1958 or, for acceding States, between the signature of the instrument of accession and the date of their accession by a person or an undertaking with a third State, an international organization or a national of a third State shall not, however, be invoked as grounds for failure to implement this Treaty if, in the opinion of the Court of Justice, ruling on an application from the Commission, one of the decisive reasons on the part of either of the parties in concluding the agreement or contract was an intention to evade the provisions of this Treaty.

### **Article 106**

Member States which, before 1 January 1958 or, for acceding States, before the date of their accession, have concluded agreements with third States providing for cooperation in the field of nuclear energy shall be required to undertake jointly with the Commission the necessary negotiations with these third States in order to ensure that the rights and obligations arising out of such agreements shall as far as possible be assumed by the Community.

Any new agreement ensuing from such negotiations shall require the consent of the Member State or States signatory to the agreements referred to above and the approval of the Council, which shall act by a qualified majority.

## **TITLE III — Provisions governing the institutions**

### **CHAPTER 1 — The institutions of the Community**



## Section 1 — The European Parliament

### Article 107

The European Parliament, which shall consist of representatives of the peoples of the States brought together in the Community, shall exercise the advisory and supervisory powers which are conferred upon it by this Treaty.

The number of Members of the European Parliament shall not exceed 732.

### Article 107a

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

### Article 107b

In the course of its duties, the European Parliament may, at the request of a quarter of its Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by this Treaty on other institutions or bodies, alleged contraventions or maladministration in the implementation of Community law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on the submission of its report.

The detailed provisions governing the exercise of the right of inquiry shall be determined by common accord of the European Parliament, the Council and the Commission.

### Article 107c

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

### Article 107d

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

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution concerned, which shall have a period of three months in which to inform of its views. The Ombudsman shall then forward a report to the European Parliament and the institution concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be appointed after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any body. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.

### Article 108

1. The representatives in the European Parliament of the peoples of the States brought together in the Community shall be elected by direct universal suffrage.

2. The number of representatives elected in each Member State shall be as follows:

Belgium	25
Denmark	16
Germany	99
Greece	25
Spain	64
France	87
Ireland	15
Italy	87
Luxembourg	6
Netherlands	31
Austria	21
Portugal	25
Finland	16
Sweden	22
United Kingdom	87.

In the event of amendments to this paragraph, the number of representatives elected in each Member State must ensure appropriate representation of the peoples of the States brought together in the Community.

3. Representatives shall be elected for a term of five years.

4. The European Parliament shall draw up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council shall, acting unanimously after obtaining the assent of the European Parliament, which shall act by a majority of its component Members, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

5. The European Parliament, after seeking an opinion from the Commission and with the approval of the Council acting by a qualified majority, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.

**Article 109**

The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.

The European Parliament may meet in extraordinary session at the request of a majority of its Members or at the request of the Council or of the Commission.

**Article 110**

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

Members of the Commission may attend all meetings and shall, at their request, be heard on behalf of the Commission.

The Commission shall reply orally or in writing to questions put to it by the European Parliament or by its Members.

The Council shall be heard by the European Parliament in accordance with the conditions laid down by the Council in its Rules of Procedure.

**Article 111**

Save as otherwise provided in this Treaty, the European Parliament shall act by an absolute majority of the votes cast.

The Rules of Procedure shall determine the quorum.

**Article 112**

The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members.

The proceedings of the European Parliament shall be published in the manner laid down in its Rules of Procedure.

**Article 113**

The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.

**Article 114**

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

If the motion of censure is carried by a two thirds majority of the votes cast, representing a majority of the Members of the European Parliament, the Members of the Commission shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 127. In this case, the term of office of the Members of the Commission appointed to replace them shall expire on the date on which the term of office of the Members of the Commission obliged to resign as a body would have expired.

**Section 2 — The Council**

**Article 115**

The Council shall carry out its duties and exercise its powers of decision in accordance with the provisions of this Treaty.

It shall take all measures within its powers to coordinate the actions of the Member States and of the Community.

**Article 116**

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

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

**Article 117**

The Council shall meet when convened by its President on his own initiative or at the request of one of its Members or of the Commission.

**Article 118**

1. Save as otherwise provided in this Treaty, the Council shall act by a majority of its Members.
2. Where the Council is required to act by a qualified majority, the votes of its Members shall be weighted as follows:

Belgium	5
Denmark	3
Germany	10
Greece	5
Spain	8
France	10
Ireland	3
Italy	10
Luxembourg	2
Netherlands	5
Austria	4
Portugal	5
Finland	3
Sweden	4
United Kingdom	10

For their adoption, acts of the Council shall require at least:

- 62 votes in favour where this Treaty requires them to be adopted on a proposal from the Commission,
- 62 votes in favour, cast by at least 10 Members, in other cases.

3. Abstentions by Members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

**Article 119**

Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal.

As long as the Council has not acted, the Commission may alter its original proposal, in particular where the European Parliament has been consulted on that proposal.

#### **Article 120**

Where a vote is taken, any Member of the Council may also act on behalf of not more than one other Member.

#### **Article 121**

1. A committee consisting of the Permanent Representatives of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the Council. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General, High Representative for the common foreign and security policy, who shall be assisted by a Deputy Secretary-General responsible for the running of the General Secretariat. The Secretary-General and the Deputy Secretary-General shall be appointed by the Council, acting by a qualified majority.

The Council shall decide on the organisation of the General Secretariat.

3. The Council shall adopt its Rules of Procedure.

#### **Article 122**

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

#### **Article 123**

The Council shall, acting by a qualified majority, determine the salaries, allowances and pensions of the President and Members of the Commission, and of the President, Judges, Advocates General and Registrar of the Court of Justice. It shall also, again by a qualified majority, determine any payment to be made instead of remuneration.

### **Section 3 — The Commission**

#### **Article 124**

In order to ensure the development of nuclear energy within the Community, the Commission shall:

— ensure that the provisions of this Treaty and the measures taken by the institutions pursuant thereto are applied;

— formulate recommendations or deliver opinions in the fields covered by this Treaty, if the Treaty expressly so provides or if the Commission considers it necessary;

— have its own power of decision and participate in the shaping of measures taken by the Council and by the European Parliament in the manner provided for in this Treaty;

— exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter.

#### **Article 125**

The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Community.

#### **Article 126**

1. The Commission shall consist of 20 Members, who shall be chosen on the grounds of their general competence and whose independence is beyond doubt.

The number of Members of the Commission may be altered by the Council, acting unanimously.

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

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

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

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

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 129 or deprived of his right to a pension or other benefits in its stead.

#### **Article 127**

1. The Members of the Commission shall be appointed, in accordance with the procedure referred to in paragraph 2, for a period of five years, subject, if need be, to Article 114.

Their term of office shall be renewable.

2. The Council, meeting in the composition of Heads of State or Government and acting by a qualified majority, shall nominate the person it intends to appoint as President of the Commission; the nomination shall be approved by the European Parliament.

The Council, acting by a qualified majority and by common accord with the nominee for President, shall adopt the list of the other persons whom it intends to appoint as Members of the Commission, drawn up in accordance with the proposals made by each Member State.

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

other Members of the Commission shall be appointed by the Council, acting by a qualified majority.

#### **Article 128**

Apart from normal replacement, or death, the duties of a Member of the Commission shall end when he resigns or is compulsorily retired.

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the Member's term of office by a new Member appointed by the Council, acting by a qualified majority. The Council may, acting unanimously, decide that such a vacancy need not be filled.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in Article 127(2) shall be applicable for the replacement of the President.

Save in the case of compulsory retirement under Article 129, Members of the Commission shall remain in office until they have been replaced or until the Council has decided that the vacancy need not be filled, as provided for in the second paragraph of this Article.

#### **Article 129**

If any Member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council or the Commission, compulsorily retire him.

#### **Article 130**

1. The Commission shall work under the political guidance of its President, who shall decide on its internal organisation in order to ensure that it acts consistently, efficiently and on the basis of collegiality.
2. The responsibilities incumbent upon the Commission shall be structured and allocated among its Members by its President. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.
3. After obtaining the approval of the College, the President shall appoint Vice-Presidents from among its Members.
4. A Member of the Commission shall resign if the President so requests, after obtaining the approval of the College.

#### **Article 131**

The Council and the Commission shall consult each other and shall settle by common accord their methods of cooperation.

The Commission shall adopt its Rules of Procedure so as to ensure that both it and its departments operate in accordance with the provisions of this Treaty. It shall ensure that these rules are published.

#### **Article 132**

The Commission shall act by a majority of the number of Members provided for in Article 126.

A meeting of the Commission shall be valid only if the number of Members laid down in its Rules of Procedure is present.

**Article 133**

(Repealed)

**Article 134**

1. A Scientific and Technical Committee is hereby set up; it shall be attached to the Commission and shall have advisory status.

The Committee must be consulted where this Treaty so provides. The Committee may be consulted in all cases in which the Commission considers this appropriate.

2. The Committee shall consist of 38 Members, appointed by the Council after consultation with the Commission.

The Members of the Committee shall be appointed in their personal capacity for five years. Their appointment shall be renewable. They shall not be bound by any mandatory instructions.

The Scientific and Technical Committee shall each year elect its chairman and officers from among its Members.

**Article 135**

The Commission may undertake any consultations and establish any study groups necessary to the performance of its tasks.

**Section 4 — The Court of Justice****Article 136**

The Court of Justice and the Court of First Instance, each within its jurisdiction, shall ensure that in the interpretation and application of this Treaty the law is observed.

In addition, judicial panels may be attached to the Court of First Instance under the conditions laid down in Article 140b in order to exercise, in certain specific areas, the judicial competence laid down in this Treaty.

**Article 137**

The Court of Justice shall consist of one judge per Member State.

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice.

When provided for in the Statute, the Court of Justice may also sit as a full Court.

**Article 138**

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice,



require his involvement.

### **Article 139**

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

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice.

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

Retiring Judges and Advocates-General may be reappointed.

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council, acting by a qualified majority.

### **Article 140**

The Court of First Instance shall comprise at least one judge per Member State. The number of Judges shall be determined by the Statute of the Court of Justice. The Statute may provide for the Court of First Instance to be assisted by Advocates-General.

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

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

The Court of First Instance shall appoint its Registrar and lay down the rules governing his service.

The Court of First Instance shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the Statute of the Court of Justice provides otherwise, the provisions of this Treaty relating to the Court of Justice shall apply to the Court of First Instance.

### **Article 140a**

1. The Court of First Instance shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 146, 148, 151, 152 and 153 with the exception of those assigned to a judicial panel and those reserved in the Statute for the Court of Justice. The Statute may provide for the Court of First Instance to have jurisdiction for other classes of action or proceeding.

Decisions given by the Court of First Instance under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The Court of First Instance shall have jurisdiction to hear and determine actions or proceedings brought

against decisions of the judicial panels set up under Article 140b.

Decisions given by the Court of First Instance under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

3. The Court of First Instance shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 150, in specific areas laid down by the Statute.

Where the Court of First Instance considers that the case requires a decision of principle likely to affect the unity or consistency of Community law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the Court of First Instance on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Community law being affected.

### **Article 140b**

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Court of Justice or at the request of the Court of Justice and after consulting the European Parliament and the Commission, may create judicial panels to hear and determine at first instance certain classes of action or proceeding brought in specific areas.

The decision establishing a judicial panel shall lay down the rules on the organisation of the panel and the extent of the jurisdiction conferred upon it.

Decisions given by judicial panels may be subject to a right of appeal on points of law only or, when provided for in the decision establishing the panel, a right of appeal also on matters of fact, before the Court of First Instance.

The members of the judicial panels shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The judicial panels shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council, acting by a qualified majority.

Unless the decision establishing the judicial panels provides otherwise, the provisions of this Treaty relating to the Court of Justice and the provisions of the Statute of the Court of Justice shall apply to the judicial panels.

### **Article 141**

If the Commission considers that a Member State has failed to fulfil an obligation under this Treaty, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.

### **Article 142**

A Member State which considers that another Member State has failed to fulfil an obligation under this Treaty may bring the matter before the Court of Justice.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under this Treaty, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court of Justice.

#### **Article 143**

1. If the Court of Justice finds that a Member State has failed to fulfil an obligation under this Treaty, the State shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

2. If the Commission considers that the Member State concerned has not taken such measures it shall, after giving that State the opportunity to submit its observations, issue a reasoned opinion specifying the points on which the Member State concerned has not complied with the judgment of the Court of Justice.

If the Member State concerned fails to take the necessary measures to comply with the Court's judgment within the time limit laid down by the Commission, the latter may bring the case before the Court of Justice. In so doing it shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court of Justice finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 142.

#### **Article 144**

The Court of Justice shall have unlimited jurisdiction in:

(a) proceedings instituted under Article 12 to have the appropriate terms fixed for the granting by the Commission of licences or sub licences;

(b) proceedings instituted by persons or undertakings against sanctions imposed on them by the Commission under Article 83.

#### **Article 145**

If the Commission considers that a person or undertaking has committed an infringement of this Treaty to which the provisions of Article 83 do not apply, it shall call upon the Member State having jurisdiction over that person or undertaking to cause sanctions to be imposed in respect of the infringement in accordance with its national law.

If the State concerned does not comply with such a request within the period laid down by the Commission, the latter may bring an action before the Court of Justice to have the infringement of which the person or undertaking is accused established.

#### **Article 146**

The Court of Justice shall review the legality of acts of the Council and of the Commission, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects

*vis-à-vis* third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers.

The Court of Justice shall have jurisdiction under the same conditions in actions brought by the Court of Auditors for the purpose of protecting its prerogatives.

Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

#### **Article 147**

If the action is well founded, the Court of Justice shall declare the act concerned to be void.

In the case of a regulation, however, the Court of Justice shall, if it considers this necessary, state which of the effects of the regulation which it has declared void shall be considered as definitive.

#### **Article 148**

Should the Council or the Commission, in infringement of this Treaty, fail to act, the Member States and the other institutions of the Community may bring an action before the Court of Justice to have the infringement established.

The action shall be admissible only if the institution concerned has first been called upon to act. If, within two months of being so called upon, the institution concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court of Justice that an institution of the Community has failed to address to that person any act other than a recommendation or an opinion.

#### **Article 149**

The institution whose act has been declared void or whose failure to act has been declared contrary to this Treaty shall be required to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 188.

#### **Article 150**

The Court of Justice shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of this Treaty;
- (b) the validity and interpretation of acts of the institutions of the Community;

(c) the interpretation of the statutes of bodies established by an act of the Council, save where those statutes provide otherwise.

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court of Justice to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State, against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court of Justice.

#### **Article 151**

The Court of Justice shall have jurisdiction in disputes relating to the compensation for damage provided for in the second paragraph of Article 188.

#### **Article 152**

The Court of Justice shall have jurisdiction in any dispute between the Community and its servants within the limits and under the conditions laid down in the Staff Regulations or the Conditions of Employment.

#### **Article 153**

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

#### **Article 154**

The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of this Treaty if the dispute is submitted to it under a special agreement between the parties.

#### **Article 155**

Save where jurisdiction is conferred on the Court of Justice by this Treaty, disputes to which the Community is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

#### **Article 156**

Notwithstanding the expiry of the period laid down in the third paragraph of Article 146, any party may, in proceedings in which a regulation of the Council or of the Commission is in issue, plead the grounds specified in the first paragraph of Article 146, in order to invoke before the Court of Justice the inapplicability of that regulation.

#### **Article 157**

Save as otherwise provided in this Treaty, actions brought before the Court of Justice shall not have suspensory effect. The Court of Justice may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

#### **Article 158**

The Court of Justice may in any cases before it prescribe any necessary interim measures.

**Article 159**

The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 164.

**Article 160**

The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Council, acting unanimously at the request of the Court of Justice and after consulting the European Parliament and the Commission, or at the request of the Commission and after consulting the European Parliament and the Court of Justice, may amend the provisions of the Statute, with the exception of Title I.

**Section 5 — The Court of Auditors****Article 160a**

The audit shall be carried out by the Court of Auditors.

**Article 160b**

1. The Court of Auditors shall consist of one national from each Member State.
2. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.
3. The Members of the Court of Auditors shall be appointed for a term of six years. The Council, acting by a qualified majority after consulting the European Parliament, shall adopt the list of Members drawn up in accordance with the proposals made by each Member State. The term of office of the Members of the Court of Auditors shall be renewable.  
  
They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.
4. The Members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.  
  
In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.
5. The Members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

6. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7.

The vacancy thus caused shall be filled for the remainder of the Member's term of office.

Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been replaced.

7. A Member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

8. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the Members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

9. The provisions of the Protocol on the privileges and immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the Members of the Court of Auditors.

#### **Article 160c**

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

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Union*. This statement may be supplemented by specific assessments for each major area of Community activity.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any case of irregularity.

The audit of revenue shall be carried out on the basis of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community, on the premises of any body which manages revenue or expenditure on behalf of the Community and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Community, any bodies managing revenue or expenditure on behalf of the Community, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Audit at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Community expenditure and revenue, the Court's rights of access to information held by the Bank shall be governed by an agreement between the Court, the Bank and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit of Community expenditure and revenue managed by the Bank.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be

forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

The Court of Auditors shall draw up its Rules of Procedure. Those rules shall require the approval of the Council, acting by a qualified majority.

## **CHAPTER 2 — Provisions common to several institutions**

### **Article 161**

In order to carry out their task the Council and the Commission shall, in accordance with the provisions of this Treaty, make regulations, issue directives, take decisions, make recommendations or deliver opinions.

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

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

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

Recommendations and opinions shall have no binding force.

### **Article 162**

Regulations, directives and decisions of the Council and of the Commission shall state the reasons on which they are based and shall refer to any proposals or opinions which were required to be obtained pursuant to this Treaty.

### **Article 163**

Regulations shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Directives and decisions shall be notified to those to whom they are addressed and shall take effect upon such notification.

### **Article 164**



Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission, to the Court of Justice and to the Arbitration Committee set up by Article 18.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court of Justice. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

### **CHAPTER 3 — The Economic and Social Committee**

#### **Article 165**

An Economic and Social Committee is hereby established. It shall have advisory status.

The Committee shall consist of representatives of the various economic and social components of organised civil society, and in particular representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations, consumers and the general interest.

#### **Article 166**

The number of members of the Economic and Social Committee shall not exceed 350.

The number of members of the Committee shall be as follows:

Belgium	12
Denmark	9
Germany	24
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Luxembourg	6
Netherlands	12
Austria	12
Portugal	12
Finland	9
Sweden	12
United Kingdom	24

The members of the Committee may not be bound by any mandatory instructions. They shall be completely

independent in the performance of their duties, in the general interest of the Community.

The Council, acting by a qualified majority, shall determine the allowances of members of the Committee.

#### **Article 167**

1. The members of the Committee shall be appointed for four years, on proposals from the Member States. The Council, acting by a qualified majority, shall adopt the list of members drawn up in accordance with the proposals made by each Member State. The term of office of the members of the Committee shall be renewable.

2. The Council shall consult the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors to which the activities of the Community are of concern.

#### **Article 168**

The Committee shall elect its chairman and officers from among its members for a term of two years.

It shall adopt its Rules of Procedure.

The Committee shall be convened by its chairman at the request of the Council or of the Commission. It may also meet on its own initiative.

#### **Article 169**

The Committee may be divided into specialized sections.

These specialized sections shall operate within the general terms of reference of the Committee. They may not be consulted independently of the Committee.

Subcommittees may also be established within the Committee to prepare, on specific questions or in specific fields, draft opinions to be submitted to the Committee for its consideration.

The Rules of Procedure shall lay down the methods of composition and the terms of reference of the specialized sections and of the subcommittees.

#### **Article 170**

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

The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee and that of the specialized section, together with a record of the proceedings, shall be forwarded to the Council and to the Commission.

The Committee may be consulted by the European Parliament.

#### **TITLE IV — Financial provisions**

##### **Article 171**

1. Estimates shall be drawn up for each financial year of all revenue and expenditure of the Community, other than those of the Agency and the Joint Undertakings, and such revenue and expenditure shall be shown either in the operating budget or in the research and investment budget.

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

2. The revenue and expenditure of the Agency, which shall operate in accordance with commercial principles, shall be budgeted for in a special account.

The manner of estimating, implementing and auditing such revenue and expenditure shall be laid down, with due regard to the statutes of the Agency, in financial regulations made pursuant to Article 183.

3. The estimates of revenue and expenditure, together with the operating accounts and the balance sheets of the Joint Undertakings for each financial year, shall be placed before the Commission, the Council and the European Parliament in accordance with the statutes of those undertakings.

##### **Article 172**

(Paragraphs 1, 2 and 3 repealed)

4. Loans for the financing of research or investment shall be raised on terms fixed by the Council in the manner provided for in Article 177(5).

The Community may borrow on the capital market of a Member State, either in accordance with the legal provisions applying to internal issues, or, if there are no such provisions in a Member State, after the Member State concerned and the Commission have conferred together and have reached agreement upon the proposed loan.

The competent authorities of the Member State concerned may refuse to give their assent only if there is reason to fear serious disturbances on the capital market of that State.

##### **Article 173**

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

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

requirements.

### **Article 173a**

With a view to maintaining budgetary discipline, the Commission shall not make any proposal for a Community act, or alter its proposals, or adopt any implementing measure which is likely to have appreciable implications for the budget without providing the assurance that that proposal or that measure is capable of being financed within the limit of the Community's own resources arising under provisions laid down by the Council pursuant to Article 173.

### **Article 174**

1. The expenditure shown in the operating budget shall include in particular:

- (a) administrative expenditure;
- (b) expenditure relating to safeguards and to health and safety.

2. The expenditure shown in the research and investment budget shall include in particular:

- (a) expenditure relating to the implementation of the Community research programme;
- (b) any participation in the capital of the Agency and in its investment expenditure;
- (c) expenditure relating to the equipment of training establishments;
- (d) any participation in Joint Undertakings or in certain joint operations.

### **Article 175**

The expenditure shown in the operating budget shall be authorized for one financial year, unless the regulations made pursuant to Article 183 provide otherwise.

In accordance with conditions to be laid down pursuant to Article 183, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations to cover expenditure shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 183.

The expenditure of the European Parliament, the Council, the Commission and the Court of Justice shall be set out in separate parts of the budget, without prejudice to special arrangements for certain common items of expenditure.

### **Article 176**

1. Subject to the limits resulting from programmes or decisions involving expenditure which, in pursuance

of this Treaty, require the unanimous approval of the Council, allocations for research and investment expenditure shall include:

(a) commitment appropriations, covering a series of items which constitute a separate unit and form a coherent whole;

(b) payment appropriations which represent the maximum amount payable each year in respect of the commitments entered into under subparagraph (a).

2. The schedule of due dates for commitments and payments shall be annexed to the corresponding draft budget proposed by the Commission.

3. Appropriations for research and investment shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 183.

4. Unused payment authorizations shall be carried forward to the next financial year by decision of the Commission, unless the Council decides otherwise.

#### **Article 177**

1. The financial year shall run from 1 January to 31 December.

Within the meaning of this Article, budget' shall include the operating budget and the research and investment budget.

2. Each institution of the Community shall, before 1 July, draw up estimates of its expenditure. The Commission shall consolidate these estimates in a preliminary draft budget. It shall attach thereto an opinion which may contain different estimates.

The preliminary draft budget shall include an estimate of revenue and an estimate of expenditure.

3. The Commission shall place the preliminary draft budget before the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Council shall consult the Commission and, where appropriate, the other institutions concerned whenever it intends to depart from the preliminary draft budget.

The Council shall, acting by a qualified majority, establish the draft budget and forward it to the European Parliament.

4. The draft budget shall be placed before the European Parliament not later than 5 October of the year preceding that in which the budget is to be implemented.

The European Parliament shall have the right to amend the draft budget acting by a majority of its Members, and to propose to the Council, acting by an absolute majority of the votes cast, modifications to the draft budget relating to expenditure necessarily resulting from this Treaty or from acts adopted in accordance therewith.

If, within 45 days of the draft budget being placed before it, the European Parliament has given its approval, the budget shall stand as finally adopted. If within this period the European Parliament has not amended the draft budget or proposed any modifications thereto, the budget shall be deemed to be finally adopted.

If within this period the European Parliament has adopted amendments or proposed modifications, the draft budget together with the amendments or proposed modifications shall be forwarded to the Council.

5. After discussing the draft budget with the Commission and, where appropriate, with the other institutions concerned, the Council shall act under the following conditions:

(a) the Council may, acting by a qualified majority, modify any of the amendments adopted by the European Parliament;

(b) with regard to the proposed modifications:

— where a modification proposed by the European Parliament does not have the effect of increasing the total amount of the expenditure of an institution, owing in particular to the fact that the increase in expenditure which it would involve would be expressly compensated by one or more proposed modifications correspondingly reducing expenditure, the Council may, acting by a qualified majority, reject the proposed modification. In the absence of a decision to reject it, the proposed modification shall stand as accepted;

— where a modification proposed by the European Parliament has the effect of increasing the total amount of the expenditure of an institution, the Council may, acting by a qualified majority, accept this proposed modification. In the absence of a decision to accept it, the proposed modification shall stand as rejected;

— where, in pursuance of the two preceding subparagraphs, the Council has rejected a proposed modification, it may, acting by a qualified majority, either retain the amount shown in the draft budget or fix another amount.

The draft shall be modified on the basis of the proposed modifications accepted by the Council.

If, within 15 days of the draft budget being placed before it, the Council has not modified any of the amendments adopted by the European Parliament and if the modifications proposed by the latter have been accepted, the budget shall be deemed to be finally adopted. The Council shall inform the European Parliament that it has not modified any of the amendments and that the proposed modifications have been accepted.

If within this period the Council has modified one or more of the amendments adopted by the European Parliament or if the modifications proposed by the latter have been rejected or modified, the modified draft budget shall again be forwarded to the European Parliament. The Council shall inform the European Parliament of the results of its deliberations.

6. Within 15 days of the draft budget being placed before it, the European Parliament, which shall have been notified of the action taken on its proposed modifications may, acting by a majority of its Members and three fifths of the votes cast, amend or reject the modifications to its amendments made by the Council and shall adopt the budget accordingly. If within this period the European Parliament has not acted, the budget shall be deemed to be finally adopted.

7. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been finally adopted.

8. However, the European Parliament, acting by a majority of its Members and two thirds of the votes cast may, if there are important reasons, reject the draft budget and ask for a new draft to be submitted to it.

9. A maximum rate of increase in relation to the expenditure of the same type to be incurred during the current year shall be fixed annually for the total expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith.

The Commission shall, after consulting the Economic Policy Committee, declare what this maximum rate is, as it results from:

— the trend, in terms of volume, of the gross national product within the Community;

— the average variation in the budgets of the Member States;

and

— the trend of the cost of living during the preceding financial year.

The maximum rate shall be communicated, before 1 May, to all the institutions of the Community. The latter shall be required to conform to this during the budgetary procedure, subject to the provisions of the fourth and fifth subparagraphs of this paragraph.

If, in respect of expenditure other than that necessarily resulting from this Treaty or from acts adopted in accordance therewith, the actual rate of increase in the draft budget established by the Council is over half the maximum rate, the European Parliament may, exercising its right of amendment, further increase the total amount of that expenditure to a limit not exceeding half the maximum rate.

Where the European Parliament, the Council or the Commission considers that the activities of the Communities require that the rate determined according to the procedure laid down in this paragraph should be exceeded, another rate may be fixed by agreement between the Council, acting by a qualified majority, and the European Parliament, acting by a majority of its members and three fifths of the votes cast.

10. Each institution shall exercise the powers conferred upon it by this Article, with due regard for the provisions of the Treaty and for acts adopted in accordance therewith, in particular those relating to the Communities' own resources and to the balance between revenue and expenditure.

### **Article 178**

If, at the beginning of a financial year, the budget has not yet been voted, a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter or other subdivision of the budget in accordance with the provisions of the Regulations made pursuant to Article 183; this arrangement shall not, however, have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft budget in the course of preparation.

The Council may, acting by a qualified majority, provided that the other conditions laid down in the first subparagraph are observed, authorize expenditure in excess of one twelfth.

If the decision relates to expenditure which does not necessarily result from this Treaty or from acts adopted in accordance therewith, the Council shall forward it immediately to the European Parliament; within 30 days the European Parliament, acting by a majority of its Members and three fifths of the votes cast, may adopt a different decision on the expenditure in excess of the one twelfth referred to in the first

subparagraph. This part of the decision of the Council shall be suspended until the European Parliament has taken its decision. If, within this period, the European Parliament has not taken a decision which differs from the decision of the Council, the latter shall be deemed to be finally adopted.

The decisions referred to in the second and third subparagraphs shall lay down the necessary measures relating to resources to ensure application of this Article.

#### **Article 179**

The Commission shall implement the budget, in accordance with the provisions of the regulations made pursuant to Article 183, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budgets, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 183, transfer appropriations from one chapter to another or from one subdivision to another.

#### **Article 179a**

The Commission shall submit annually to the Council and to the European Parliament the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Community.

#### **Article 180**

(Repealed)

#### **Article 180a**

(Repealed)

#### **Article 180b**

1. The European Parliament, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 179a, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in Article 160c(1), second subparagraph, and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the



departments which are responsible for the implementation of the budgets. These reports shall also be forwarded to the Court of Auditors.

### **Article 181**

The budgets and the account provided for in Article 171(1) and (2) shall be drawn up in the unit of account determined in accordance with the provisions of the financial regulations made pursuant to Article 183.

### **Article 182**

1. The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings of currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

2. The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or any other financial institutions approved by that State.

3. As regards expenditure which the Community has to incur in the currencies of third countries, the Commission shall, before the budgets are finally adopted, submit to the Council a programme indicating anticipated revenue and expenditure in the different currencies.

This programme shall be approved by the Council, acting by a qualified majority. It may be modified in the course of the financial year in accordance with the same procedure.

4. Member States shall provide the Commission with the currency of third countries needed for the expenditure shown in the programme provided for in paragraph 3 according to the scales laid down in Article 172. Amounts collected by the Commission in the currency of third countries shall be transferred to Member States in accordance with the same scales.

5. The Commission may freely make use of any amounts in the currency of third countries derived from loans it has raised in such countries.

6. The Council may, acting unanimously on a proposal from the Commission apply, in whole or in part, to the Agency and to Joint Undertakings the exchange arrangements provided for in the preceding paragraphs, and, where appropriate, adapt these arrangements to their operational requirements.

### **Article 183**

1. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

(a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) lay down rules concerning the responsibility of financial controllers, authorising officers and accounting officers, and concerning appropriate arrangements for inspection.

From 1 January 2007, the Council shall act by a qualified majority on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors.

2. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall determine the methods and procedure

whereby the budget revenue provided under the arrangements relating to the Community's own resources shall be made available to the Commission and determine the measures to be applied, if need be, to meet cash requirements.

#### **Article 183a**

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

Without prejudice to other provisions of this Treaty, Member States shall coordinate their actions aimed at protecting the financial interests of the Community against fraud. To this end they shall organize, with the help of the Commission, close and regular cooperation between the competent departments of their administrations.

### **TITLE V — General provisions**

#### **Article 184**

The Community shall have legal personality.

#### **Article 185**

In each of the Member States, the Community shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Community shall be represented by the Commission.

#### **Article 186**

*(Article repealed by Article 24(2) of the Merger Treaty)*

*[See Article 24(1) of the Merger Treaty which reads as follows:*

1. The officials and other servants of the European Coal and Steel Community, the European Economic Community and the European Atomic Energy Community shall, at the date of entry into force of this Treaty, become officials and other servants of the European Communities and form part of the single administration of these Communities.

The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, lay down the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of these Communities.]

#### **Article 187**

The Commission may, within the limits and under the conditions laid down by the Council in accordance with the provisions of this Treaty, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

#### **Article 188**

The contractual liability of the Community shall be governed by the law applicable to the contract in question.

In the case of non contractual liability, the Community shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

The personal liability of its servants towards the Community shall be governed by the provisions laid down in the Staff Regulations or in the Conditions of Employment applicable to them.

#### **Article 189**

The seat of the institutions of the Community shall be determined by common accord of the governments of the Member States.

#### **Article 190**

The rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the Statute of the Court of Justice, be determined by the Council, acting unanimously.

#### **Article 191**

The Community shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Communities.

#### **Article 192**

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

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

#### **Article 193**

Member States undertake not to submit a dispute concerning the interpretation or application of this Treaty to any method of settlement other than those provided for therein.

#### **Article 194**

1. The members of the institutions of the Community, the members of committees, the officials and other servants of the Community and any other persons who by reason of their duties or their public or private relations with the institutions or installations of the Community or with Joint Undertakings are called upon to acquire or obtain cognizance of any facts, information, knowledge, documents or objects which are subject to a security system in accordance with provisions laid down by a Member State or by an institution

of the Community, shall be required, even after such duties or relations have ceased, to keep them secret from any unauthorized person and from the general public.

Each Member State shall treat any infringement of this obligation as an act prejudicial to its rules on secrecy and as one falling, both as to merits and jurisdiction, within the scope of its laws relating to acts prejudicial to the security of the State or to disclosure of professional secrets. Such Member State shall, at the request of any Member State concerned or of the Commission, prosecute anyone within its jurisdiction who commits such an infringement.

2. Each Member State shall communicate to the Commission all provisions regulating within its territories the classification and secrecy of information, knowledge, documents or objects covered by this Treaty.

The Commission shall ensure that these provisions are communicated to the other Member States.

Each Member State shall take all appropriate measures to facilitate the gradual establishment of as uniform and comprehensive a security system as possible. The Commission may, after consulting the Member States concerned, make recommendations for this purpose.

3. The institutions of the Community, their installations and also the Joint Undertakings shall be required to apply the rules of the security system in force in the territory in which each of them is situated.

4. Any authorization granted either by an institution of the Community or by a Member State to a person carrying out his activities within the field covered by this Treaty to have access to facts, information, documents or objects covered by this Treaty which are subject to a security system, shall be recognized by every other institution and every other Member State.

5. The provisions of this Article shall not prevent application of special provisions resulting from agreements concluded between a Member State and a third State or an international organization.

#### **Article 195**

The institutions of the Community, the Agency and the Joint Undertakings shall, in applying this Treaty, comply with the conditions of access to ores, source materials and special fissile materials laid down in national rules and regulations made for reasons of public policy or public health.

#### **Article 196**

For the purposes of this Treaty, save as otherwise provided therein:

(a) 'person' means any natural person who pursues all or any of his activities in the territories of Member States within the field specified in the relevant chapter of this Treaty;

(b) 'undertaking' means any undertaking or institution which pursues all or any of its activities in the territories of Member States within the field specified in the relevant Chapter of this Treaty, whatever its public or private legal status.

#### **Article 197**

For the purposes of this Treaty:

1. 'Special fissile materials' means plutonium 239; uranium 233; uranium enriched in uranium 235 or uranium 233; and any substance containing one or more of the foregoing isotopes and such other fissile materials as may be specified by the Council, acting by a qualified majority on a proposal from the Commission; the expression 'special fissile materials' does not, however, include source materials.
2. 'Uranium enriched in uranium 235 or uranium 233' means uranium containing uranium 235 or uranium 233 or both in an amount such that the abundance ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 occurring in nature.
3. 'Source materials' means uranium containing the mixture of isotopes occurring in nature; uranium whose content in uranium 235 is less than the normal; thorium; any of the foregoing in the form of metal, alloy, chemical compound or concentrate; any other substance containing one or more of the foregoing in such a concentration as shall be specified by the Council, acting by a qualified majority on a proposal from the Commission.
4. 'Ores' means any ore containing, in such average concentration as shall be specified by the Council acting by a qualified majority on a proposal from the Commission, substances from which the source materials defined above may be obtained by the appropriate chemical and physical processing.

#### **Article 198**

Save as otherwise provided, this Treaty shall apply to the European territories of Member States and to non-European territories under their jurisdiction.

It shall also apply to the European territories for whose external relations a Member State is responsible.

The provisions of this Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol No 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

Notwithstanding the previous paragraphs:

- (a) This Treaty shall not apply to the Faeroe Islands.
- (b) This Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus.
- (c) This Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not listed in Annex IV to the Treaty establishing the European Community.
- (d) This Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

**Article 199**

It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations, of its specialized agencies and of the World Trade Organisation.

The Commission shall also maintain such relations as are appropriate with all international organizations.

**Article 200**

The Community shall establish all appropriate forms of cooperation with the Council of Europe.

**Article 201**

The Community shall establish close cooperation with the Organization for Economic Cooperation and Development, the details of which shall be determined by common accord.

**Article 202**

The provisions of this Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of this Treaty.

**Article 203**

If action by the Community should prove necessary to attain one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, take the appropriate measures.

**Article 204**

1. Where a decision has been taken to suspend the voting rights of the representative of the government of a Member State in accordance with Article 7(3) of the Treaty on European Union, these voting rights shall also be suspended with regard to this Treaty.

2. Moreover, where the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1) of the Treaty on European Union has been determined in accordance with Article 7(2) of that Treaty, the Council, acting by qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under this Treaty shall in any case continue to be binding on that State.

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

4. When taking decisions referred to in paragraphs 2 and 3, the Council shall act without taking into account

the votes of the representative of the government of the Member State in question. By way of derogation from Article 118(2) a qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 118(2).

This paragraph shall also apply in the event of voting rights being suspended in accordance with paragraph 1. In such cases, a decision requiring unanimity shall be taken without the vote of the representative of the government of the Member State in question.

#### **Article 205**

(Repealed)

#### **Article 206**

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

These agreements shall be concluded by the Council, acting unanimously after consulting the European Parliament.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article N of the Treaty on European Union.

#### **Article 207**

The Protocols annexed to this Treaty by common accord of the Member States shall form an integral part thereof.

#### **Article 208**

This Treaty is concluded for an unlimited period.

### **TITLE VI — Provisions relating to the initial period**

#### **Article 209 to 223**

(Repealed)

#### **Final provisions**

#### **Article 224**

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the last signatory State to take this step. If, however, such deposit is made less than 15 days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

#### **Article 225**

This Treaty, drawn up in a single original in the Dutch, French, German and Italian languages, all four texts being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified copy to each of the governments of the other signatory States.

Pursuant to the Accession treaties the Danish, English, Finnish, Greek, Irish, Portuguese, Spanish and Swedish versions of this Treaty shall also be authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Treaty.

Done at Rome this twenty fifth day of March in the year one thousand nine hundred and fifty seven.

P. H. SPAAK J. Ch. SNOY ET D'OPPUERS  
ADENAUER HALLSTEIN  
PINEAU M. FAURE  
Antonio SEGNI Gaetano MARTINO  
BECH Lambert SCHAUS  
J. LUNS J. LINTHORST HOMAN