

**CONV 807/03**

**CONTRIB 364**

**COVER NOTE**

---

from : Secretariat

to : Convention

---

Subject : Contribution submitted by Mr Timothy Kirkhope, member of the Convention:  
- "A simplifying Treaty for a European Community: a Conservative alternative to  
the Praesidium's Draft"

---

The Secretary-General of the Convention has received the attached contribution from  
Mr Timothy Kirkhope, member of the Convention.

**A SIMPLIFYING TREATY FOR A  
EUROPEAN COMMUNITY:  
A CONSERVATIVE ALTERNATIVE TO  
THE PRAESIDIUM'S DRAFT**

*By*

**TIMOTHY KIRKHOPE MEP**

*Conservative Representative on the European Convention*

This document is divided into three sections. The first section is a summary of the simplifying Treaty (page 2). The second contains the full text of the simplifying Treaty (page 3). And the third is the full texts of both the simplifying Treaty and the Praesidium's Constitution for Europe, in parallel and with explanatory notes (page 35).

**Second Edition: Fully updated following Praesidium's second draft.**

## SUMMARY OF THE SIMPLIFYING TREATY

1. The outcome of the European Convention should be a new Treaty simplifying the existing Treaties rather than a European Constitution. A Constitution would represent a step towards a Superstate. A simplifying Treaty would make the European Union more understandable and hence more accountable.
2. The Charter of Fundamental Rights should not be give legal force because it deals with matters of social, employment and cultural policy which must always remain the responsibility of the Member States. Article I-7 is therefore deleted (*see page 38*).
3. The EU started out as a simple trading bloc but the single market has yet to be achieved. Free trade must be our overriding priority. This simplifying Treaty makes free trade an objective of the future Community (*Article I-3*) as well as putting it at the centre of its humanitarian programme (*Article III-189*).
4. The gold plating of European legislation by national governments creates disparities in the single market. Joint Committees of MPs and MEPs should be established to oversee the transposition of EU legislation into national law (*Article I-10*).
5. At present, there is no one identified person responsible for subsidiarity: there should be in order to increase accountability. The European Parliament and national parliaments should elect a European Arbitrator to consider cases where competencies have been misaligned (*Protocol on the application of the principles of subsidiarity and proportionality*).
6. As part of the process of transferring power from unelected institutions to the elected ones, the right of initiative in the EU should reside with the European Parliament rather than the European Commission. MEPs represent the peoples of Europe (*Article I-19*). The Commission should become the EU's civil service (*Article I-25*).
7. The EU should concentrate on cooperation rather than harmonisation. In the field of justice and home affairs, for example, the creation of Joint Investigation Teams (Kirkhope Report) show that we can co-operate together to fight crime rather than fighting each other over harmonisation (*Article III-172*).

8. The pillared structure of the EU is sacrosanct because it guarantees that the Common Foreign and Security Policy and the Justice and Home Affairs policy remain matters for intergovernmental cooperation rather than supranational governance (*Article III-153*). It is on the basis of this guarantee that future British involvement in these areas stands.
  
9. With enlargement now upon us, the EU should proceed as a European Community. Participation in core issues such as the single market, the environment and some transport matters should be compulsory (*Articles III-12*). Other issues such as the European Defence Force and the common asylum and immigration policy should be dealt with on a bilateral basis to avoid the ratchet effect of enhanced cooperation (*e.g. Article III-189*).
  
10. Each country should hold a referendum on the final outcome of the Convention (*Article I-1, paragraph 3*) as well as any future changes to the Treaty (*Article IV-7*).

# A SIMPLIFYING TREATY FOR THE EUROPEAN UNION

## THE ARTICLES OF THE EUROPEAN COMMUNITY'S SIMPLIFYING TREATY <sup>1</sup>

### - PART ONE -

#### TITLE I: Definition and objectives of the European Community

##### Article I-1: Establishment of the European Community

1. This simplifying Treaty establishes a European Community which shall have as its task the competences outlined in Title III.
2. The Community shall be open to all European States who wish to work together for their mutual benefit.
3. The people of each Member State shall be consulted by referenda (where permitted by national constitutions) before ratification of this simplifying Treaty by Member States' Governments.

##### Article I-2: The Community's values

The Community is founded on the values of respect for human dignity, liberty, democracy, the rule of law and respect for human rights, values which are common to the Member States. Its aim is a society at peace, through the practice of tolerance, justice and solidarity.

##### Article I-3: The Community's objectives

1. The Community's aim is to promote peace, its values and the well-being of its peoples.
2. The Community shall work for a Europe of sustainable development based on deregulation, competitiveness, a market economy for companies and consumers, free trade, environmental protection and economic and monetary union for those who wish to participate.

---

<sup>1</sup> For ease of cross-reference, the numbering of the Parts, Titles, Articles and paragraphs correspond to the numbering in the Praesidium's second draft published in May. Consequently, due to deletions, the numbering is not necessarily sequential.

4. The Community shall contribute to sustainable development, mutual respect among peoples, the promotion of free markets and free trade, observance of internationally accepted legal commitments, and peace between States.

5. These objectives shall be pursued by appropriate means, depending on the extent to which the relevant competences are attributed to the Community by this simplifying Treaty.

#### **Article I-4: Fundamental freedoms and non-discrimination**

1. Free movement of persons, goods, services and capital, and freedom of establishment shall be guaranteed within and by the Community, in accordance with the provisions of this simplifying Treaty.

2. In the field of application of this simplifying Treaty and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be avoided wherever reasonable and possible.

#### **Article I-5: Relations between the Union and the Member States**

1. The Community shall respect the national identities of its Member States and their national sovereignties.

2. In accordance with the principle of cooperation, the Community and the Member States should, in full mutual respect, assist each other to carry out tasks which flow from the simplifying Treaty.

### **TITLE II: Citizenship**

#### **Article I-8: Citizenship**

1. Citizenship of a Member State shall also confer citizenship of the European Community. Citizenship of the European Community shall not replace national citizenship.

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

– the right to move and reside freely within the territory of the Member States;

– the right to vote and to stand as a candidate in elections to the European Parliament and in municipal elections in their Member State of residence under the same conditions as nationals of that State;

– the right to enjoy, in the territory of a third country in which the Member State of which they are a national is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;

– the right to petition the European Parliament, to apply to the Ombudsman, and to write to the institutions and advisory bodies of the Community in any of the Community's languages and to obtain a reply in the same language.

3. These rights shall be exercised in accordance with the conditions and limits defined by this simplifying Treaty and by the measures adopted to give it effect.

### **TITLE III: Community competences and actions**

#### **ARTICLE I-9: FUNDAMENTAL PRINCIPLES**

1. The limits and use of Community competences are governed by the principles of conferral, subsidiarity, proportionality and cooperation.

2. In accordance with the principle of conferral, the Community shall act within the limits of the competences conferred upon it by the simplifying Treaty to attain the objectives the simplifying Treaty sets out. Competences not conferred upon the Community by the simplifying Treaty remain with the Member States.

3. In accordance with the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Community shall act only if and insofar as the objectives of the intended action cannot be sufficiently achieved by the Member States, acting alone or with each other, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Community level by unanimous agreement in each case.

The Community Institutions shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality, annexed to the simplifying Treaty. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in the Protocol.

4. In accordance with the principle of proportionality, the scope and form of Community action shall not exceed what is necessary to achieve the objectives of the simplifying Treaty as specified for each competence.

The Institutions shall apply the principle of proportionality as laid down in the Protocol referred to in paragraph 3.

#### ARTICLE I-10: COMMUNITY LAW

1. The simplifying Treaty, and law adopted by the Community Institutions in exercising competences conferred on it by the simplifying Treaty, should be considered law in a Member State once the National Parliament concerned has approved that law.

2. Member States should take all appropriate measures to ensure fulfilment of the obligations flowing from the simplifying Treaty or resulting from actions taken by the Community Institutions, under the scrutiny of joint committees of national MPs and MEPs.

#### ARTICLE I-11: CATEGORIES OF COMPETENCE

1. When the simplifying Treaty confers on the Community exclusive competence in a specific area, only the Community may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Community providing such exclusivity has been unanimously agreed.

2. When the simplifying Treaty confers on the Community a competence shared with the Member States in a specific area, the Community and the Member States shall have the power to legislate and adopt legally binding acts in this area. The Community should exercise its competence only if and to the extent that the Member States have not exercised theirs.

5. In certain areas and in the conditions laid down in the simplifying Treaty, the Community shall have competence to carry out actions to coordinate, supplement or support the actions of the Member States, without thereby superseding their competence in these areas, providing such actions have been unanimously agreed.

6. The Community shall exercise its competences to implement the policies defined in Part Three of the simplifying Treaty in accordance with the provisions specific to each area which are there set out.



## ARTICLE I-12: EXCLUSIVE COMPETENCES

1. The Community shall have exclusive competence to establish competition rules, within the internal market, and in the following areas:

- customs union orientated towards international free trade,

2. The Community shall have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Community, is necessary to enable the Community to exercise its competence internally, or affects an internal Community act.

## ARTICLE I-13: SHARED COMPETENCES

1. The Community shall share competence with the Member States where the simplifying Treaty confers on it a competence which does not relate to the areas referred to in Articles I-12 and I-16.

2. Shared competence applies in the following principal areas:

- internal market
- agriculture
- trans-European networks
- environment
- consumer protection, and
- commercial policy

3. In the areas of research and technological development, the Community shall have competence to carry out actions, in particular to implement programmes, provided such actions have been agreed by unanimity; however, the exercise of that competence shall not result in Member States being prevented from exercising their competence.

4. In the areas of development cooperation and humanitarian aid, the Community shall have competence to take action and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising their competence.

5. Areas of shared competence shall be reviewed on a regular basis to ensure competences are exercised at the appropriate level according to the principle of subsidiarity.

#### ARTICLE I-14: THE COORDINATION OF ECONOMIC POLICIES

2. Specific provisions for the coordination of economic policy shall apply to those Member States which have adopted the euro.

#### ARTICLE I-16: AREAS FOR SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION

1. The Union may take supporting, coordinating or complementary action.

2. The areas for supporting, coordinating or complementary action shall be:

- industry to promote a deregulated industrial base
- education, vocational training and youth
- protection against disasters
- transport
- energy
- employment to provide a flexible labour market

3. Legally binding acts adopted by the Community on the basis of the provisions specific to these areas in Part Three cannot entail harmonisation of Member States' laws or regulations.

#### ARTICLE I-17: FLEXIBILITY CLAUSE

1. If action by the Community should prove necessary within the framework of the policies defined in Part Three to attain one of the objectives set by this simplifying Treaty, and the simplifying Treaty has not provided the necessary powers, the Council, acting unanimously on a proposal from the European Parliament and, where permitted by national constitutions, national referenda, shall take the appropriate measures, providing such actions will not curtail any Member State from acting unilaterally to promote its interests.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-9(3), the Commission shall draw Member States' national parliaments' attention to proposals based on this Article.

3. Provisions adopted on the basis of this Article cannot entail harmonisation of Member States' laws or regulations in cases where the simplifying Treaty excludes such harmonisation.

## **TITLE IV: The Community's Institutions**

### **Chapter I – Institutional Framework**

#### **Article I-18: The Community's Institutions**

1. The Community shall be served by a single institutional framework which shall aim to:

- advance the objectives of the Community,
- promote the values of the Community,
- serve the interests of the citizens of the Community and its Member States,

and ensure the consistency, effectiveness and continuity of the policies and actions which it undertakes in pursuit of its objectives.

2. This institutional framework comprises:

The European Parliament,  
The European Council,  
The Council of Ministers,  
The European Commission,  
The Court of Justice of the European Community,  
The European Central Bank,  
The Court of Auditors.

3. Each institution shall act within the limits of the powers conferred on it in the simplifying Treaty, and in conformity with the procedures and conditions set out in it. The institutions shall cooperate fully both with each other and with the Member States.

### **Article I-19: The European Parliament**

1. The European Parliament shall, jointly with the Council, enact legislation, as well as exercise functions of political control and consultation as laid down in the simplifying Treaty. It shall elect the Chairman of the European Commission, a decision which shall be confirmed by the European Council on a qualified majority basis. The European Parliament shall also have the right to initiate legislation.
2. The European Parliament shall be directly elected by universal suffrage of European citizens in free and secret ballot for a term of five years. Its members shall not exceed seven hundred in number. Representation of European citizens shall be degressively proportional, with a minimum threshold of four members per Member State.
3. The European Parliament shall elect its President and its officers from among its members, for a term of five years.

### **Article I-20: The European Council**

1. The European Council shall provide the Community with the necessary impetus for its development, and shall define its general political directions and priorities.
2. The European Council shall consist of the Heads of State or Government of the Member States, together with its Chairman and the Chairman of the Commission.
3. The European Council shall meet quarterly, convened by its Chairman. When the agenda so requires, its members may decide to be assisted by a minister, and, in the case of the Chairman of the Commission, a Commissioner. When the situation so requires, the Chairman shall convene an additional meeting of the European Council.
4. Except where the simplifying Treaty provides otherwise, decisions of the European Council shall be taken by consensus.

### **Article I-21: The European Council Chairman**

1. The European Council shall elect its Chairman, by qualified majority, for a term of two and a half years, renewable once. The person elected must be, or have been for at least two years, a member of the European Council. In cases of serious malpractice, if a qualified majority of members of the European Council agree to suspend the Chairman, a new Chairman shall be elected according to the same procedure.

2. The Chairman of the European Council shall chair it and drive forward its work, ensuring proper preparation and continuity. He shall endeavour to facilitate cohesion and consensus within the European Council. He shall present a report to the European Parliament after each of its meetings.

3. The European Council may decide by consensus to create a board consisting of three of its members chosen according to a system of equitable rotation.

4. The Chairman of the European Council may not be a member of another European institution or hold a national mandate.

## **Article I-22: The Council of Ministers**

1. The Council of Ministers shall, jointly with the European Parliament, enact legislation, and shall carry out policy-making and co-ordinating functions, as laid down in the simplifying Treaty.
2. The Council of Ministers shall consist of a representative of each Member State at ministerial level for each of its formations. Only this representative may commit the Member State in question, and cast its vote.
3. Except where the simplifying Treaty provides otherwise, decisions of the Council shall be taken by qualified majority.

## **Article I-23: Council formations**

1. The General Affairs Council shall ensure consistency in the work of the Council of Ministers. With the participation of the Commission, it shall prepare meetings of the European Council.
2. The Legislative Council shall consider and, jointly with the European Parliament, enact European laws and European framework laws, in accordance with the provisions of the simplifying Treaty. Each Member State's ministerial representative may be assisted by one or, if necessary, two specialist ministers, reflecting the business on the Council agenda.
3. The Foreign Affairs Council shall, on the basis of strategic guidelines laid down by the European Council, flesh out the Union's external policies, and ensure that its actions are consistent. It shall be chaired by the Chairman of the Council.
4. The Council shall also meet in the configuration of an Economic and Financial Affairs Council, and a Council on Justice and Security.
5. The Council, in its General Affairs formation, may decide on further formations.
6. The European Council may decide by consensus that the Chair of a Council formation, other than that of Foreign Affairs, should be undertaken by a Member State for a period of at least a year, taking into account European political and geographical balance and the diversity of all Member States.

## **Article I-24: Qualified majority**

1. When the European Council or the Council take decisions by qualified majority, such a majority shall

consist of a majority of Member States, representing at least three quarters of the population of the Community.

2. Within the European Council, its Chairman and the Chairman of the Commission do not vote.

#### **Article I-25: The European Commission**

1. The European Commission shall serve the democratically elected European institutions. It shall ensure the application of the simplifying Treaty, steps taken by the institutions under the simplifying Treaty, as well as legislation enacted by the European Parliament and Council. It shall also exercise co-ordinating and management functions as laid down in the simplifying Treaty.

3. The Commission shall consist of a Commission Chairman and a Commissioner to supervise each policy area.

4. In carrying out its responsibilities, the Commission shall be supervised by the European Parliament and Council.

#### **Article I-26 Commission Chairman**

1. The European Council, deciding by qualified majority, shall put forward to the European Parliament its proposed candidate for the Commission Chairman. This candidate shall be elected by the European Parliament by a majority of its members. If this candidate does not receive the required majority support, the European Council shall within one month put forward a new candidate, following the same procedure as before. The Commission Chairman shall be a former civil servant from either an EU institution or a Member State.

2. Each Member State shall nominate one person whom it considers qualified to be a European Commissioner. The person shall be a current or former civil servant from that Member State. The Chairman-elect, taking account of European political and geographical balance, shall allocate portfolios for each of the Commissioners. The Chairman and the persons so nominated for membership of the Commission shall be submitted individually to a vote of approval by the European Parliament.

3. The Commission, as a body, shall be responsible to the European Parliament and Council. Under the procedures set out at Art. X of the simplifying Treaty, the European Parliament and Council acting jointly may pass a censure motion on the Commission as a whole or on individual Commissioners. If such a motion is passed, the member(s) of the Commission to which the motion applies must resign. They shall continue to handle everyday business until their successors are nominated.

4. The Commission shall work to guidelines laid down by its Commission Chairman. The Chairman shall decide its internal organisation, ensuring that it acts consistently, efficiently and on a collegiate basis. The Chairman shall appoint vice-Chairman from among the members of the Commission.

#### **Article I-28: The Court of Justice of the European Community**

1. The Court of Justice, including the High Court, shall ensure respect for the simplifying Treaty and Community law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Community law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.

3. The Court of Justice shall be competent for:

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;
- preliminary rulings, at the request of Member State courts, on the interpretation of Community law or the validity of acts adopted by the institutions;
- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

#### **Chapter II – Other Institutions and Bodies**

##### **Article I-29: The European Central Bank**

1. The European Central Bank shall direct the European System of Central Banks, of which it, alongside the national central banks, forms part.

2. The primary objective of the Bank shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support general economic policies in the Community with a view to contributing to the achievement of the Community's objectives.



3. The Bank shall define and implement the monetary policy of the Community. It alone may authorise the issue of the Community currency, the Euro. It shall conduct other Central Bank tasks according to the provisions of Part II of the simplifying Treaty.

4. The Bank shall have legal personality. In the exercise of its powers and for its finances, it shall be independent. Community institutions and bodies, and the governments of the Member States, shall undertake to respect this principle.

5. The Bank shall adopt such measures as are necessary to carry out its tasks in accordance with the provisions of Articles [A-B] of Part II of the simplifying Treaty, and with the conditions laid down in the Statutes of the Bank and of the European System of Central Banks. In accordance with these same provisions, those Member States which have not adopted the Euro, and their central banks, shall retain their powers in monetary matters.

6. Within its areas of competence, the Bank shall be consulted on all proposed Community acts, and all proposals for regulation at national level; and may give an opinion.

7. The organs of the Bank, their composition and operating methods are set out in articles X to Y of Part II, as well as in the Statute of the Bank.

#### **Article I-30: The Court of Auditors**

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

2. It shall examine the accounts of all Community revenue and expenditure, and shall ensure good financial management.

3. It shall consist of one national of each Member State who has performed a similar function in that Member State. In the performance of their duties, its members shall be completely independent.

## **TITLE V: Exercise of Community competence**

### **Chapter I: Common Provisions**

#### **Article I-32: The legal acts of the Community**

1. In exercising the competences conferred on it in the simplifying Treaty, the Community shall use as legal instruments, in accordance with the provisions of Part Two, European Community laws and European Community opinions.

A European Community law shall be a legislative act having general application. It shall be binding in its entirety and directly applicable in all Member States.

European Community opinions adopted by the institutions shall have no binding force.

2. When considering proposals for European Community laws or European Community opinions, the European Parliament and the Council shall refrain from adopting acts not provided for by the simplifying Treaty.

#### **ARTICLE I-33: LEGISLATIVE ACTS**

1. European Community laws shall be adopted, on the basis of proposals from the European Parliament, jointly by the Parliament and the Council in accordance with the rules of the legislative procedure referred to in Article [ex251]. If the two institutions cannot reach agreement on an act, it shall not be adopted.

3. When adopting a European Community law or opinion, the European Parliament and the Council shall meet in public.

#### **ARTICLE I-36: IMPLEMENTING ACTS**

1. Member States shall adopt all measures of national law necessary to implement European Community law subject to the approval of their national Parliament.

3. The implementation of European Community law in each Member State shall be subject to the scrutiny of a joint committee of national MEPs and MPs before being voted on by the national Parliament.

### **Article I-37: Principles common to the Community's legal acts**

1. Unless the simplifying Treaty contains a specific stipulation, the institutions shall decide, in compliance with the procedures applicable, on whether a European Community law or a European Community opinion is more appropriate, in accordance with the principle of proportionality set out in Article I-9.

**1.1. 2. European Community laws and European Community opinions shall state the reasons on which they are based and shall refer to any proposals or opinions required by this simplifying Treaty.**

### **ARTICLE I-38: PUBLICATION AND ENTRY INTO FORCE**

**1.2. 1. European Community laws and opinions adopted in accordance with the legislative procedure shall be signed by the President of the European Parliament and by the Chairman of the Council. European Community laws shall be published in the Official Journal of the European Community and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following that of their publication.**

### **Article I-41: Cooperation in home affairs at a Community level**

1. The Community shall retain a pillar covering cooperation in home affairs within the Community: This shall be done:

– through European Community laws and opinions where absolutely necessary but through bilateral and multilateral agreements when possible;

– by promoting mutual confidence between the competent authorities of the Member States and other relevant international organisations;

– by operational cooperation between national authorities for internal security when required.

2. In this field, national parliaments may participate in the evaluation mechanisms foreseen in Part Two of the simplifying Treaty.

### **Article I-42: Solidarity clause**

1. In application of the principle of solidarity, the Community shall mobilise all the instruments at its disposal, including military resources, to:

- (a) - prevent the terrorist threat;
- protect democratic institutions and the civilian population from any terrorist attack;
- assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack
- .

The detailed rules for implementing this provision appear in Article [...], Part Three, Title B, of the simplifying Treaty.

### **Chapter III: Enhanced cooperation**

#### **Article I-43: Bilateral or multilateral cooperation**

1. Member States wishing to cooperate in areas which are not competences of the Community may do so on a bilateral or multilateral basis. This cooperation will be recognised but not administered by the Community.

4. Any agreements adopted on this basis shall only bind those Member States taking part in such cooperation. They shall not be regarded as an *acquis*, which has to be accepted by candidates for accession to the Community, because they are independent bilateral or multilateral agreements rather than European Community law.

### **TITLE VI: The democratic life of the Community**

#### **ARTICLE I-44: THE PRINCIPLE OF DEMOCRATIC EQUALITY**

The Community's operation shall be founded on the principle of the equality of citizens, who shall receive equal attention from the Community's institutions.

#### **Article I-45: The principle of representative democracy**

1. The working of the Community shall be founded on the principle of representative democracy.
2. Citizens are directly represented at Community level in the European Parliament. Member States are represented in the European Council and in the Council by their governments, themselves accountable to national Parliaments, elected by their citizens.
3. Every citizen shall have the right to participate in the democratic life of the Community if this is consistent with the rights they hold in their respective Member States. Decisions shall be taken as openly as possible and as closely as possible to the citizen.

4. National delegations in the European Parliament shall contribute to the European debate.

**Article I-46: The principle of participatory democracy**

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

2. The Community institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

**ARTICLE I-48: THE EUROPEAN OMBUDSMAN**

An Ombudsman shall be appointed to receive, investigate and report on complaints concerning instances of maladministration within the Community institutions.

**Article I-49: Transparency of the proceedings of the Community's institutions**

1. In order to promote good governance and ensure the participation of civil society, the Community institutions, bodies and agencies shall conduct their work openly, unless there are compelling reasons for the matter to be debated "in camera".

2. The European Parliament shall meet in public, as shall the Council when it is discussing and adopting a legislative proposal.

3. Any citizen of the Community, man or woman, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Community's Institutions, bodies and agencies in whatever form they are produced, in accordance with the conditions laid down in Part Three.

4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure. However, in the interests of accountability, Members of the European Parliament acting in their professional capacity shall have the right to view any Council, Commission or Parliament document.

5. Each institution, agency or body referred to in paragraph 3 shall determine in its own rules of procedure specific provisions regarding access to its documents.

## ARTICLE I-50: PROTECTION OF PERSONAL DATA

1. Everyone has the right to the protection of personal data concerning him or her.
2. The Parliament and the Council, in accordance with the legislative procedure, shall adopt the rules relating to the protection of individuals with regard to the processing of personal data by the Community's institutions and bodies, and by the Member States when carrying out activities which come under the scope of Community law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of an independent authority.

## TITLE VII: The Community's finances

### Article I-52: Budgetary and financial principles

1. All items of revenue and expenditure of the Community shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the simplifying Treaty.
2. The revenue and expenditure shown in the budget shall be in balance.
3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (Part II, ex-279: Financial Regulation).
4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Community action and for the implementation of the expenditure in accordance with the law referred to in Article B (Part II, ex-279: Financial Regulation). This act must take the form of a European Community law.
5. With a view to maintaining budgetary discipline, the European Parliament 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 and the multiannual financial framework referred to in Article I-54.
6. The Community's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Community to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.
7. The Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Community in accordance with the provisions of Article [ex 280], of Part Three.

### **Article I-53: The Community's resources**

2. Without prejudice to other revenue, the Community's budget shall be financed wholly from own resources.
  
3. The Council, acting unanimously on a proposal from 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 I-54: The multiannual financial framework**

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the own resources limits. It shall determine the amounts of the annual ceilings for commitment appropriations by category of expenditure in accordance with the provisions of Article [...] of Part Three.
2. The Council, acting unanimously on a proposal from the European Parliament, shall lay down the multiannual financial framework. The Council shall act after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.
3. The annual budget of the Community shall comply with the multiannual financial framework.

#### **Article I-55: The Community's budget**

The European Parliament and the Council shall, on a proposal from the European Parliament and in accordance with the arrangements laid down in Article [ex 272], jointly adopt the Community's annual budget.

### **TITLE VIII: The Community and its immediate environment**

#### **ARTICLE I-56: THE COMMUNITY AND ITS IMMEDIATE ENVIRONMENT**

1. The Community shall build upon such special relationships as already exist between Member States and non-Member States, in order to promote prosperity and close and peaceful relations based on cooperation.
2. For this purpose, the Community may conclude and implement specific agreements with the countries concerned in accordance with Article [...]of Part Three of the simplifying Treaty. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

### **TITLE X: Community membership**

#### **Article I-57: Procedure for applying for Community membership**

1. The Community shall be open to all the European States whose people share the values referred to in Article I-2 and who respect them and are committed to promoting them together. Accession to the Community requires acceptance of its simplifying Treaty through a national referendum.
2. Any European State which wishes to become a member of the Community may address its application to the Council. The European Parliament and the national parliaments shall be notified of this application. The



Council shall act unanimously after receiving the qualified majority assent of the European Parliament. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the applicant State. That agreement shall be subject to ratification by all the contracting States in national referenda, where permitted by national constitutions.

#### **Article I-58: Suspension of Community membership rights**

1. On a reasoned proposal by one third of the Member States or by the European Parliament, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The European Council, acting by unanimity on a proposal by one third of the Member States and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.

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

The obligations of the Member State in question under the simplifying Treaty shall not in any case continue to be binding on that State.

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

5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.

6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.

#### **Article I-59: Voluntary withdrawal from the Community**

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

2. A Member State which decides to withdraw shall notify the Council of its intention. Once that notification has been given, the Community shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Community. The departing Member State and the Community shall aim to maintain their existing trade links. That agreement shall be concluded on behalf of the Community by the Council, acting by a qualified majority, after obtaining the assent of the European Parliament.

The withdrawing State shall not participate in the Council's discussions or decisions concerning the withdrawal agreement or legislation coming into force 2 years after the notification referred to in paragraph 2.

3. This simplifying Treaty shall cease to apply to the State in question as from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2.

4. If a State which has withdrawn from the Union asks to re-join, that request shall be subject to the procedure referred to in Article I-57.

**- PART THREE -**

**CHAPTER IV: Cooperation in home affairs at a Community level**

**Section 1: General Provisions**

**Article III-153**

1. The Community shall retain a pillar covering cooperation in home affairs at a Community level, taking into account the different European legal traditions and systems.
4. The Community shall encourage cooperation between criminal, police and judicial authorities and other competent authorities.

**Article III-154**

The European Council shall define the strategic guidelines for Community planning in this field.

**Article III-155**

1. Member States' national parliaments shall ensure that the proposals and legislative initiatives submitted under Sections 4 and 5 of this Chapter comply with the principle of subsidiarity, in accordance with the arrangements in the Protocol on the application of the principles of subsidiarity and proportionality.

Member States' parliaments may participate in the evaluation mechanisms contained in Article III-156 of the simplifying Treaty.

2. [Notwithstanding the provisions foreseen in the Protocol on the application of the principles of subsidiarity and proportionality, where at least one national parliament has issued a reasoned opinion on non-compliance with the subsidiarity principle of a European Parliament proposal submitted in the context of Chapters 3 and 4 of this Title, the Mediating Committee shall review the proposal. After such review, the national parliament shall hold another vote on the proposal. If they vote against the proposal once again, the proposal will be withdrawn and consenting Member States may proceed on a bilateral or multilateral basis.]

**Article III-156**

Without prejudice to Articles [III-261 to III-263] of this simplifying Treaty, the Council may adopt arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Community action referred to in this Chapter by Member States' authorities. The European Parliament, as well as national parliaments, shall be informed of the content and results of the evaluation.

**Article III-158**

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

### **Section 3: Judicial cooperation in civil matters**

#### **ARTICLE III-165**

1. The Community shall develop judicial cooperation in civil matters having cross-border implications based on the principle of mutual recognition of judgments and decisions in extrajudicial cases.

2. To this end, the European Parliament and the Council, in accordance with the legislative procedure, shall adopt European Community laws aiming inter alia to ensure:

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

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

(c) the compatibility of the rules applicable in the Member States concerning the conflict of laws and of jurisdiction;

(d) cooperation in the taking of evidence;

#### **ARTICLE III-168**

The European Parliament and the Council, in accordance with the legislative procedure, may adopt European Community laws and opinions to promote and support the action of Member States in the field of crime prevention. Such measures shall not include the approximation of Member States' legislative and regulatory provisions.

### **Section 5: Police cooperation**

#### **Article III-171**

1. The Community shall encourage cooperation involving all the Member States' authorities with responsibility for internal security, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

#### **ARTICLE III-172**

The European Community shall encourage the creation of ad hoc Joint Investigation Teams consisting of police officers from two or more Member States working on a bilateral or multilateral basis to investigate cross-border crimes.

## **TITLE V: The Community's External Action**

### **Chapter 1: General Applicable Provisions**

#### **Article III-188**

1. The Community's action on the international scene shall be guided by, and designed to advance in the wider world, the principles which have inspired its own creation, development and enlargement: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, equality and solidarity, and for international law in accordance with the principles of the United Nations Charter. The Community shall seek to develop relations and build partnerships with countries, and regional or global organisations, which share these values. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. Member States of the European Community may pursue bilateral or multilateral policies, in order to:

(a) safeguard the common values, fundamental interests, security, independence and integrity of the Community;

(b) consolidate and support democracy, the rule of law, human rights and international law;

(c) preserve peace, prevent conflicts and strengthen international security, in conformity with the principles of the United Nations Charter;

(d) foster the sustainable economic and social development of developing countries, with the primary aim of eradicating poverty, where possible through the expansion of free trade;

(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;

(f) develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

- (g) assist populations, countries and regions confronting man-made or natural disasters;
- (h) promote an international system based on stronger multilateral cooperation and good global governance.

#### **Article III-189**

1. On the basis of the principles and objectives referred to in Article 1 of this Title, the European Council shall identify the strategic interests and objectives of the Community.

European Council decisions on the strategic interests and objectives of the Community may relate to humanitarian aid and trade with developing countries. Member States who wish to cooperate in other areas on a bilateral or multilateral basis may do so.

In matters relating to humanitarian aid and trade with developing countries, the European Council shall act unanimously on a proposal from the Council. The decisions of the European Council shall be implemented by the Council in accordance with the procedures provided for in the simplifying Treaty.

### CHAPTER 3: COMMON COMMERCIAL POLICY

#### **Article III-211**

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

### **Article III-212**

1. The commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Community's external action, as set out in Article 1 of this Title.

2. A European law shall establish the measures required to implement the common commercial policy.

3. Where agreements with one or more States or international organisations need to be negotiated, the relevant provisions of [Article 33] of this Title shall apply. The Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Community policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of agreements in the fields of trade in services involving the movement of persons and the commercial aspects of intellectual property, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

5. The exercise of the competences conferred by this Article in the field of commercial policy shall not affect the delimitation of internal competences between the Community and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of Member States insofar as the simplifying Treaty excludes such harmonisation.

## **Chapter IV: Cooperation with Third Countries and Humanitarian Aid**

### **Section 1: Development Cooperation**

#### **Article III-213**

1. Community policy in the sphere of development cooperation shall be conducted within the framework of the principles and objectives of the Community's external action as set out in Article 1 of this Title. The Community's development cooperation policy and that of the Member States complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty, where possible through the expansion of free trade. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to

affect developing countries.

2. The Community and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

#### **Article III-214**

1. A European law shall establish the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.

2. The Community may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 1 of this Title. Such agreements shall be negotiated and concluded in accordance with Article 33 of this Title.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

#### **Article III-215**

1. The Community and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences, in order to promote the complementarity and efficiency of their action. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

3. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and the competent international organisations.

### **Section 2: Economic, Financial and Technical Cooperation with Third Countries**

#### **Article III-216**

1. Without prejudice to the other provisions of this Treaty, and in particular those of [Articles 25 to 27] of this Title concerning development cooperation, the Community shall, within its spheres of competence, carry out economic, financial and technical cooperation measures with third countries. Such measures shall be consistent with the development policy of the Community. The Community's measures and those of the Member States shall complement and reinforce each other. They shall be carried out within the framework of the principles and objectives of the Community's external action as set out in Article 1 of this Title.

2. A European law shall establish the measures necessary for the implementation of paragraph 1.



3. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded pursuant to Article 33 of this Title. The Council shall act unanimously for the association agreements referred to in Article 32(2) of this Title and for the agreements to be concluded with the States which are candidates for accession to the Community.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

#### **Article III-217**

When the situation in a third country requires urgent financial aid from the Community, the Council shall adopt the necessary measures unanimously on a proposal from the European Parliament.

### **Section 3: Humanitarian Aid**

#### **Article III-218**

1. The Community's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Community as set out in [Article 1 of this Title]. Such operations shall be intended to provide ad hoc assistance, relief and protection for people in third countries and victims of man-made and natural disasters, in order to meet the humanitarian needs resulting from these different situations. The Community's actions and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality and non-discrimination.

3. A European law shall establish the necessary measures defining the framework within which the Community's humanitarian aid operations shall be implemented.

4. The Community may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 1. Such agreements shall be negotiated and concluded pursuant to Article 33 of this Title.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international

bodies and to conclude international agreements.

6. The Commission may take any useful initiative to promote coordination between actions of the Community and those of the Member States, in order to enhance the efficiency and complementarity of Community and national humanitarian aid measures.

7. The Community shall ensure that its humanitarian operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations System.

## CHAPTER VI: INTERNATIONAL AGREEMENTS

### **Article III-220**

1. In matters relating to humanitarian aid and trade with developing countries, the Community may conclude agreements with one or more third countries or international organisations where the provisions of the simplifying Treaty provide for the conclusion of such agreements.

4. Agreements concluded by the Community are binding upon the institutions of the Community and on its Member States.

### **Article III-221**

1. In matters relating to humanitarian aid and trade with developing countries, the Community may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.

### **Article III-222**

1. In matters relating to humanitarian aid and trade with developing countries, the Community agreements between the Community and third states or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. In matters relating to humanitarian aid and trade with developing countries, the Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.

3. In matters relating to humanitarian aid and trade with developing countries, the Commission shall submit recommendations to the Council, after which the Council may open negotiations.

4. In connection with the decision authorising negotiations, depending on the subject of the future agreement, the Council shall nominate the negotiator or leader of the Community's negotiating team.

5. Without prejudice to the specific provisions laid down in Article 24, the Council may address negotiating directives to the negotiator of the agreement and may designate a special committee in consultation with which the negotiations must be held.
6. On a proposal from the agreement negotiator, the Council shall decide on the signing and, if necessary, provisional application of agreements before entry into force.
7. In matters relating to humanitarian aid and trade with developing countries, the Council shall conclude agreements on the proposal of the agreement negotiator. The Council shall not conclude any agreement until the European Parliament has been consulted. The Parliament shall deliver its opinion within a time-limit which the Council may lay down according to the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act. The European Parliament's assent shall be required for association agreements, Community accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms and for agreements establishing a specific institutional framework by organising cooperation procedures, agreements with important budgetary implications for the Community and agreements covering fields to which the legislative procedure applies. The Council and the European Parliament may, in an urgent situation, agree upon a time-limit for the assent.
8. When concluding an agreement on humanitarian aid or trade with developing countries, the Council may, by way of derogation from the foregoing, authorise the negotiator of the agreement to approve modifications on the Community's behalf where the agreement provides for them to be adopted by a simplifying procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.
9. The Council shall act by unanimity throughout the procedure.
10. The Council shall decide to suspend the application of an agreement, and establish the positions to be adopted on the Community's behalf in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.
11. The European Parliament shall be immediately and fully informed at all the stages of the procedure.
12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the simplifying Treaty. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless the simplifying Treaty is revised in accordance with the procedure laid down in [Article [N]].

### **Article III-223**

1. By way of derogation from [Article 33], Member States which are part of the Eurozone, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a system of exchange rates for the euro in relation to non-Community currencies. Member States which are part of the Eurozone, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The Chairman of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, Member States which are part of the Eurozone, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Community and one or more States or international organisations, Member States which are part of the Eurozone shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.

4. Without prejudice to the Eurozone's competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

## **Chapter VII: Relations with International Organisations and Third Countries and Union delegations**

### **Article III-224**

1. The Community shall establish all appropriate forms of cooperation with the United Nations, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.
2. It shall also maintain such relations as are appropriate with other international organisations.

### **Article III-225**

1. Community delegations in third countries and to international organisations shall represent the Community.
2. Community delegations shall operate under the authority of the European Council.

## **Chapter VIII: Implementation of the solidarity clause**

### **Article III-226**

1. The Council shall adopt a decision defining the arrangements for the implementation of the solidarity clause referred to in [Article I-42].
2. Should a Member State fall victim to a terrorist attack, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.
3. For the purposes of this Article, the Council shall be assisted by the Political and Security Committee and by the Standing Committee on Internal Security, which shall, if necessary, submit joint opinions.
4. Member States should be encouraged to regularly report to the European Council on the possible terrorist threats to their country and these reports shall be discussed and evaluated in Council.

## - PART FOUR: GENERAL AND FINAL PROVISIONS -

### **Article IV-1: Repeal of earlier Treaties**

The Treaty establishing the European Community, the Treaty on European Union and the acts and treaties which have supplemented or amended them and are listed in Protocol ... annexed to the Treaty establishing the Constitution shall be repealed as from the date of entry into force of the Treaty establishing the Constitution.

### **Article IV-2: Legal continuity in relation to the previous European Community and the European Union**

The European Community shall succeed to all the rights and obligations of the previous European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the simplifying Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Community, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force under the conditions laid down in Protocol ... annexed to the simplifying Treaty establishing the simplifying Treaty. The case-law of the Court of Justice of the European Communities shall be maintained as a source of interpretation of Community law.

### **Article IV-3: Scope**

1. The simplifying Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland, ...

2. The simplifying Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article ... of Part Two.

3. The special arrangements for association set out in Part [Four of the TEC] of the simplifying Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The simplifying Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The simplifying Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. The simplifying Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of

Finland and the Kingdom of Sweden.

6. Notwithstanding the preceding paragraphs:

(a) the simplifying Treaty shall not apply to the Faeroe Islands;

(b) the simplifying Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;

(c) the simplifying 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 IV-4: Regional unions**

The simplifying 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 the simplifying Treaty.

#### **Article IV-5: Protocols**

The protocols annexed to this simplifying Treaty shall form an integral part thereof.

#### **Article IV-6: Procedure for revising the simplifying Treaty**

1. The government of any Member State or the European Parliament may submit to the Council proposals for the amendment of the simplifying Treaty. The national Parliaments shall be notified of these proposals.

2. If the European Council, after consulting the European Parliament, adopts by unanimity a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and any accession states. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The Convention shall examine the proposals for amendments and shall adopt one or more recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

The amendments shall enter into force after being ratified by all the Member States in national referenda, where permitted by national constitutions.

#### **Article IV-7: Adoption, ratification and entry into force of the simplifying Treaty**

1. The simplifying Treaty shall be ratified by the High Contracting Parties through national referenda, where permitted by national constitutions. The instruments of ratification shall be deposited with the Government of the Italian Republic.

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

3. If, two years after the signature of the simplifying Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council which shall act on a unanimous basis.

#### **Article IV-8: Duration**

The simplifying Treaty is concluded for an unlimited period. If, however, an amending Convention has not been convened for more than ten years since the date of ratification, a new Convention shall be automatically convened to review the simplifying Treaty.

#### **Article IV-9: Languages**

The simplifying Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish, [Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovakian and Slovene] languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.



## **PROTOCOL ON THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN COMMUNITY**

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which individual national parliaments scrutinise their own governments in relation to the activities of the Community is a matter for the particular constitutional organisation and practice of each Member State.

DESIRING, however, to encourage greater involvement of national parliaments in the activities of the European Community and to enhance their ability to express their views on legislative proposals as well as on other matters which may be of particular interest to them.

**2. HAVE AGREED UPON THE FOLLOWING PROVISIONS, WHICH SHALL BE ANNEXED TO THE SIMPLIFYING TREATY:**

### **I. Information for Member States' national parliaments**

1. All European Parliament consultation documents (green and white papers and communications) shall be forwarded directly by the Parliament to Member States' national parliaments upon publication. The Parliament shall also send Member States' national Parliaments the annual legislative programme as well as any other instrument of legislative planning or policy strategy that it submits to the European Council and Commission, at the same time as to those institutions.

**3.**

2. The European Parliament shall send all its proposals for legislation directly to Member States' national parliaments at the same time as to the European Commission and to the Council.

**4.**

**5. 3. THE MEMBER STATES' NATIONAL PARLIAMENTS MAY SEND TO THE MEDIATING COMMITTEE A REASONED OPINION ON WHETHER THE EUROPEAN PARLIAMENT'S LEGISLATIVE PROPOSAL COMPLIES WITH THE PRINCIPLE OF SUBSIDIARITY, ACCORDING TO THE PROCEDURE LAID DOWN IN THE PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY.**

**6. 4. A SIX-WEEK PERIOD SHALL ELAPSE BETWEEN A LEGISLATIVE PROPOSAL BEING MADE AVAILABLE BY THE EUROPEAN PARLIAMENT TO THE EUROPEAN COMMISSION, THE COUNCIL**

**AND THE MEMBER STATES' NATIONAL PARLIAMENTS IN THEIR LANGUAGES AND THE DATE WHEN IT IS PLACED ON A COUNCIL AGENDA FOR ADOPTION OR FOR ADOPTION OF A POSITION UNDER THE LEGISLATIVE PROCEDURE SUBJECT TO EXCEPTIONS ON GROUNDS OF EXTREME URGENCY, THE REASONS FOR WHICH SHALL BE STATED IN THE ACT OR COMMON POSITION.**

5. The agendas for and the outcome of Council meetings, including the minutes of meetings where the Council is deliberating on legislative proposals, shall be transmitted directly to Member States' national Parliaments, at the same time as to Member States' governments.

6. The Court of Auditors shall send its annual report to the Member States' national parliaments, for information, at the same time as to the European Parliament and to the Council.

7. In the case of bicameral national Parliaments, these provisions shall apply to both chambers.

## **II. Interparliamentary cooperation**

8. The European Parliament and the national Parliaments shall together determine how interparliamentary cooperation may be effectively and regularly organised and promoted within the European Community.

7.

9. The Conference of European Affairs Committees, set up on 16 and 17 November 1989, may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That Conference shall in addition promote the exchange of information and best practice between Member States' Parliaments and the European Parliament, including their special committees. The Conference may also organise interparliamentary conferences on specific topics. Contributions from the Conference shall in no way bind national parliaments or prejudice their position.

## **PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY**

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Community.

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as enshrined in Article 8 of the simplifying Treaty, and to establish a system for monitoring the application by the institutions of those principles.

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

1. Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 8 of the simplifying Treaty.
2. The European Parliament shall have the right of initiative.
3. The European Parliament shall send all legislative proposals agreed to by a majority vote to the European Council who will then decide, by qualified majority, which should be debated by national parliaments.
4. The European Parliament shall justify its proposal to the European Council with regard to the principle of subsidiarity. Any legislative proposal should contain a detailed statement making it possible to appraise compliance with the principle of subsidiarity. This statement should contain an assessment of the proposal's financial impact. The reasons for concluding that a Community objective can be better achieved at Community level must be substantiated by qualitative and, wherever possible, quantitative indicators. The Parliament shall take account of the need for any burden, whether financial or administrative, falling upon the Community, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.
- 8.
9. **5. ANY NATIONAL PARLIAMENT OF A MEMBER STATE MAY, WITHIN SIX WEEKS FROM THE DATE OF TRANSMISSION OF A EUROPEAN PARLIAMENT PROPOSAL APPROVED BY THE EUROPEAN COUNCIL, SEND TO A MEDIATING COMMITTEE A REASONED OPINION STATING WHY IT CONSIDERS THAT THE PROPOSAL IN QUESTION DOES NOT COMPLY WITH THE PRINCIPLE OF SUBSIDIARITY. IT WILL BE FOR EACH NATIONAL PARLIAMENT TO MAKE THE INTERNAL ARRANGEMENTS FOR CONSULTING EACH CHAMBER IN THE CASE OF BICAMERAL**

**PARLIAMENTS AND/OR, WHERE APPROPRIATE, REGIONAL PARLIAMENTS WITH LEGISLATIVE POWERS.**

6. The Mediating Committee shall take account of the reasoned opinions of the national parliaments.

The national Parliaments of Member States with unicameral Parliamentary systems shall have two votes, while each of the chambers of a bicameral Parliamentary system shall have one vote.

**10. WHERE AT LEAST ONE THIRD OF NATIONAL PARLIAMENTS ISSUE REASONED OPINIONS ON THE PROPOSAL'S NON-COMPLIANCE WITH THE PRINCIPLE OF SUBSIDIARITY, THE PROPOSAL SHALL BE WITHDRAWN AND MEMBER STATES MAY PROCEED ON A BILATERAL BASIS.**

**11.**

**12. 7. UNDER ARTICLE [CURRENT ARTICLE 230] OF THE SIMPLIFYING TREATY, THERE SHALL BE A EUROPEAN ARBITRATOR WHO CAN BE CONSULTED IN CASES WHEN IT IS FELT THAT THE PRINCIPLE OF SUBSIDIARITY HAS BEEN MISAPPLIED, AT THE REQUEST OF A SINGLE NATIONAL GOVERNMENT OR A PETITION BY FORTY PERCENT OF MPs IN THE NATIONAL PARLIAMENTS OF AT LEAST A QUARTER OF THE MEMBER STATES.**

**13.**

**14. 9. THE COMMISSION SHALL SUBMIT EACH YEAR TO THE EUROPEAN COUNCIL, THE EUROPEAN PARLIAMENT AND NATIONAL PARLIAMENTS A REPORT ON THE APPLICATION OF ARTICLE 8(3) OF THE SIMPLIFYING TREATY.**

- SECTION THREE -

**THE SIMPLIFYING TREATY AND CONSTITUTION FOR  
EUROPE IN PARALLEL WITH EXPLANATORY NOTES**

**PRAESIDIUM**

**DRAFT TEXT OF THE ARTICLES OF THE  
TREATY ESTABLISHING A  
CONSTITUTION FOR EUROPE**

**TIMOTHY KIRKHOPE**

**DRAFT TEXT OF THE ARTICLES OF THE  
EUROPEAN COMMUNITY'S SIMPLIFYING  
TREATY**

## PART ONE

### TITLE I: Definition and objectives of the Union

#### Article I-1: Establishment of the Union

1. Reflecting the will of the citizens and States of Europe to build a common future, this Constitution establishes the European Union, on which the Member States confer competences to attain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives, and shall exercise in the Community way the competences they confer on it.

2. The Union shall be open to all European States which respect its values and are committed to promoting them together.

#### Article I-2: The Union's values

The Union is founded on the values of respect for human dignity, liberty, democracy, the rule of law and respect for human rights. These values are common to the Member States in a society of pluralism, tolerance, justice, equality, solidarity and non-discrimination.

#### Article I-3: The Union's objectives

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

### TITLE I: Definition and objectives of the European Community

#### Article I-1: Establishment of the European Community

1. This simplifying Treaty establishes a European Community which shall have as its task the competences outlined in Title III.

2. The Community shall be open to all European States who wish to work together for their mutual benefit.

3. The people of each Member State shall be consulted by referenda (where permitted by national constitutions) before ratification of this simplifying Treaty by Member States' Governments.

#### Article I-2: The Community's values

The Community is founded on the values of respect for human dignity, liberty, democracy, the rule of law and respect for human rights, values which are common to the Member States. Its aim is a society at peace, through the practice of tolerance, justice and solidarity.

#### Article I-3: The Community's objectives

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

2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and a single market where competition is free and undistorted.

3. The Union shall work for a Europe of sustainable development based on balanced economic growth, with a social market economy aiming at full employment and social progress.

It shall aim at a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of children's rights.

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

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

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

5. These objectives shall be pursued by appropriate means, depending on the extent to which the relevant

2. The Community shall work for a Europe of sustainable development based on deregulation, competitiveness, a market economy for companies and consumers, free trade, environmental protection and economic and monetary union for those who wish to participate.

4. The Community shall contribute to sustainable development, mutual respect among peoples, the promotion of free markets and free trade, observance of internationally accepted legal commitments, and peace between States.

5. These objectives shall be pursued by appropriate

competences are attributed to the Union in this Constitution.

#### **Article I-4: Fundamental freedoms and non-discrimination**

1. Free movement of persons, goods, services and capital, and freedom of establishment shall be guaranteed within and by the Union, in accordance with the provisions of this Constitution.

2. In the field of application of this Constitution, and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.

#### **Article I-5: Relations between the Union and the Member States**

1. The Union shall respect the national identities of its Member States, inherent in their fundamental structures, political and constitutional, including for regional and local self government. It shall respect their essential State functions, including for ensuring the territorial integrity of the State, and for maintaining law and order and safeguarding internal security.

2. Following the principle of loyal cooperation, the Union and the Member States shall, in full mutual respect, assist each other to carry out tasks which flow from the Constitution.

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

means, depending on the extent to which the relevant competences are attributed to the Community by this simplifying Treaty.

#### **Article I-4: Fundamental freedoms and non-discrimination**

1. Free movement of persons, goods, services and capital, and freedom of establishment shall be guaranteed within and by the Community, in accordance with the provisions of this simplifying Treaty.

2. In the field of application of this simplifying Treaty and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be avoided wherever reasonable and possible.

#### **Article I-5: Relations between the Union and the Member States**

1. The Community shall respect the national identities of its Member States and their national sovereignties.

2. In accordance with the principle of cooperation, the Community and the Member States should, in full mutual respect, assist each other to carry out tasks which flow from the simplifying Treaty.



## ARTICLE I-6: LEGAL PERSONALITY

The Union shall have legal personality.

## TITLE II: Fundamental rights and citizenship of the Union

### ARTICLE I-7: FUNDAMENTAL RIGHTS

1. The Union shall recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights which constitutes the Second Part of this Constitution.

2. The Union shall seek accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Accession to that Convention shall not affect the Union's competences as defined in this Constitution.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

### Article I-8: Citizenship of the Union

1. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship; it shall not replace it.

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

– the right to move and reside freely within the territory of the Member States;

– the right to vote and to stand as candidates in

## TITLE II: Citizenship

### Article I-8: Citizenship

1. Citizenship of a Member State shall also confer citizenship of the European Community. Citizenship of the European Community shall not replace national citizenship.

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

– the right to move and reside freely within the territory of the Member States;

elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;

– the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;

– the right to petition the European Parliament, to apply to the Union Ombudsman, and to write to the Institutions and advisory bodies of the Union in any of the Union's languages and to obtain a reply in the same language.

3. These rights shall be exercised in accordance with the conditions and limits defined by this Constitution and by the measures adopted to give it effect.

### TITLE III: UNION COMPETENCES AND ACTIONS

#### Article I-9: Fundamental principles

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

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

3. Under the principle of subsidiarity, in areas which

– the right to vote and to stand as a candidate in elections to the European Parliament and in municipal elections in their Member State of residence under the same conditions as nationals of that State;

– the right to enjoy, in the territory of a third country in which the Member State of which they are a national is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;

– the right to petition the European Parliament, to apply to the Ombudsman, and to write to the institutions and advisory bodies of the *Community* in any of the *Community's* languages and to obtain a reply in the same language.

3. These rights shall be exercised in accordance with the conditions and limits defined by this *simplifying Treaty* and by the measures adopted to give it effect.

### TITLE III: *Community* competences and actions

#### ARTICLE I-9: FUNDAMENTAL PRINCIPLES

1. The limits *and use* of *Community* competences are governed by the *principles of conferral, subsidiarity, proportionality and cooperation*.

2. *In accordance with* the principle of conferral, the *Community* shall act within the limits of the competences conferred upon it by the *simplifying Treaty* to attain the objectives *the simplifying Treaty sets out*. Competences not conferred upon the *Community* by the *simplifying Treaty* remain with the Member States.

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

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

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

The Institutions shall apply the principle of proportionality as laid down in the Protocol referred to in paragraph 3.

#### *Article I-10: Union law*

1. The Constitution, and law adopted by the Union's Institutions in exercising competences conferred on it, shall have primacy over the law of the Member States.

2. Member States shall take all appropriate measures, general or particular, to ensure fulfilment of the obligations flowing from the Constitution or resulting from the Union Institutions' acts.

3. In accordance with the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Community shall act only if and insofar as the objectives of the intended action cannot be sufficiently achieved by the Member States, acting alone or with each other, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Community level by unanimous agreement in each case.

The Community Institutions shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality, annexed to the simplifying Treaty. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in the Protocol.

4. In accordance with the principle of proportionality, the scope and form of Community action shall not exceed what is necessary to achieve the objectives of the simplifying Treaty as specified for each competence.

The Institutions shall apply the principle of proportionality as laid down in the Protocol referred to in paragraph 3.

#### ARTICLE I-10: COMMUNITY LAW

1. The simplifying Treaty, and law adopted by the Community Institutions in exercising competences conferred on it by the simplifying Treaty, should be considered law in a Member State once the National Parliament concerned has approved that law.

2. Member States should take all appropriate measures to ensure fulfilment of the obligations flowing from the simplifying Treaty or resulting from actions taken by the Community Institutions, under the scrutiny of joint committees of national MPs and

## Article I-11: Categories of competence

1. When the Constitution confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of acts adopted by the Union.
2. When the Constitution confers on the Union a competence shared with the Member States in a specific area, the Union and the Member States shall have the power to legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.
3. The Union shall have competence to coordinate the economic and employment policies of the Member States.
4. The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.
5. In certain areas and in the conditions laid down in the Constitution, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.
6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions specific to each area in Part Three of the

MEPs.

## ARTICLE I-11: CATEGORIES OF COMPETENCE

1. When the simplifying Treaty confers on the Community exclusive competence in a specific area, only the Community may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Community providing such exclusivity has been unanimously agreed.
2. When the simplifying Treaty confers on the Community a competence shared with the Member States in a specific area, the Community and the Member States shall have the power to legislate and adopt legally binding acts in this area. The Community should exercise its competence only if and to the extent that the Member States have not exercised theirs.
5. In certain areas and in the conditions laid down in the simplifying Treaty, the Community shall have competence to carry out actions to coordinate, supplement or support the actions of the Member States, without thereby superseding their competence in these areas, providing such actions have been unanimously agreed.
6. The Community shall exercise its competences to implement the policies defined in Part Three of the

Constitution.

#### ARTICLE I-12: EXCLUSIVE COMPETENCE

1. The Union shall have exclusive competence to establish competition rules within the internal market, and in the following areas:

- monetary policy, for the Member States which have adopted the euro,
- common commercial policy,
- customs union,
  
- the conservation of marine biological resources under the common fisheries policy.

2. The Union shall have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union, is necessary to enable the Union to exercise its competence internally, or affects an internal Union act.

#### Article I-13: Areas of shared competence

1. The Union shall share competence with the Member States where the Constitution confers on it a competence which does not relate to the areas referred to in Articles I-12 and I-16.

2. Shared competence applies in the following principal areas:

- internal market,
- area of freedom, security and justice,
- agriculture and fisheries, excluding the conservation of marine biological resources,
- transport and trans-European networks,
- energy,
- social policy, for aspects defined in Part Three,

simplifying Treaty in accordance with the provisions specific to each area which are there set out.

#### ARTICLE I-12: EXCLUSIVE COMPETENCES

1. The Community shall have exclusive competence to establish competition rules, within the internal market, and in the following areas:

- 
- 
- customs union orientated towards international free trade.
- 

2. The Community shall have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Community, is necessary to enable the Community to exercise its competence internally, or affects an internal Community act.

#### ARTICLE I-13: SHARED COMPETENCES

1. The Community shall share competence with the Member States where the simplifying Treaty confers on it a competence which does not relate to the areas referred to in Articles I-12 and I-16.

2. Shared competence applies in the following principal areas:

- internal market
- agriculture
- trans-European networks

- economic and social cohesion,
- environment,
- consumer protection,
- common safety concerns in public health matters.

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

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

**Article I-14: The coordination of economic and employment policies**

1. The Union shall adopt measures to ensure coordination of the economic policies of the Member States, in particular by adopting broad guidelines for these policies. The Member States shall coordinate their economic policies within the Union.

2. Specific provisions shall apply to those Member States which have adopted the euro.

3. The Union shall adopt measures to ensure

- environment
- consumer protection, *and*
- *commercial policy*

3. In the areas of research and technological development, the *Community* shall have competence to carry out actions, in particular to implement programmes, *provided such actions have been agreed by unanimity*; however, the exercise of that competence shall not result in Member States being prevented from exercising their competence.

4. In the areas of development cooperation and humanitarian aid, the *Community* shall have competence to take action and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising their competence.

*5. Areas of shared competence shall be reviewed on a regular basis to ensure competences are exercised at the appropriate level according to the principle of subsidiarity.*

ARTICLE I-14: THE COORDINATION OF ECONOMIC POLICIES

2. Specific provisions *for the coordination of economic policy* shall apply to those Member States which have adopted the euro.

coordination of the employment policies of the Member States, in particular by adopting guidelines for these policies.

4. The Union may adopt initiatives to ensure coordination of Member States' social policies.

#### **Article I-15: The common foreign and security policy**

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

2. Member States shall actively and unreservedly support the Union's common foreign and security policy in a spirit of loyalty and mutual solidarity and shall comply with the acts adopted by the Union in this area. They shall refrain from action contrary to the Union's interests or likely to impair its effectiveness.

#### **Article I-16: Areas of supporting, coordinating or complementary action**

1. The Union may take supporting, coordinating or complementary action.

2. The areas for supporting, coordinating or complementary action shall be, at European level:

- industry
- protection and improvement of human health
- education, vocational training, youth and sport
- culture
- civil protection.

#### ARTICLE I-16: AREAS FOR SUPPORTING, COORDINATING OR COMPLEMENTARY ACTION

1. The Union may take supporting, coordinating or complementary action.

2. The areas for supporting, coordinating or complementary action shall be:

- industry to promote a deregulated industrial base
- education, vocational training and youth
- protection against disasters
- transport

3. Legally binding acts adopted by the Union on the basis of the provisions specific to these areas in Part Three cannot entail harmonisation of Member States' laws or regulations.

**A. Article I-17: Flexibility clause**

1. If action by the Union should prove necessary within the framework of the policies defined in Part Three to attain one of the objectives set by this Constitution, and the Constitution has not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall take the appropriate measures.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-9(3), the Commission shall draw Member States' national Parliaments' attention to proposals based on this Article.

3. Provisions adopted on the basis of this Article may not entail harmonisation of Member States' laws or regulations in cases where the Constitution excludes such harmonisation.

- energy

- employment to provide a flexible labour market

3. Legally binding acts adopted by the Community on the basis of the provisions specific to these areas in Part Three cannot entail harmonisation of Member States' laws or regulations.

ARTICLE I-17: FLEXIBILITY CLAUSE

1. If action by the Community should prove necessary within the framework of the policies defined in Part Three to attain one of the objectives set by this simplifying Treaty, and the simplifying Treaty has not provided the necessary powers, the Council, acting unanimously on a proposal from the European Parliament and, where permitted by national constitutions, national referenda, shall take the appropriate measures, providing such actions will not curtail any Member State from acting unilaterally to promote its interests.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article I-9(3), the Commission shall draw Member States' national parliaments' attention to proposals based on this Article.

3. Provisions adopted on the basis of this Article cannot entail harmonisation of Member States' laws or regulations in cases where the simplifying Treaty excludes such harmonisation.



## TITLE IV: The Union's Institutions

### Chapter I: Institutional Framework

#### Article I-18: The Union's Institutions

1. The Union shall be served by a single institutional framework which shall aim to:

- advance the objectives of the Union,
- promote the values of the Union,
- serve the interests of the Union, its citizens and its Member States,

and ensure the consistency, effectiveness and continuity of the policies and actions which it undertakes in pursuit of its objectives.

2. This institutional framework comprises:

The European Parliament,  
The European Council,  
The Council of Ministers,  
The European Commission,  
The Court of Justice of the European Union,  
The European Central Bank,  
The Court of Auditors.

3. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practice full mutual cooperation.

#### Article I-19: The European Parliament

1. The European Parliament shall, jointly with the Council, enact legislation, as well as exercise functions of political control and consultation as laid down in the Constitution. It shall elect the President of the European Commission.

## TITLE IV: The Community's Institutions

### Chapter I: Institutional Framework

#### Article I-18: The Community's Institutions

1. The Community shall be served by a single institutional framework which shall aim to:

- advance the objectives of the Community,
- promote the values of the Community,
- serve the interests of the citizens of the Community and its Member States,

and ensure the consistency, effectiveness and continuity of the policies and actions which it undertakes in pursuit of its objectives.

2. This institutional framework comprises:

The European Parliament,  
The European Council,  
The Council of Ministers,  
The European Commission,  
The Court of Justice of the European Community,  
The European Central Bank,  
The Court of Auditors.

3. Each institution shall act within the limits of the powers conferred on it in the simplifying Treaty, and in conformity with the procedures and conditions set out in it. The institutions shall cooperate fully both with each other and with the Member States.

#### Article I-19: The European Parliament

1. The European Parliament shall, jointly with the Council, enact legislation, as well as exercise functions of political control and consultation as laid down in the simplifying Treaty. It shall elect the Chairman of the European Commission, a decision which shall be confirmed by the European Council on a qualified majority basis. The European

2. The European Parliament shall be directly elected by universal suffrage of European citizens in free and secret ballot for a term of five years. Its members shall not exceed seven hundred in number. Representation of European citizens shall be degressively proportional, with a minimum threshold of four members per Member State.

3. The European Parliament shall elect its President and its officers from among its members, for a term of five years.

Parliament shall also have the right to initiate legislation.

2. The European Parliament shall be directly elected by universal suffrage of European citizens in free and secret ballot for a term of five years. Its members shall not exceed seven hundred in number. Representation of European citizens shall be degressively proportional, with a minimum threshold of four members per Member State.

3. The European Parliament shall elect its President and its officers from among its members, for a term of five years.

*Explanation: The right of initiative should reside with the European Parliament and the Commission should become a non-political civil service. This change would go a long way to redressing the perceived democratic deficit in the Community, as a democratically elected body would propose legislation, as is the case in most Member States. I envisage the legislative process working as follows:*

*1. National parliaments, national governments, civil society and members of the public – in fact, any EU citizen – could have the right to suggest new European proposals to their MEP. This would also expand the existing right of petition.*

*2. If a national delegation decided to support the proposal, or included the proposal in a larger package of measures, they would then need the support of at least 10% of MEPs representing a minimum of 5 Member States for the proposal to be considered in Committee. This would ensure that committees are not overloaded by unpopular proposals that do not have the necessary support to proceed with a real prospect of success.*

*3. If a majority of the Members of a Committee supported the proposal – which could be amended by the Committee – it would then be considered in a plenary session of the European Parliament.*

4. If a majority of the total number of MEPs in a plenary vote supported the amended proposal, it would then be forwarded to the European Council.

5. In the Council a qualified majority would be required for it to be considered by the national parliaments. The proposal could not be amended by the Council.

This change would not imply abolishing the veto, because national parliaments would have an enhanced right to veto all new European proposals that are not exclusive competences of the Community and exclusive competences are already decided by qualified majority voting.

6. New proposals falling under the exclusive competence of the Community (i.e. matters relating to the single market and customs union, Article 11), would require a qualified majority of the national parliaments to become a European Community law or an opinion.

New proposals under the shared competence of the Community (Article 12) or areas for supporting action (Article 15) would require the unanimous support of the national parliaments for approval.

7. If a national parliament rejected the new proposal, a Mediation Committee would be formed to include representatives of the national parliament, the national government, the European Parliament and the current Presidency.

8. If a proposal was then approved, a joint committee of MPs and MEPs would be formed to oversee the implementation of this new European law.

If mediation failed, or if the proposal failed at any other legislative stage, it would be rejected as a European law, but Member States would be free to adopt it on a bilateral or multilateral basis as they chose.

#### **Article I-20: The European Council**

1. The European Council shall provide the Union

#### **Article I-20: The European Council**

1. The European Council shall provide the

with the necessary impetus for its development, and shall define its general political directions and priorities.

2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The Foreign Minister shall take part in its work.

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

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

#### **Article I-21 The European Council Chair**

1. The European Council shall elect its President, by qualified majority, for a term of two and a half years, renewable once. The person elected must be, or have been for at least two years, a member of the European Council. In cases of serious malpractice, the European Council can end his mandate according to the same procedure.

On issues concerning its common foreign and security policy he shall ensure that the Union at his level is effectively represented in the wider world.

2. The President of the European Council shall chair it and drive forward its work, ensuring proper preparation and continuity. He shall endeavour to

Community with the necessary impetus for its development, and shall define its general political directions and priorities.

2. The European Council shall consist of the Heads of State or Government of the Member States, together with its Chairman and the Chairman of the Commission.

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

4. Except where the simplifying Treaty provides otherwise, decisions of the European Council shall be taken by consensus.

#### **Article I-21: The European Council Chairman**

1. The European Council shall elect its Chairman, by qualified majority, for a term of two and a half years, renewable once. The person elected must be, or have been for at least two years, a member of the European Council. In cases of serious malpractice, if a qualified majority of members of the European Council agree to suspend the Chairman, a new Chairman shall be elected according to the same procedure.

2. The Chairman of the European Council shall chair it and drive forward its work, ensuring proper preparation and continuity. He shall endeavour to

facilitate cohesion and consensus within the European Council. He shall present a report to the European Parliament after each of its meetings.

3. The European Council may decide by consensus to create a board consisting of three of its members chosen according to a system of equitable rotation.

4. The President of the European Council may not be a member of another European institution or hold a national mandate.

#### **Article I-22: The Council of Ministers**

1. The Council of Ministers shall, jointly with the European Parliament, enact legislation, and shall carry out policy-making and co-ordinating functions, as laid down in the Constitution.

2. The Council of Ministers shall consist of a representative of each Member State at ministerial level for each of its formations. Only this representative may commit the Member State in question, and cast its vote.

3. Except where the Constitution provides otherwise, decisions of the Council shall be taken by qualified majority.

#### **Article I-23: Council formations**

1. The General Affairs Council shall ensure consistency in the work of the Council of Ministers. With the participation of the Commission, it shall prepare meetings of the European Council.

2. The Legislative Council shall consider and, jointly with the European Parliament, enact European laws and European framework laws, in accordance with the provisions of the Constitution. Each Member

facilitate cohesion and consensus within the European Council. He shall present a report to the European Parliament after each of its meetings.

3. The European Council may decide by consensus to create a board consisting of three of its members chosen according to a system of equitable rotation.

4. The *Chairman* of the European Council may not be a member of another European institution or hold a national mandate.

#### **Article I-22: The Council of Ministers**

1. The Council of Ministers shall, jointly with the European Parliament, enact legislation, and shall carry out policy-making and co-ordinating functions, as laid down in the *simplifying Treaty*.

2. The Council of Ministers shall consist of a representative of each Member State at ministerial level for each of its formations. Only this representative may commit the Member State in question, and cast its vote.

3. Except where the *simplifying Treaty* provides otherwise, decisions of the Council shall be taken by qualified majority.

#### **Article I-23: Council formations**

1. The General Affairs Council shall ensure consistency in the work of the Council of Ministers. With the participation of the Commission, it shall prepare meetings of the European Council.

2. The Legislative Council shall consider and, jointly with the European Parliament, enact European laws and European framework laws, in accordance with the provisions of the *simplifying Treaty*. Each

State's ministerial representative may be assisted by one or, if necessary, two specialist ministers, reflecting the business on the Council agenda.

3. The Foreign Affairs Council shall, on the basis of strategic guidelines laid down by the European Council, flesh out the Union's external policies, and ensure that its actions are consistent. It shall be chaired by the Union's Foreign Minister.

4. The Council shall also meet in the configuration of an Economic and Financial Affairs Council, and a Council on Justice and Security.

5. The Council, in its General Affairs formation, may decide on further formations.

6. The European Council may decide by consensus that the Presidency of a Council formation, other than that of Foreign Affairs, should be undertaken by a Member State for a period of at least a year, taking into account European political and geographical balance and the diversity of all Member States.

#### **Article I-24: Qualified majority**

1. When the European Council or the Council take decisions by qualified majority, such a majority shall consist of the majority of Member States, representing at least three fifths of the population of the Union.

2. Within the European Council, its President and the President of the Commission do not vote.

#### **Article I-25: The European Commission**

1. The European Commission shall safeguard the general European interest. It shall ensure the application of the Constitution, and steps taken by the

Member State's ministerial representative may be assisted by one or, if necessary, two specialist ministers, reflecting the business on the Council agenda.

3. The Foreign Affairs Council shall, on the basis of strategic guidelines laid down by the European Council, flesh out the Union's external policies, and ensure that its actions are consistent. It shall be chaired by the Chairman of the Council.

4. The Council shall also meet in the configuration of an Economic and Financial Affairs Council, and a Council on Justice and Security.

5. The Council, in its General Affairs formation, may decide on further formations.

6. The European Council may decide by consensus that the Chair of a Council formation, other than that of Foreign Affairs, should be undertaken by a Member State for a period of at least a year, taking into account European political and geographical balance and the diversity of all Member States.

#### **Article I-24: Qualified majority**

1. When the European Council or the Council take decisions by qualified majority, such a majority shall consist of a majority of Member States, representing at least three quarters of the population of the Community.

2. Within the European Council, its Chairman and the Chairman of the Commission do not vote.

#### **Article I-25: The European Commission**

1. The European Commission shall serve the democratically elected European institutions. It shall ensure the application of the simplifying Treaty, steps

institutions under the Constitution. It shall also exercise co-ordinating, executive and management functions as laid down in the Constitution.

2. Except where the Constitution provides otherwise, Union acts can be adopted only on the basis of a Commission proposal.

3. The Commission shall consist of a President and up to fourteen other members. It may call on the help of Associate Commissioners.

4. In carrying out its responsibilities, the Commission shall be completely independent. In the discharge of their duties members of the Commission shall neither seek nor take instructions from any government or other body.

#### **Article I-26: The President of the European Commission**

1. Taking into account the elections to the European Parliament, the European Council, deciding by qualified majority, shall put forward to the European Parliament its proposed candidate for the Presidency of the Commission. This candidate shall be elected by the European Parliament by a majority of its members. If this candidate does not receive the required majority support, the European Council shall within one month put forward a new candidate, following the same procedure as before.

taken by the institutions under the simplifying Treaty, as well as legislation enacted by the European Parliament and Council. It shall also exercise co-ordinating and management functions as laid down in the simplifying Treaty.

3. The Commission shall consist of a Commission Chairman and a Commissioner to supervise each policy area.

4. In carrying out its responsibilities, the Commission shall be supervised by the European Parliament and Council.

*Explanation: The Laeken Declaration called for more democracy in the European Union and set the task of increasing the democratic legitimacy of the European legislative process. Currently, the right of initiative lies with the unelected European Commission. This is the single most important reason why we are suffering from the infamous democratic deficit. The right of initiative should lie with the European Parliament and the Commission should be a non-political civil service.*

#### **Article I-26: Commission Chairman**

1. The European Council, deciding by qualified majority, shall put forward to the European Parliament its proposed candidate for the Commission Chairman. This candidate shall be elected by the European Parliament by a majority of its members. If this candidate does not receive the required majority support, the European Council shall within one month put forward a new candidate, following the same procedure as before. The Commission Chairman shall be a former civil servant from either an EU institution or a Member State.

2. Each Member State shall submit a list of three persons, of which at least one must be a woman, whom it considers qualified to be a European Commissioner. The President-elect, taking account of European political and geographical balance, shall, from among the names submitted, select as members of the Commission up to thirteen persons chosen for their competence, European commitment, and guaranteed independence. The President and the persons so nominated for membership of the Commission shall be submitted as a body to a vote of approval by the European Parliament.

3. The Commission, as a body, shall be responsible to the European Parliament. Under the procedures set out at Art. X of the Constitution, it may pass a censure motion on the Commission. If such a motion is passed, the members of the Commission must all resign. They shall continue to handle everyday business until their successors are nominated.

4. The Commission shall work to guidelines laid down by its President. He shall decide its internal organisation, ensuring that it acts consistently, efficiently and on a collegiate basis. He shall appoint vice-presidents from among the members of the Commission.

5. The President may appoint Associate Commissioners, chosen according to the same criteria as apply for members of the Commission. Their number must not exceed the number of members of the Commission.

#### **Article I-27: The Foreign Minister**

1. The European Council, deciding by qualified majority, with the agreement of the President of the

2. Each Member State shall nominate one person whom it considers qualified to be a European Commissioner. The person shall be a current or former civil servant from that Member State. The Chairman-elect, taking account of European political and geographical balance, shall allocate portfolios for each of the Commissioners. The Chairman and the persons so nominated for membership of the Commission shall be submitted individually to a vote of approval by the European Parliament.

3. The Commission, as a body, shall be responsible to the European Parliament and Council. Under the procedures set out at Art. X of the simplifying Treaty, the European Parliament and Council acting jointly may pass a censure motion on the Commission as a whole or on individual Commissioners. If such a motion is passed, the member(s) of the Commission to which the motion applies must resign. They shall continue to handle everyday business until their successors are nominated.

4. The Commission shall work to guidelines laid down by its Commission Chairman. The Chairman shall decide its internal organisation, ensuring that it acts consistently, efficiently and on a collegiate basis. The Chairman shall appoint vice-Chairman from among the members of the Commission.



Commission, shall appoint the Union's Foreign Minister. He shall conduct the Union's common foreign and security policy.

2. The Foreign Minister shall contribute by his proposals to the development of the common foreign policy, which he shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.

3. The Foreign Minister shall be one of the Vice-Presidents of the Commission. He shall be responsible there for handling external relations and for co-ordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, he shall be bound by Commission procedures.

#### **Article I-28: The Court of Justice of the European Union**

1. The Court of Justice, including the High Court, shall ensure respect for the Constitution and Union law.

Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Union law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part Two, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.

#### **Article I-28: The Court of Justice of the European Community**

1. The Court of Justice, including the High Court, shall ensure respect for the *simplifying Treaty* and Community law.

The Member States shall provide rights of appeal sufficient to ensure effective legal protection in the field of Community law.

2. The Court of Justice shall consist of one judge from each Member State, and shall be assisted by Advocates-General. The High Court shall include at least one judge per Member State: the number shall be fixed by the Statute of the Court of Justice. The judges of the Court of Justice and the High Court, and the Advocates-General of the Court of Justice, chosen from persons whose independence is beyond doubt and who satisfy the conditions set out at Article [XX] of Part II, shall be appointed by common accord of the governments of the Member States for a term of six years, renewable.

3. The Court of Justice shall be competent for:

- ruling on actions brought by the Commission, a

3. The Court of Justice shall be competent for:

- ruling on actions brought by the Commission, a Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in Articles [YY] of Part Two;

- preliminary rulings, at the request of Member State courts, on the interpretation of Union law or the validity of acts adopted by the institutions;

- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

## **Chapter II – Other Institutions and Bodies**

### **Article I-29: The European Central Bank**

1. The European Central Bank shall direct the European System of Central Banks, of which it, alongside the national central banks, forms part.

2. The primary objective of the Bank shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support general economic policies in the Union with a view to contributing to the achievement of the Union's objectives.

3. The Bank shall define and implement the monetary policy of the Union. It alone may authorise the issue of the Union currency, the Euro. It shall conduct other Central Bank tasks according to the provisions of Part II of the Constitution.

4. The Bank shall have legal personality. In the exercise of its powers and for its finances, it shall be independent. Union institutions and bodies, and the

Member State, an institution or a natural or legal person in the cases and according to the modalities foreseen in article [YY] of Part II;

- preliminary rulings, at the request of Member State courts, on the interpretation of Community law or the validity of acts adopted by the institutions;

- ruling on appeals on decisions given by the High Court or exceptionally reviewing these decisions under conditions laid down in the Statute of the Court.

## **Chapter II – Other Institutions and Bodies**

### **Article I-29: The European Central Bank**

1. The European Central Bank shall direct the European System of Central Banks, of which it, alongside the national central banks, forms part.

2. The primary objective of the Bank shall be to maintain price stability. Without prejudice to the objective of price stability, it shall support general economic policies in the Community with a view to contributing to the achievement of the Community's objectives.

3. The Bank shall define and implement the monetary policy of the Community. It alone may authorise the issue of the Community currency, the Euro. It shall conduct other Central Bank tasks according to the provisions of Part II of the simplifying Treaty.

4. The Bank shall have legal personality. In the exercise of its powers and for its finances, it shall be independent. Community institutions and bodies, and

governments of the Member States, shall undertake to respect this principle.

5. The Bank shall adopt such measures as are necessary to carry out its tasks in accordance with the provisions of Articles [A-B] of Part II of the Constitution, and with the conditions laid down in the Statutes of the Bank and of the European System of Central Banks. In accordance with these same provisions, those Member States which have not adopted the Euro, and their central banks, shall retain their powers in monetary matters.

6. Within its areas of competence, the Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level; and may give an opinion.

7. The organs of the Bank, their composition and operating methods are set out in articles X to Y of Part II, as well as in the Statute of the Bank.

#### **Article I-30: The Court of Auditors**

1. The Court of Auditors shall carry out the audit.
2. It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.
3. It shall consist of one national of each Member State. In the performance of their duties, its members shall be completely independent.

#### **Article I-31: The Union's Advisory Bodies**

1. The European Parliament, the Council of Ministers and the Commission shall be assisted by a Committee

the governments of the Member States, shall undertake to respect this principle.

5. The Bank shall adopt such measures as are necessary to carry out its tasks in accordance with the provisions of Articles [A-B] of Part II of the *simplifying Treaty*, and with the conditions laid down in the Statutes of the Bank and of the European System of Central Banks. In accordance with these same provisions, those Member States which have not adopted the Euro, and their central banks, shall retain their powers in monetary matters.

6. Within its areas of competence, the Bank shall be consulted on all proposed *Community* acts, and all proposals for regulation at national level; and may give an opinion.

7. The organs of the Bank, their composition and operating methods are set out in articles X to Y of Part II, as well as in the Statute of the Bank.

#### **Article I-30: The Court of Auditors**

1. The Court of Auditors shall carry out the audit.
2. It shall examine the accounts of all *Community* revenue and expenditure, and shall ensure good financial management.
3. It shall consist of one national of each Member State *who has performed a similar function in that Member State*. In the performance of their duties, its members shall be completely independent.

*Explanation: In Britain, candidates for the Court of Auditors would be selected from institutions such as the National Audit Office.*

of the Regions and an Economic and Social Committee, exercising advisory functions.

2. The Committee of the Regions shall consist of representatives of regional and local bodies who have either been elected to a regional or local authority or are politically accountable to an elected assembly.

3. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of others in representative civil society, notably in socio-economic, civic, professional and cultural areas.

4. The members of the Committee of the Regions and the Economic and Social Committee must not be bound by any mandatory instructions. They shall be completely independent, in the performance of their duties, in the Union's general interest.

5. Rules governing the composition of these Committees, the designation of their members, their powers and their operations, are set out in Articles XY of Part II of the Constitution. The rules governing their composition shall be reviewed at regular intervals by the Council, on the basis of a Commission proposal, in the light of economic, social and demographic developments within the Union.

**Article X: to be inserted in Title VI on "The Union's Democratic Life"**

1. The Congress of the Peoples of Europe shall provide a forum for contact and consultation in European political life. It shall meet at least once a year. Its meetings shall be public. The President of the European Parliament shall convene and chair them.

2. The Congress shall not intervene in the Council's

*Explanation: Whilst it is important for MPs and MEPs to liaise more closely, to meet once a year to hear the forthcoming legislative programme seems unnecessary. It would be far better for MPs and MEPs to scrutinise the transpositions of legislation together in order to prevent 'gold plating' (see Amendment to Articles 9 and 28). This would allow regular opportunities for both contact and consultation between participants in European political life.*

legislative procedure.

3. The President of the European Council shall report on the State of the Union. The President of the Commission shall present the annual legislative programme.

4. One third of the Congress shall be members of the European Parliament: two thirds shall be representatives of national Parliaments. The total shall not exceed seven hundred.

## **TITLE V: Exercise of Union Competence**

### **Chapter I: Common Provisions**

#### **Article I-32: The legal acts of the Union**

1. In exercising the competences conferred on it in the Constitution, the Union shall use as legal instruments, in accordance with the provisions of Part Three, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

A European law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.

A European framework law shall be a legislative act binding, as to the result to be achieved, on the Member States, but leaving the national authorities entirely free to choose the form and means of achieving that result.

A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain specific provisions of the Constitution. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as regards the result to be achieved, on all Member States to which it is addressed, but leaving the national authorities entirely free to choose the form and means of achieving that result.

## **TITLE V: Exercise of Community competence**

### **Chapter I: Common Provisions**

#### **Article I-32: The legal acts of the Community**

1. In exercising the competences conferred on it in the *simplifying Treaty*, the Community shall use as legal instruments, in accordance with the provisions of Part Two, *European Community laws and European Community opinions*.

A European Community law shall be a legislative act having general application. It shall be binding in its entirety and directly applicable in all Member States.

A European decision shall be a non-legislative act, binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions adopted by the institutions shall have no binding force.

2. When considering proposals for legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by this Article in the area in question.

#### ARTICLE I-33: LEGISLATIVE ACTS

1. European laws and European framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council under the ordinary legislative procedure as set out in Article [ex 251]. If the two institutions cannot reach agreement on an act, it shall not be adopted.

In the cases specifically provided for in Article [...] of Part III, laws and framework laws may be adopted at the initiative of a group of Member States in accordance with Article [ex 251].

2. In the specific cases provided for by the Constitution, European laws and European framework laws shall be adopted by the European Parliament with the participation of the Council, or by the Council with the participation of the European Parliament, in accordance with special legislative procedures.

European Community opinions adopted by the institutions shall have no binding force.

2. When considering proposals for European Community laws or European Community opinions, the European Parliament and the Council shall refrain from adopting acts not provided for by the simplifying Treaty.

#### ARTICLE I-33: LEGISLATIVE ACTS

1. European Community laws shall be adopted, on the basis of proposals from the European Parliament, jointly by the Parliament and the Council in accordance with the rules of the legislative procedure referred to in Article [ex251]. If the two institutions cannot reach agreement on an act, it shall not be adopted.

3. When adopting a European Community law or opinion, the European Parliament and the Council shall meet in public.

#### ARTICLE I-34: NON-LEGISLATIVE ACTS

1. The Council and the Commission shall adopt European regulations or European decisions in the cases referred to in Articles I-35 and I-36 and in cases specifically laid down in the Constitution. The European Central Bank shall adopt European regulations and European decisions when authorised to do so by the Constitution.

2. The Council and the Commission, and the European Central Bank when so authorised in the Constitution, shall adopt recommendations.

#### **Article I-35: Delegated regulations**

1. European laws and European framework laws may delegate to the Commission the power to enact delegated regulations to supplement or amend certain non-essential elements of the law or framework law.

The objectives, content, scope and duration of the delegation shall be explicitly defined in the laws and framework laws. A delegation may not cover the essential elements of an area. These shall be reserved for the law or framework law.

2. The conditions of application to which the delegation is subject shall be explicitly determined in the laws and framework laws; they may consist of the following possibilities:

- the European Parliament or the Council may decide to revoke the delegation;
- the delegated regulation may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the

law or framework law.

For the purposes of the preceding paragraph, the European Parliament shall act by a majority of its members, and the Council by a qualified majority.

#### ARTICLE I-36: IMPLEMENTING ACTS

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

2. Where uniform conditions for implementing binding Union acts are needed, those acts may confer implementing powers on the Commission, or, in specific cases, and in the cases provided for in Article I-39, on the Council.

3. The law shall lay down in advance rules and general principles for the mechanisms for control by Member States over implementing acts of the Union.

4. Implementing acts of the Union shall take the form of European implementing regulations or European implementing decisions.

#### Article I-37: Principles common to the Union's legal acts

1. Unless the Constitution contains a specific stipulation, the Institutions shall decide, in compliance with the procedures applicable, the type of act to be adopted in each case, in accordance with the principle of proportionality set out in Article I-9.

2. European laws, European framework laws, European regulations and European decisions shall state the reasons on which they are based and shall refer to any proposals or opinions required by this Constitution.

#### ARTICLE I-36: IMPLEMENTING ACTS

1. Member States shall adopt all measures of national law necessary to implement European Community law subject to the approval of their national Parliament.

3. The implementation of European Community law in each Member State shall be subject to the scrutiny of a joint committee of national MEPs and MPs before being voted on by the national Parliament.

#### Article I-37: Principles common to the Community's legal acts

1. Unless the simplifying Treaty contains a specific stipulation, the institutions shall decide, in compliance with the procedures applicable, on whether a European Community law or a European Community opinion is more appropriate, in accordance with the principle of proportionality set out in Article I-9.

14.1. **2. European Community laws and European Community opinions shall state the reasons on which they are based and shall refer to any proposals or opinions required by this simplifying**



ARTICLE I-38: PUBLICATION AND ENTRY INTO FORCE

1. European laws and European framework laws adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council. In other cases they shall be signed by the President of the Council or by the President of the European Parliament. Laws and framework laws shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following their publication.

2. European regulations and European decisions which do not specify those to whom they are addressed or which are addressed to all Member States shall be signed by the President of the Institution which adopts them, shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following their publication.

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

**Chapter II: Specific provisions**

**Article I-39: Specific provisions for implementing common foreign and security policy**

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

2. The European Council shall identify the Union's strategic interests and determine the objectives of its

**Treaty.**

ARTICLE I-38: PUBLICATION AND ENTRY INTO FORCE

14.2. **1. European Community laws and opinions adopted in accordance with the legislative procedure shall be signed by the President of the European Parliament and by the Chairman of the Council. European Community laws shall be published in the Official Journal of the European Community and shall enter into force on the date specified in them or, in the absence of such a stated date, on the twentieth day following that of their publication.**

14.3.

14.4.

common foreign and security policy. The Council of Ministers shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with the arrangements in Part Three of the Constitution.

3. The European Council and the Council of Ministers shall adopt the necessary decisions.

4. The common foreign and security policy shall be put into effect by the Union's Minister for Foreign Affairs and by the Member States, using national and Union resources.

5. Member States shall consult one another within the Council and the European Council on any foreign and security policy issue which is of general interest in order to determine a common approach. Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the Council or the European Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.

6. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common foreign and security policy, and shall be kept informed of how it evolves.

7. Decisions relating to the common foreign and security policy shall be adopted by the European Council and the Council of Ministers unanimously, except in the cases referred to in Part Three of the Constitution. Discussion shall be based on a proposal from a Member State, from the Union's Minister for Foreign Affairs or from the Minister with the Commission's support. Laws and framework laws are excluded.

8. The European Council may unanimously decide that the Council should act by qualified majority in cases other than those referred to in Part Three of the Constitution.

**Article I-40: Specific provisions for implementing common defence policy**

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

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

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

3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the

Council. Those Member States which together establish multinational forces may also make those forces available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. A European Armaments, Research and Military Capabilities Agency shall be established to identify operational requirements, to put forward measures to satisfy those requirements, to contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, to participate in defining a European capabilities and armaments policy, and to assist the Council in evaluating the improvement of military capabilities.

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

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to maintain the Union's values and serve its interests. The execution of such a task shall be governed by Article [...] of Part Three, Title B, of the Constitution.

6. Those Member States whose military capabilities meet higher criteria and which have made more binding commitments to one another in this area with a view to more demanding missions shall establish structured cooperation within the Union framework. Such cooperation shall be governed by the provisions

of Article [...] of Part Three, Title B, of the Constitution.

7. Until such time as the European Council has acted in accordance with paragraph 2 of this Article, closer cooperation shall be established, in the Union framework, as regards mutual defence. Under this cooperation, if one of the Member States participating in such cooperation is the victim of armed aggression on its territory, the other participating States shall give it aid and assistance by all the means in their power, military or other, in accordance with Article 51 of the United Nations Charter. In the execution of closer cooperation on mutual defence, the participating Member States shall work in close cooperation with the North Atlantic Treaty Organisation. The detailed arrangements for participation in this cooperation and its operation, and the relevant decision-making procedures, are set out in Article [...] of Part Three, Title B, of the Constitution.

8. The European Parliament shall be regularly consulted on the main aspects and basic choices of the common security and defence policy, and shall be kept informed of how it evolves.

**Article I-41: Specific provisions for implementing the area of freedom, security and justice**

1. The Union shall constitute an area of freedom, security and justice:

- by adopting European laws and European framework laws intended, where necessary, to approximate national laws in the areas listed in Part Three of the Constitution;
- by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;
- by operational cooperation between the competent authorities of the Member States, including the

**Article I-41: Cooperation in home affairs at a Community level**

1. The Community shall retain a pillar covering cooperation in home affairs within the Community:

This shall be done:

– through European Community laws and opinions where absolutely necessary but through bilateral and multilateral agreements when possible;

– by promoting mutual confidence between the competent authorities of the Member States and other

police, customs and other services specialising in the prevention and detection of criminal offences.

2. Within the area of freedom, security and justice, national Parliaments may participate in the evaluation mechanisms foreseen in Article [...], Part Three, of the Constitution, and shall be involved in the political monitoring of Eurojust's and Europol's activities in accordance with Articles [...] and [...], Part Three, of the Constitution.

3. In the field of police and judicial cooperation in criminal matters, Member States shall have a right of initiative in accordance with Article [...], Part Three, of the Constitution.

#### **Article I-42: Solidarity clause**

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the victim of terrorist attack or natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

(a) - prevent the terrorist threat in the territory of the Member States;

- protect democratic institutions and the civilian population from any terrorist attack;

- assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack;

(b) - assist a Member State in its territory at the request of its political authorities in the event of a disaster.

2. The detailed arrangements for implementing this provision are at Article [...], of Part Three, Title B, of the Constitution.

#### **Chapter III: Enhanced cooperation**

relevant international organisations;

– by operational cooperation between national authorities for internal security when required.

2. In this field, national parliaments may participate in the evaluation mechanisms foreseen in Part Two of the simplifying Treaty.

#### **Article I-42: Solidarity clause**

1. In application of the principle of solidarity, the Community shall mobilise all the instruments at its disposal, including military resources, to:

(a) - prevent the terrorist threat;

- protect democratic institutions and the civilian population from any terrorist attack;

- assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack .

The detailed rules for implementing this provision appear in Article [...], Part Three, Title B, of the simplifying Treaty.

#### **Chapter III: Enhanced cooperation**

#### **Article I-43: Enhanced cooperation**

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Constitution, subject to the limits and in accordance with the procedures laid down in this article and in Articles [...] to [...] of Part Three of the Constitution.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open to all Member States when it is being established and at any time, in accordance with Article [...] of Part Three of the Constitution.

2. Authorisation to proceed with enhanced cooperation shall be granted by the Council as a last resort, when it has been established within the Council that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that it brings together at least one third of the Member States. The Council shall act in accordance with the procedure laid down in Article [...] of Part Three of the Constitution.

3. Only representatives of the Member States participating in enhanced cooperation shall take part in the adoption of acts adopted within the Council. All Member States may, however, take part in the deliberations of the Council.

Unanimity shall be constituted by the participating States only. A qualified majority shall be defined as a majority of the votes of the participating Member States, representing at least three fifths of the population of those States.

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

#### **Article I-43: Bilateral or multilateral cooperation**

1. Member States wishing to cooperate in areas which are not competences of the Community may do so on a bilateral or multilateral basis. This cooperation will be recognised but not administered by the Community.

4. Any agreements adopted on this basis shall only bind those Member States taking part in such cooperation. They shall not be regarded as an acquis, which has to be accepted by candidates for accession to the Community, because they are independent bilateral or multilateral agreements rather than European Community law.

**TITLE VI: The democratic life of the Community**

*TITLE VI: The democratic life of the Union*

ARTICLE I-44: THE PRINCIPLE OF DEMOCRATIC EQUALITY

ARTICLE I-44: THE PRINCIPLE OF DEMOCRATIC EQUALITY

In all its activities, the Union shall observe the principle of the equality of citizens. All shall receive equal attention from the Union's Institutions.

The Community's operation shall be founded on the principle of the equality of citizens, who shall receive equal attention from the Community's institutions.

**Article I-45: The principle of representative democracy**

**Article I-45: The principle of representative democracy**

1. The working of the Union shall be founded on the principle of representative democracy.

1. The working of the Community shall be founded on the principle of representative democracy.

2. Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council and in the Council by their governments, themselves accountable to national Parliaments, elected by their citizens.

2. Citizens are directly represented at Community level in the European Parliament. Member States are represented in the European Council and in the Council by their governments, themselves accountable to national Parliaments, elected by their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly as possible and as closely as possible to the citizen.

3. Every citizen shall have the right to participate in the democratic life of the Community if this is consistent with the rights they hold in their respective Member States. Decisions shall be taken as openly as possible and as closely as possible to the citizen.

4. Political parties at European level contribute to forming European political awareness and to expressing the will of Union citizens.

4. National delegations in the European Parliament shall contribute to the European debate.

*Explanation: In order to promote the principle of*



**Article I-46: The principle of participatory democracy**

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

2. The Union Institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

3. The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

**Article I-47: The social partners and autonomous social dialogue**

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

**Article I-48: The European Ombudsman**

A European Ombudsman appointed by the European Parliament shall receive, investigate and report on complaints about maladministration within the Union's Institutions, bodies or agencies. The European Ombudsman shall be completely independent in the performance of his duties.

**Article I-49: Transparency of the proceedings of the Union's Institutions**

*subsidiarity, Article 35a should refer to national delegations rather than pan-European political groups.*

**Article I-46: The principle of participatory democracy**

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

2. The Community institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.

*Explanation: In the United Kingdom, for example, prisoners do not have the right to vote and the simplifying Treaty should not provide rights which are not already enshrined in national laws.*

**ARTICLE I-48: THE EUROPEAN OMBUDSMAN**

*An Ombudsman shall be appointed to receive, investigate and report on complaints concerning instances of maladministration within the Community institutions.*

**Article I-49: Transparency of the proceedings of the Community's institutions**

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

2. The European Parliament shall meet in public, as shall the Council when it is discussing and adopting a legislative proposal.

3. Any citizen of the Union, man or woman, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's Institutions, bodies and agencies in whatever form they are produced, in accordance with the conditions laid down in Part Three.

4. A European law shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents.

5. Each institution, body or agency referred to in paragraph 3 shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European law referred to in paragraph 4 above.

ARTICLE I-50: PROTECTION OF PERSONAL DATA

1. In order to promote good governance and ensure the participation of civil society, the Community institutions, bodies and agencies shall conduct their work openly, unless there are compelling reasons for the matter to be debated "in camera".

2. The European Parliament shall meet in public, as shall the Council when it is discussing and adopting a legislative proposal.

3. Any citizen of the Community, man or woman, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Community's Institutions, bodies and agencies in whatever form they are produced, in accordance with the conditions laid down in Part Three.

4. General principles, conditions and limits which, on grounds of public or private interest, govern the right of access to documents shall be determined by the European Parliament and the Council in accordance with the legislative procedure. However, in the interests of accountability, Members of the European Parliament acting in their professional capacity shall have the right to view any Council, Commission or Parliament document.

5. Each institution, agency or body referred to in paragraph 3 shall determine in its own rules of procedure specific provisions regarding access to its documents.

*Explanation: MEPs, as elected representatives in the European Community, should have the right to access documentation in order to guarantee transparency.*

ARTICLE I-50: PROTECTION OF PERSONAL DATA

1. Everyone has the right to the protection of personal data concerning him or her.

2. A European law shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by the Union's Institutions, bodies and agencies, and by the Member States when carrying out activities which come under the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of an independent authority.

#### **Article I-51: Status of churches and non-confessional organisations**

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.

2. The Union equally respects the status of philosophical and non-confessional organisations.

3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

#### **Article X**

1. The Congress of the Peoples of Europe shall provide a forum for contact and consultation in European political life. It shall meet at least once a year. Its meetings shall be public. The President of the European Parliament shall convene and chair them.

2. The Congress shall not intervene in the Council's legislative procedure.

3. The President of the European Council shall report on the state of the Union. The President of the Commission shall present the annual legislative programme.

**4. One third of the Congress shall be members of the European Parliament: two thirds shall be representatives of national Parliaments. The total shall not exceed seven hundred.]**

*TITLE VII: The Union's finances*

#### **Article I-52: Budgetary and financial principles**

1. All items of Union revenue and expenditure shall

1. Everyone has the right to the protection of personal data concerning him or her.

2. *The Parliament and the Council, in accordance with the legislative procedure, shall adopt* the rules relating to the protection of individuals with regard to the processing of personal data by the *Community's* institutions and bodies, and by the Member States when carrying out activities which come under the scope of *Community* law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of an independent authority.

*Comment: The status of these organisations should not be a competence of the European Community and in any event the article is unclearly drafted.*

**TITLE VII: The *Community's* finances**

#### **Article I-52: Budgetary and financial principles**

be included in estimates drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part Three of the Constitution.

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

3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law referred to in Article [ex 279].

4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act providing a legal basis for Union action and for the implementation of the expenditure in accordance with the European law referred to in Article [ex 279)]. This act must take the form of a European law, a European framework law, a European regulation or a European decision.

5. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the proposal or measure in question is capable of being financed within the limit of the Union's own resources and the multiannual financial framework referred to in Article I-54.

6. The Union's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.

7. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union in accordance with the provisions of Article [ex 280], of Part Three.

1. All items of revenue and expenditure of the Community shall be included in estimates to be drawn up for each financial year and shall be shown in the budget, in accordance with the provisions of Part II of the simplifying Treaty.

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

3. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*).

4. The implementation of expenditure shown in the budget shall require the prior adoption of a binding legal act which provides a legal basis for Community action and for the implementation of the expenditure in accordance with the law referred to in Article B (*Part II, ex-279: Financial Regulation*). This act must take the form of a European Community law.

5. With a view to maintaining budgetary discipline, the European Parliament 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 and the multiannual financial framework referred to in Article I-54.

6. The Community's budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Community to ensure that the appropriations entered in the budget are used in accordance with the principles of sound financial management.

7. The Community and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Community in

#### **Article I-53: The Union's resources**

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

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

3. A European law of the Council shall lay down the limit of the Union's resources and may establish new categories of resources or abolish an existing category. That law shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements. The Council shall act unanimously after consulting the European Parliament.

4. A European law of the Council shall lay down the detailed arrangements relating to the Union's resources. The Council shall act after obtaining the consent of the Parliament.

#### **Article I-54: The multiannual financial framework**

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the own resources limits. It shall determine the amounts of the annual ceilings for commitment appropriations by category of expenditure in accordance with the provisions of Article [...] of Part Three.

2. A European law of the Council shall lay down the multiannual financial framework. The Council shall act after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

3. The annual budget of the Union shall comply with the multiannual financial framework.

*Article I-55: The Union's budget*

accordance with the provisions of Article [ex 280], of Part Three.

#### **Article I-53: The Community's resources**

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

3. The Council, acting unanimously on a proposal from 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 I-54: The multiannual financial framework**

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the own resources limits. It shall determine the amounts of the annual ceilings for commitment appropriations by category of expenditure in accordance with the provisions of Article [...] of Part Three.

2. The Council, acting unanimously on a proposal from the European Parliament, shall lay down the multiannual financial framework. The Council shall act after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

3. The annual budget of the Community shall comply with the multiannual financial framework.

#### **Article I-55: The Community's budget**

The European Parliament and the Council shall, on a proposal from the Commission and in accordance with the arrangements laid down in Article [ex 272], adopt the European law determining the Union's annual budget.

#### **TITLE VIII: The Union and its immediate environment**

##### **Article I-56: The Union and its immediate environment**

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

2. For this purpose, the Union may conclude and implement specific agreements with the countries concerned in accordance with Article [...] of Part Three of the Constitution. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

#### TITLE X: UNION MEMBERSHIP

##### **Article I-57: Conditions and procedure for applying for Union membership**

1. The Union shall be open to all the European States which respect the values referred to in Article 2, and

The European Parliament and the Council shall, on a proposal from the European Parliament and in accordance with the arrangements laid down in Article [ex 272], jointly adopt the Community's annual budget.

#### **TITLE VIII: The Community and its immediate environment**

##### ARTICLE I-56: THE COMMUNITY AND ITS IMMEDIATE ENVIRONMENT

1. The Community shall build upon such special relationships as already exist between Member States and non-Member States, in order to promote prosperity and close and peaceful relations based on cooperation.

2. For this purpose, the Community may conclude and implement specific agreements with the countries concerned in accordance with Article [...] of Part Three of the simplifying Treaty. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

*Explanation: Member States should draw on their good relations with other parts of the world in order to contribute to prosperity both in the Community and in the world.*

#### **TITLE X: Community membership**

##### **Article I-57: Procedure for applying for Community membership**

1. The Community shall be open to all the European States whose people share the values referred to in

are committed to promoting them together.

2. Any European State which wishes to become a member of the Union may address its application to the Council. The European Parliament and the Member States' national Parliaments shall be notified of this application. The Council shall act unanimously after consulting the Commission and after obtaining the consent of the European Parliament. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the candidate State. That agreement shall be subject to ratification by all the contracting States, in accordance with their respective constitutional requirements.

#### **Article I-58: Suspension of Union membership rights**

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four fifths of its members after obtaining the consent of the European Parliament, may adopt a decision determining that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on

Article I-2 and who respect them and are committed to promoting them together. Accession to the Community requires acceptance of its simplifying Treaty through a national referendum.

2. Any European State which wishes to become a member of the Community may address its application to the Council. The European Parliament and the national parliaments shall be notified of this application. The Council shall act unanimously after receiving the qualified majority assent of the European Parliament. The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the applicant State. That agreement shall be subject to ratification by all the contracting States in national referenda, where permitted by national constitutions.

*Explanation: Whilst the Council should consult the Commission about the administrative arrangements for the application process, the decision to open the accession dialogue should be taken by the elected representatives of the Community, not the unelected Commission.*

#### **Article I-58: Suspension of Community membership rights**

1. On a reasoned proposal by one third of the Member States or by the European Parliament, the Council, acting by a majority of four fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of the values mentioned in Article 2. Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on

which such a determination was made continue to apply.

2. The European Council, acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the consent of the European Parliament, may adopt a decision determining the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.

3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may adopt a decision suspending certain of the rights deriving from the application of this Constitution to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

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

4. The Council, acting by a qualified majority, may subsequently adopt a decision varying or revoking measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.

5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.

which such a determination was made continue to apply.

2. The European Council, acting by unanimity on a proposal by one third of the Member States and after obtaining the *assent* of the European Parliament, may *determine* the existence of a serious and persistent breach by a Member State of values mentioned in Article 2, after inviting the Member State in question to submit its observations.

3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may *decide to suspend* certain of the rights deriving from the application of this *simplifying Treaty* to the Member State in question, including the voting rights of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

The obligations of the Member State in question under the *simplifying Treaty* shall *not* in any case continue to be binding on that State.

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

5. For the purposes of this Article, the Council shall act without taking into account the vote of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.



6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.

#### **Article I-59: Voluntary withdrawal from the Union**

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

2. A Member State which decides to withdraw shall notify the European Council of its intention; the European Council shall examine that notification. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

The representative of the withdrawing Member State shall not participate in Council or European Council discussions or decisions concerning it.

6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its Members.

*Explanation: A determination of 'a serious breach of the values mentioned in Article 2' should not simply be based on disapproval of any democratically elected government in a nation state.*

*As the civil service of the Community, the Commission should not have the power to propose the suspension of Community rights. This power should lie with elected politicians.*

*If Member States are deprived of the right to vote, it is undemocratic for them to be subject to the obligations under the simplifying Treaty.*

#### **Article I-59: Voluntary withdrawal from the Community**

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

2. A Member State which decides to withdraw shall notify the Council of its intention. Once that notification has been given, the Community shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Community. The departing Member State and the Community shall aim to maintain their existing trade links. That agreement shall be concluded on behalf of the Community by the Council, acting by a qualified majority, after obtaining the assent of the European Parliament.

The withdrawing State shall not participate in the Council's discussions or decisions concerning the withdrawal agreement or legislation coming into force 2 years after the notification referred to in paragraph 2.

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

4. If a State which has withdrawn from the Union asks to re-join, that request shall be subject to the procedure referred to in Article I-57.

3. This *simplifying Treaty* shall cease to apply to the State in question as from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2.

4. If a State which has withdrawn from the Union asks to re-join, that request shall be subject to the procedure referred to in Article I-57.

*Explanatory note: Departing Member States should be encouraged to maintain their trading links with the Community through membership of appropriate international bodies, such as the European Free Trade Area or the European Economic Area.*

**PART TWO**

**THE CHARTER OF FUNDAMENTAL RIGHTS  
OF THE UNION**

## PART THREE

### CHAPTER IV: Area of freedom, security and justice

#### Section 1: General Provisions

##### Article III-153

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights, taking into account the different legal traditions and systems of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals, including stateless persons.
3. The Union shall endeavour to ensure a high level of security by measures to prevent and combat crime, racism and xenophobia, and measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as by the mutual recognition of judgments in criminal matters and the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular by the principle of mutual recognition of documents and judgments in civil matters.

##### Article III-154

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

##### Article III-155

1. Member States' national parliaments shall ensure that the proposals and legislative initiatives submitted under Sections 4 and 5 of this Chapter comply with the principle of subsidiarity, in accordance with the arrangements in the Protocol on the application of the principles of subsidiarity and proportionality.

Member States' national parliaments may participate in the evaluation mechanisms contained in Article III-156 of the Constitution and in the political monitoring of Europol's and Eurojust's activities in accordance with Articles III-169 and III-172.

### CHAPTER IV: Cooperation in home affairs at a Community level

#### Section 1: General Provisions

##### Article III-153

1. The Community shall retain a pillar covering cooperation in home affairs at a Community level, taking into account the different European legal traditions and systems.

4. The Community shall encourage cooperation between criminal, police and judicial authorities and other competent authorities.

##### Article III-154

The European Council shall define the strategic guidelines for Community planning in this field.

##### Article III-155

1. Member States' national parliaments shall ensure that the proposals and legislative initiatives submitted under Sections 4 and 5 of this Chapter comply with the principle of subsidiarity, in accordance with the arrangements in the Protocol on the application of the principles of subsidiarity and proportionality.

Member States' parliaments may participate in the evaluation mechanisms contained in Article III-156 of the simplifying Treaty.

2. [Notwithstanding the provisions foreseen in the Protocol on the application of the principles of subsidiarity and proportionality, where at least one

national parliament has issued a reasoned opinion on non-compliance with the subsidiarity principle of a European Parliament proposal submitted in the context of Chapters 3 and 4 of this Title, the Mediating Committee shall review the proposal. After such review, the national parliament shall hold another vote on the proposal. If they vote against the proposal once again, the proposal will be withdrawn and consenting Member States may proceed on a bilateral or multilateral basis.]

#### **Article III-156**

Without prejudice to Articles [III-261 to III-263], the Council may, on a proposal from the Commission, adopt European regulations or decisions laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Chapter by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament, as well as Member States' national parliaments, shall be informed of the content and results of the evaluation.

#### **Article III-157**

A standing committee shall be set up in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article [III-242], it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies and agencies concerned may be involved in the proceedings of this committee. The European Parliament and Member States' national parliaments shall be kept informed of the proceedings.

#### **Article III-158**

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

#### **Article III-159**

The Council shall adopt, by qualified majority, European regulations to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Chapter,

#### **Article III-156**

Without prejudice to Articles [III-261 to III-263] of this simplifying Treaty, the Council may adopt arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Community action referred to in this Chapter by Member States' authorities. The European Parliament, as well as national parliaments, shall be informed of the content and results of the evaluation.

#### **Article III-158**

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

as well as between those departments and the Commission. It shall act on a Commission proposal, without prejudice to Article [III-160], and after consulting the European Parliament.

#### **Article III-160**

The acts referred to in Sections 4 and 5 of this Chapter shall be adopted:

- (a) on a proposal from the Commission, or
- (b) on the initiative of a quarter of the Member States.

#### **Section 2: Policies on border checks, asylum and immigration**

#### **Article III-161**

1. The Union shall develop a policy with a view to:

- (a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
- (b) carrying out checks on persons and efficient monitoring of the crossing of external borders;
- (c) the gradual introduction of a integrated management system for external borders.

2. For this purpose, a European law or framework law shall establish measures concerning:

- (a) the common policy on visas and other short-stay residence permits;
- (b) the controls to which persons crossing external borders are subject;
- (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;

*Explanation: Sections 4 and 5 refer to matters which should be carried out on a bilateral or multilateral basis.*

*Explanation: The Community should not have competence in this field but Member States, in particular signatories to the Schengen Agreement, should not be prevented from acting together on a bilateral or multilateral basis for their mutual benefit.*

(d) any measure necessary for the gradual establishment of an integrated management system for external borders;

(e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

3. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

#### **Article III-162**

1. The Union shall develop a common policy on asylum and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties.

2. For this purpose, a European law or framework law shall lay down measures for a common European asylum system comprising:

(a) a uniform status of asylum for nationals of third countries, valid throughout the Union;

(b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;

(c) a common system of temporary protection for displaced persons in the event of a massive inflow;

(d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;

(e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;

(f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;

(g) partnership and cooperation with third countries with a view to managing inflows of people applying for asylum or subsidiary or temporary protection.

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

#### **Article III-163**

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

2. To this end, a European law or framework law shall establish measures in the following areas:

(a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunion;

(b) the definition of the rights of third-country nationals residing legally in a Member State,



including the conditions governing the freedom of movement and of residence in other Member States;

(c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation.

3. The Union may conclude readmission agreements with third countries for the readmission of third-country nationals residing without authorisation to their countries of origin or provenance.

4. A European law or framework law may establish measures providing incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

#### **Article III-164**

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

### Section 3: Judicial cooperation in civil matters

#### Article III-165

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

2. To this end, a law or framework law shall lay down measures aimed inter alia at ensuring:

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

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

(c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;

(d) cooperation in the taking of evidence;

(e) a high level of access to justice;

(f) the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;

(g) the development of alternative methods of dispute settlement;

(h) support for the training of the judiciary and

### Section 3: Judicial cooperation in civil matters

#### ARTICLE III-165

1. The Community shall develop judicial cooperation in civil matters having cross-border implications based on the principle of mutual recognition of judgments and decisions in extrajudicial cases.

2. To this end, the European Parliament and the Council, in accordance with the legislative procedure, shall adopt European Community laws aiming inter alia to ensure:

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

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

(c) the compatibility of the rules applicable in the Member States concerning the conflict of laws and of jurisdiction;

(d) cooperation in the taking of evidence;

judicial staff.

3. Notwithstanding paragraph 2, measures concerning those aspects of family law with cross-border implications shall be laid down in a European framework law by the Council. It shall act unanimously after consulting the European Parliament.

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

#### **Section 4: Judicial cooperation in criminal matters**

##### **Article III-166**

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article [III-167].

A European law or framework law shall establish measures to:

- (a) establish rules and procedures aimed at ensuring the recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) encourage the training of the judiciary and judicial staff;
- (d) facilitate cooperation in criminal matters between

judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. In order to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters with a cross-border dimension, a European framework law may establish minimum rules concerning:

(a) mutual admissibility of evidence between Member States;

(b) definition of the rights of individuals in criminal procedure;

(c) rights of victims of crime;

(d) any other specific aspects of criminal procedure which the Council has identified in advance by a European decision. The Council shall act unanimously after receiving the approval of the European Parliament.

Adoption of such minimum rules shall not prevent Member States from maintaining or introducing a higher level of protection for the rights of individuals in criminal procedure.

### **Article III-167**

1. A European framework law may establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with cross-border dimensions resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation

of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

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

2. If the approximation of criminal legislation proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, a European framework law may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned.

Without prejudice to Article [III-160], that framework law shall be adopted by the same procedure as was followed for the adoption of the harmonisation measures referred to in the preceding subparagraph.

#### **Article III-168**

A European law or framework law may establish measures to promote and support the action of Member States in the field of crime prevention. Such measures shall not include the approximation of Member States' legislative and regulatory provisions.

#### **Article III-169**

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national prosecuting authorities in relation to serious crime affecting two or more Member States or

#### ARTICLE III-168

*The European Parliament and the Council, in accordance with the legislative procedure, may adopt European Community laws and opinions* to promote and support the action of Member States in the field of crime prevention. Such measures shall not include the approximation of Member States' legislative and regulatory provisions.

requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

2. A European law shall determine Eurojust's structure, workings, scope of action and tasks. Those tasks may include:

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

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

A European law shall also determine arrangements for involving the European Parliament and Member States' national parliaments in the evaluation of Eurojust's activities.

3. In the prosecutions referred to in this Article, and without prejudice to [Article III-170], formal acts of judicial procedure shall be adopted by the competent national officials.

#### **Article III-170**

1. In order to combat serious crime having a cross-border dimension, as well as illegal activities affecting the interests of the Union, a European law of the Council may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after approval by the European Parliament.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of and accomplices in serious crimes affecting more than one Member State and of offences against the Union's financial

interests, as determined by the European law provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

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

## **Section 5: Police cooperation**

### **Article III-171**

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

2. To this end, a European law or framework law may establish measures concerning:

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

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

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

3. A European law or framework law of the Council may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

## **Section 5: Police cooperation**

### **Article III-171**

1. The *Community* shall *encourage* cooperation involving all the Member States' authorities *with responsibility for internal security*, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

### Article III-172

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

2. A European law shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

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

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

A European law shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with Member States' national parliaments.

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

### Article III-173

A European law or framework law of the Council shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles III-166 and III-171 may

### ARTICLE III-172

*The European Community shall encourage the creation of ad hoc Joint Investigation Teams consisting of police officers from two or more Member States working on a bilateral or multilateral basis to investigate cross-border crimes.*

*Explanation: Police cooperation should be encouraged but this should not be a Community competence. Cross-border crime increasingly involves criminals from across the world, therefore Interpol is the best mechanism for cooperation.*

*Comment: The extent to which police officers from one Member State should be allowed to operate in another Member State should continue to be a national competence. Cross-border crime increasingly involves criminals from across the world, therefore specific European provisions would*



operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.

*be inappropriate.*

## TITLE V: THE UNION'S EXTERNAL ACTION

### Chapter 1: General Applicable Provisions

#### Article III-188

1. The Union's action on the international scene shall be guided by, and designed to advance in the wider world, the principles which have inspired its own creation, development and enlargement: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, equality and solidarity, and for international law in accordance with the principles of the United Nations Charter. The Union shall seek to develop relations and build partnerships with countries, and regional or global organisations, which share these values. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

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

(a) safeguard the common values, fundamental interests, security, independence and integrity of the Union;

(b) consolidate and support democracy, the rule of law, human rights and international law;

(c) preserve peace, prevent conflicts and strengthen international security, in conformity with the principles of the United Nations Charter;

(d) foster the sustainable economic, social and

## TITLE V: The Community's External Action

### Chapter 1: General Applicable Provisions

#### Article III-188

1. The Community's action on the international scene shall be guided by, and designed to advance in the wider world, the principles which have inspired its own creation, development and enlargement: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, equality and solidarity, and for international law in accordance with the principles of the United Nations Charter. The Community shall seek to develop relations and build partnerships with countries, and regional or global organisations, which share these values. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. Member States of the European Community may pursue bilateral or multilateral policies, in order to:

(a) safeguard the common values, fundamental interests, security, independence and integrity of the Community;

(b) consolidate and support democracy, the rule of law, human rights and international law;

(c) preserve peace, prevent conflicts and strengthen international security, in conformity with the principles of the United Nations Charter;

(d) foster the sustainable economic and social

environmental development of developing countries, with the primary aim of eradicating poverty;

(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;

(f) develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

(g) assist populations, countries and regions confronting man-made or natural disasters;

(h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives listed above in the development and implementation of the different areas of the Union's external action covered by this Title and the external aspects of other Union policies.

The Union shall ensure consistency between the different areas of its external action and between these and its internal policies. The Council and the Commission, assisted to that end by the Union's Minister for Foreign Affairs, shall be responsible for ensuring this consistency and shall cooperate to that effect.

#### **Article III-189**

1. On the basis of the principles and objectives referred to in Article 1 of this Title, the European Council shall identify the strategic interests and objectives of the Union.

European Council decisions on the strategic interests and objectives of the Union may relate to foreign policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their

development of developing countries, with the primary aim of eradicating poverty, *where possible through the expansion of free trade*;

(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;

(f) develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

(g) assist populations, countries and regions confronting man-made or natural disasters;

(h) promote an international system based on stronger multilateral cooperation and good global governance.

*Explanation: In order for the Member States to be most effective in their External Action it is better to use the flexibility of bilateral and multilateral agreements to achieve their common aims. A particular emphasis ought to be placed on the promotion of free trade as economic growth is the best means of eradicating poverty.*

#### **Article III-189**

1. On the basis of the principles and objectives referred to in Article 1 of this Title, the European Council shall identify the strategic interests and objectives of the Community.

European Council decisions on the strategic interests and objectives of the Community may relate to humanitarian aid and trade with developing countries. Member States who wish to cooperate in other areas on a bilateral or multilateral basis may do so.

duration, and the means to be made available by the Union and the Member States.

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

2. The Minister for Foreign Affairs, for the field of common foreign and security policy, and the Commission, for other fields of external action, may submit joint proposals to the Council.

## CHAPTER I: COMMON FOREIGN AND SECURITY POLICY

### Section 1: Common foreign policy

#### Article III-190

1. In the context of the principles and objectives of its external action as set out in Article 1 of this Title, the Union shall define and implement a common foreign and security policy covering all areas of foreign and security policy

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

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

In matters relating to humanitarian aid and trade with developing countries, the European Council shall act unanimously on a proposal from the Council. The decisions of the European Council shall be implemented by the Council in accordance with the procedures provided for in the simplifying Treaty.

The Council and the Union's Minister for Foreign Affairs shall ensure that these principles are complied with.

3. The Union shall conduct the common foreign and security policy by:

(a) defining the general guidelines;

(b) adopting decisions on:

(i) actions of the Union,

(ii) positions of the Union,

(iii) implementation of actions and positions;

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

#### **Article III-191**

The European Council shall define the general guidelines for the common foreign and security policy, including for matters with defence implications.

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

The Council shall take the decisions necessary for defining and implementing the common foreign and security policy on the basis of the general guidelines and strategic lines defined by the European Council.

#### **Article III-192**

1. The Union's Minister for Foreign Affairs, who shall chair the Foreign Affairs Council, shall contribute through his proposals towards the

preparation of the common foreign and security policy and shall be responsible for implementing the decisions taken by the European Council and the Council.

2. For matters relating to the common foreign and security policy, the Union shall be represented by the Minister for Foreign Affairs, who shall conduct political dialogue on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

### **Article III-193**

1. Where the international situation requires operational action by the Union, the Council shall take the necessary decisions. A decision shall lay down the objectives, the scope, the means to be made available to the Union, if necessary the duration, and the conditions for implementation of the action.

2. If there is a change in circumstances having a substantial effect on a question subject to such a decision, the Council shall review the principles and objectives of the action and take the necessary decisions. As long as the Council has not acted, the decision on action by the Union shall stand.

3. Such decisions shall commit the Member States in the positions they adopt and in the conduct of their activity.

4. Whenever there is any plan to adopt a national position or take national action pursuant to such a decision, information shall be provided in time to allow, if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of Council decisions.

5. In cases of imperative need arising from changes in

the situation and failing a Council decision, Member States may take the necessary measures as a matter of urgency, having regard to the general objectives of the decision on action by the Union. The Member State concerned shall inform the Council immediately of any such measures.

6. Should there be any major difficulties in implementing such a decision, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the action or impair its effectiveness.

#### **Article III-194**

The Council shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the positions of the Union.

#### **Article III-195**

1. Any Member State, the Minister for Foreign Affairs, or the Minister with the support of the Commission, may refer to the Council any question relating to the common foreign and security policy and may submit proposals to the Council.

2. In cases requiring a rapid decision, the Minister for Foreign Affairs, of the Minister's own motion or at the request of a Member State, shall convene an extraordinary Council meeting within forty-eight hours or, in an emergency, within a shorter period.

#### **Article III-196**

1. Decisions under this Chapter shall be taken by the Council acting unanimously. Abstentions by members present in person or represented shall not prevent the adoption of such decisions.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this way



represent more than one third of the votes weighted in accordance with [Article X] of the Constitution, the decision shall not be adopted.

2. By derogation from paragraph 1, the Council shall act by qualified majority:

(a) when adopting decisions on Union actions and positions on the basis of a European Council decision relating to the Union's strategic interests and objectives, as defined in [Article 2(1)] of this Title;

(b) when adopting a decision on the initiative of the Minister for Foreign Affairs further to a request from the European Council;

(c) when adopting any decision implementing a Union action or position;

(d) when appointing a special representative in accordance with [Article 11] of this Chapter.

If a member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. The Council may, acting by a qualified majority, request that the matter be referred to the European Council for decision by unanimity.

3. The European Council may decide unanimously that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2.

4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.

#### **Article III-197**

1. When the Union has defined a common approach within the meaning of [Article 31(5)] of Part One of

the Constitution, the Union's Minister for Foreign Affairs and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

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

#### **Article III-198**

The Council shall, whenever it deems it necessary, appoint, on the initiative of the Minister for Foreign Affairs, a special representative with a mandate in relation to particular policy issues. The special representative shall carry out his mandate under the authority of the Minister for Foreign Affairs.

#### **Article III-199**

The Union may conclude agreements with one or more States or international organisations pursuant to this Chapter, in accordance with the procedure described in Article 33 of this Title.

### **Article III-200**

1. The Minister for Foreign Affairs shall consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy, including the common security and defence policy, and shall ensure that the views of the European Parliament are duly taken into consideration. The European Parliament shall be kept regularly informed by the Minister for Foreign Affairs of the development of the Union's foreign and security policy, including the security and defence policy. Special representatives may be involved in briefing the European Parliament.

2. The European Parliament may ask questions of the Council and of the Minister for Foreign Affairs or make recommendations to them. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the security and defence policy.

### **Article III-201**

1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the Union's positions in such fora. The Union's Minister for Foreign Affairs shall organise this coordination.

In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the Union's positions.

2. Without prejudice to paragraph 1 and [Article 6(3)] of this Title, Member States represented in international organisations or international conferences where not all the Member States participate shall keep the latter, as well as the

Minister for Foreign Affairs, informed of any matter of common interest.

Member States which are also members of the United Nations Security Council will concert and keep the other Member States and the Union's Minister for Foreign Affairs fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.

When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the Minister for Foreign Affairs be asked to present the Union's position.

#### **Article III-202**

The diplomatic and consular missions of the Member States and the Union delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that the decisions relating to Union positions and actions adopted by the Council are complied with and implemented. They shall step up cooperation by exchanging information and carrying out joint assessments.

They shall contribute to the implementation of the provisions referred to in [Article 7(2) of Part One] of the Constitution on the protection of European citizens in the territory of a third country.

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

#### **Article III-203**

Without prejudice to [Article XX] of the Constitution [on the organisation of the Council/Permanent Representatives Committee], a Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council, or of the Minister for Foreign Affairs, or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the responsibility of the Minister for Foreign Affairs.

Within the scope of this title, this Committee shall exercise, under the responsibility of the Council and of the Minister for Foreign Affairs, political control and strategic direction of crisis management operations, as defined in [Article 17] of this Title.

The Council may authorise the Committee, for the purpose and for the duration of a crisis management operation, as determined by the Council, to take the relevant decisions concerning the political control and strategic direction of the operation.

#### **Article III-204**

The implementation of the common foreign and security policy shall not affect the competences listed in [Articles 11 to 13, 15 and 16 of Part One] of the Constitution. Likewise, the implementation of the policies listed in those articles shall not affect the competence referred to in [Article 14 of Part One] of the Constitution.

The Court of Justice shall have jurisdiction to monitor compliance with this Article.

#### **Section 2: The common security and defence policy**

### **Article III-205**

1. The tasks referred to in [Article 32(1) of Part One] of the Constitution, in the course of which the Union may use military and civilian means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peacemaking, and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council, acting unanimously, shall adopt decisions relating to the tasks referred to in this Article, defining their objectives and scope and the general conditions for their implementation. The Minister for Foreign Affairs, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

### **Article III-206**

1. Within the framework of the decisions adopted in accordance with [Article 17] of this Title, the Council may entrust the implementation of a task to a group of Member States having the necessary capability and the desire to undertake the task. Those Member States in association with the Union's Minister for Foreign Affairs shall agree between themselves on the management of the task.

2. The Council shall be regularly informed by the Member States participating in the task on its progress and, should the completion of the task involve major new consequences or require amendment of the objective, scope and conditions for implementation agreed by the Council under [Article 17(2)] of this Title, the Member States participating shall refer the matter to the Council forthwith. In such cases, the Council shall adopt the necessary decisions.

### **Article III-207**

1. The European Armaments, Research and Military Capabilities Agency, subject to the Council's authority, shall have as its task to:

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

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

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

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

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

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

#### **Article III-208**

1. The Member States listed in Protocol X annexed to the Constitution, which fulfil high military capability criteria and wish to enter into more binding commitments in this matter with a view to more demanding tasks, hereby establish structured cooperation between themselves within the meaning of [Article 32(6) of Part One] of the Constitution. The military capability criteria and commitments which those Member States have defined are set out in that Protocol.

2. If a Member State wishes to participate in such cooperation at a later stage, and thus subscribe to the obligations it imposes, it shall inform the European Council of its intention. The Council shall deliberate at the request of the Member State in question but only the Member States taking part in structured cooperation shall decide on the request.

3. Only Member States taking part in such cooperation shall adopt decisions relating to matters covered by it. The Minister for Foreign Affairs shall attend the deliberations. Other Member States shall be duly and regularly informed by the Minister for Foreign Affairs of developments in cooperation.

4. The Council may ask the Member States participating in such cooperation to carry out at Union level a task referred to in [Article 17] of this Title.

#### **Article III-209**

1. The closer cooperation on mutual defence provided for in [Article 32(7) of Part One] shall be open to all Member States of the Union. A list of participating Member States shall be set out in a Declaration annexed to this Constitution. If a Member State wishes to take part in such cooperation at a later stage, and thus subscribe to the obligations it imposes, it shall inform the European Council of its intention and subscribe to the Declaration annexed to the Constitution.

2. A participating Member State which is the victim



of armed aggression on its territory shall inform the other participating States of the situation and may request aid and assistance from them. Participating Member States shall meet at ministerial level, assisted by their representative on the Political and Security Committee and the Military Committee.

3. The United Nations Security Council shall be informed immediately of any armed aggression and the measures taken as a result.

4. These provisions shall not affect the rights and obligations resulting, for those concerned, from the North Atlantic Treaty.

### **Section 3: Financial provisions**

#### **Article III-210**

1. Administrative expenditure which the provisions referred to in this Chapter entail for the institutions shall be charged to the Union budget.

2. Operating expenditure to which the implementation of those provisions gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.

In cases where expenditure is not charged to the Union's budget it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under [Article 9(1), second subparagraph], shall not be obliged to contribute to the financing thereof.

3. A Council Decision shall establish the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for tasks as referred to in [Article 32(1) of Part One] of the Constitution.

Preparatory activities for tasks as referred to in [Article 32(1) of Part One] of the Constitution which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority on a proposal from the Minister for Foreign Affairs:

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

When it is planning a task as referred to in [Article 32(1) of Part One] of the Constitution which cannot be charged to the Union's budget, the Council shall authorise the Minister for Foreign Affairs to use the fund. The Minister for Foreign Affairs shall report to the Council on the implementation of the remit.

**Article III-211**

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

**Article III-212**

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action, as set out in Article 1 of this Title.

2. A European law or framework law shall establish the measures required to implement the common commercial policy.

3. Where agreements with one or more States or international organisations need to be negotiated, the relevant provisions of [Article 33] of this Title shall apply. The Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union

**Article III-211**

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

**Article III-212**

1. The commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the *Community's* external action, as set out in Article 1 of this Title.

2. A European law shall establish the measures required to implement the common commercial policy.

3. Where agreements with one or more States or international organisations need to be negotiated, the relevant provisions of [Article 33] of this Title shall apply. The Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal *Community* policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of agreements

policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of agreements in the fields of trade in services involving the movement of persons and the commercial aspects of intellectual property, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

5. The exercise of the competences conferred by this Article in the field of commercial policy shall not affect the delimitation of internal competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of Member States insofar as the Constitution excludes such harmonisation.

#### **Chapter IV: Cooperation with Third Countries and Humanitarian Aid**

##### **Section 1: Development Cooperation**

###### **Article III-213**

1. Union policy in the sphere of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action as set out in [Article 1] of this Title.

The Union's development cooperation policy and that of the Member States complement and reinforce each other.

Union development cooperation policy shall have as

in the fields of trade in services involving the movement of persons and the commercial aspects of intellectual property, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

5. The exercise of the competences conferred by this Article in the field of commercial policy shall not affect the delimitation of internal competences between the *Community* and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of Member States insofar as the *simplifying Treaty* excludes such harmonisation.

#### **Chapter IV: Cooperation with Third Countries and Humanitarian Aid**

##### **Section 1: Development Cooperation**

###### **Article III-213**

1. *Community* policy in the sphere of development cooperation shall be conducted within the framework of the principles and objectives of the *Community's* external action as set out in Article 1 of this Title. The *Community's* development cooperation policy and that of the Member States complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty, *where possible*

its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.

2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

#### **Article III-214**

1. A European law or framework law shall establish the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.

2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in [Article 1] of this Title. Such agreements shall be negotiated and concluded in accordance with [Article 33] of this Title.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

#### **Article III-215**

*through the expansion of free trade.* The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.

2. The *Community* and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

#### **Article III-214**

1. A European law shall establish the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.

2. The *Community* may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 1 of this Title. Such agreements shall be negotiated and concluded in accordance with Article 33 of this Title.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

#### **Article III-215**

1. The *Community* and the Member States shall

1. The Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences, in order to promote the complementarity and efficiency of their action. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations.

## **Section 2: Economic, Financial and Technical Cooperation with Third Countries**

### **Article III-216**

1. Without prejudice to the other provisions of this Treaty, and in particular those of [Articles 25 to 27] of this Title concerning development cooperation, the Union shall, within its spheres of competence, carry out economic, financial and technical cooperation measures, including financial aid in particular, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union. The Union's measures and those of the Member States shall complement and reinforce each other. They shall be carried out within the framework of the principles and objectives of the Union's external action as set out in Article 1 of this Title.

2. A European law or framework law shall establish the measures necessary for the implementation of paragraph 1.

coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences, in order to promote the complementarity and efficiency of their action. They may undertake joint action. Member States shall contribute if necessary to the implementation of Community aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

3. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and the competent international organisations.

## **Section 2: Economic, Financial and Technical Cooperation with Third Countries**

### **Article III-216**

1. Without prejudice to the other provisions of this Treaty, and in particular those of [Articles 25 to 27] of this Title concerning development cooperation, the Community shall, within its spheres of competence, carry out economic, financial and technical cooperation measures with third countries. Such measures shall be consistent with the development policy of the Community. The Community's measures and those of the Member States shall complement and reinforce each other. They shall be carried out within the framework of the principles and objectives of the Community's external action as set out in Article 1 of this Title.

2. A European law shall establish the measures necessary for the implementation of paragraph 1.

3. Within their respective spheres of competence, the Community and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Community cooperation may be the subject of agreements between the Community and the third parties

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned, which shall be negotiated and concluded pursuant to [Article 33] of this Title. The Council shall act unanimously for the association agreements referred to in [Article 32(2)] of this Title and for the agreements to be concluded with the States which are candidates for accession to the Union. The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

#### **Article III-217**

When the situation in a third country requires urgent financial aid from the Union, the Council shall adopt the necessary measures by a qualified majority, on a proposal from the Commission.

### **Section 3: Humanitarian Aid**

#### **Article III-218**

1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union as set out in [Article 1] of this Title. Such operations shall be intended to provide ad hoc assistance, relief and protection for people in third countries and victims of man-made and natural disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's actions and those of the Member States shall complement and reinforce each

concerned, which shall be negotiated and concluded pursuant to Article 33 of this Title. The Council shall act unanimously for the association agreements referred to in Article 32(2) of this Title and for the agreements to be concluded with the States which are candidates for accession to the *Community*.

*The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.*

#### **Article III-217**

When the situation in a third country requires urgent financial aid from the *Community*, the Council shall adopt the necessary measures *unanimously* on a proposal from the *European Parliament*.

### **Section 3: Humanitarian Aid**

#### **Article III-218**

1. The *Community's* operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the *Community* as set out in [Article 1 of this Title]. Such operations shall be intended to provide ad hoc assistance, relief and protection for people in third countries and victims of man-made and natural disasters, in order to meet the humanitarian needs resulting from these different situations. The *Community's* actions and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality and non-discrimination.

3. A European law or framework law shall establish the necessary measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 1. Such agreements shall be negotiated and concluded pursuant to [Article 33] of this Title.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian actions of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, in accordance with the legislative procedure, shall adopt a European law determining the rules and operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations

2. Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality and non-discrimination.

3. A European law shall establish the necessary measures defining the framework within which the Community's humanitarian aid operations shall be implemented.

4. The Community may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 1. Such agreements shall be negotiated and concluded pursuant to Article 33 of this Title.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

*Explanation: There is no need to create a new European Voluntary Humanitarian Aid Corps when there are existing bodies within the Member States such as British Voluntary Services Organisation which should already be cooperating together.*

6. The Commission may take any useful initiative to promote coordination between actions of the Community and those of the Member States, in order to enhance the efficiency and complementarity of Community and national humanitarian aid measures.

7. The Community shall ensure that its humanitarian operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations System.



system.

## CHAPTER V: RESTRICTIVE MEASURES

### Article III-219

1. Where a decision on a Union position or action adopted in accordance with the provisions on the common foreign and security policy in Chapter 1 of this Title provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the Minister for Foreign Affairs and the Commission, shall take the necessary measures. It shall inform the European Parliament thereof.

2. In the areas referred to in paragraph 1, the Council may adopt restrictive measures under the same procedure against natural or legal persons and non-State groups or bodies.

## CHAPTER VI: INTERNATIONAL AGREEMENTS

### Article III-220

1. The Union may conclude agreements with one or more third countries or international organisations where the Constitution so provides or where the conclusion of an agreement is necessary in order to achieve one of the Union's objectives, where there is provision for it in a binding Union legislative act or where it affects one of the Union's internal acts.

2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

### Article III-221

## CHAPTER VI: INTERNATIONAL AGREEMENTS

### Article III-220

1. *In matters relating to humanitarian aid and trade with developing countries*, the *Community* may conclude agreements with one or more third countries or international organisations where the provisions of the *simplifying Treaty* provide for the conclusion of such agreements.

4. Agreements concluded by the *Community* are binding upon the institutions of the *Community* and on its Member States.

### Article III-221

1. The Union may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common actions and special procedures.

#### **Article III-222**

1. Agreements between the Union and third states or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. The Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.

3. The Commission, or the Union's Minister for Foreign Affairs where the agreement exclusively or principally relates to the common foreign and security policy, shall submit recommendations to the Council, which shall authorise the opening of negotiations.

4. In connection with the decision authorising negotiations, depending on the subject of the future agreement, the Council shall nominate the negotiator or leader of the Union's negotiating team.

5. Without prejudice to the specific provisions laid down in Article 24, the Council may address negotiating directives to the negotiator of the agreement and may designate a special committee in consultation with which the negotiations must be held.

1. In matters relating to humanitarian aid and trade with developing countries, the Community may conclude association agreements with one or more third countries or international organisations. Such agreements shall establish an association with one or more third countries or international organisations involving reciprocal rights and obligations, common action and special procedure.

#### **Article III-222**

1. In matters relating to humanitarian aid and trade with developing countries, the Community agreements between the Community and third states or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. In matters relating to humanitarian aid and trade with developing countries, the Council shall authorise negotiations to be opened, adopt negotiating directives and conclude agreements.

3. In matters relating to humanitarian aid and trade with developing countries, the Commission shall submit recommendations to the Council, after which the Council may open negotiations.

4. In connection with the decision authorising negotiations, depending on the subject of the future agreement, the Council shall nominate the negotiator or leader of the Community's negotiating team.

5. Without prejudice to the specific provisions laid down in Article 24, the Council may address negotiating directives to the negotiator of the agreement and may designate a special committee in consultation with which the negotiations must be held.

6. On a proposal from the agreement negotiator, the Council shall decide on the signing and, if necessary, provisional application of agreements before entry

6. On a proposal from the agreement negotiator, the Council shall decide on the signing and, if necessary, provisional application of agreements before entry into force.

7. The Council shall conclude agreements on the proposal of the agreement negotiator. Except where agreements relate exclusively to the common foreign and security policy, the Council shall not conclude any agreement until the European Parliament has been consulted. The Parliament shall deliver its opinion within a time-limit which the Council may lay down according to the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act. The European Parliament's assent shall be required for association agreements, for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms and for agreements establishing a specific institutional framework by organising cooperation procedures, agreements with important budgetary implications for the Union and agreements covering fields to which the legislative procedure applies. The Council and the European Parliament may, in an urgent situation, agree upon a time-limit for the assent.

8. When concluding an agreement, the Council may, by way of derogation from the foregoing, authorise the negotiator of the agreement to approve modifications on the Union's behalf where the agreement provides for them to be adopted by a simplified procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.

9. The Council shall act by a qualified majority throughout the procedure. However, it shall act unanimously when the agreement covers a field for

into force.

7. In matters relating to humanitarian aid and trade with developing countries, the Council shall conclude agreements on the proposal of the agreement negotiator. The Council shall not conclude any agreement until the European Parliament has been consulted. The Parliament shall deliver its opinion within a time-limit which the Council may lay down according to the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act. The European Parliament's assent shall be required for association agreements, Community accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms and for agreements establishing a specific institutional framework by organising cooperation procedures, agreements with important budgetary implications for the Community and agreements covering fields to which the legislative procedure applies. The Council and the European Parliament may, in an urgent situation, agree upon a time-limit for the assent.

8. When concluding an agreement on humanitarian aid or trade with developing countries, the Council may, by way of derogation from the foregoing, authorise the negotiator of the agreement to approve modifications on the Community's behalf where the agreement provides for them to be adopted by a simplifying procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.

9. The Council shall act by unanimity throughout the procedure.

which unanimity is required for the adoption of a Union act as well as for association agreements and for Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. The Council, on a proposal from the Union's Minister for Foreign Affairs or the Commission, shall take a decision to suspend the application of an agreement and shall establish the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.

11. The European Parliament shall be immediately and fully informed at all stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the Constitution. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless the Constitution is revised in accordance with the procedure laid down in [Article [N]].

#### **Article III-223**

1. By way of derogation from [Article 33], the Council, acting unanimously on a recommendation from the European Central Bank or from the Commission, following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to, may conclude formal agreements on a

10. The Council shall decide to suspend the application of an agreement, and establish the positions to be adopted on the *Community's* behalf in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.

11. The European Parliament shall be immediately and fully informed at all the stages of the procedure.

12. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of the *simplifying Treaty*. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless the *simplifying Treaty* is revised in accordance with the procedure laid down in [Article [N]].

#### **Article III-223**

1. By way of derogation from [Article 33], *Member States which are part of the Eurozone*, acting unanimously on a recommendation from the European Central Bank or from the Commission, and following consultation with the European Central Bank with a view to reaching a consensus compatible with the objective of price stability, and after consultation with the European Parliament in accordance with the procedure laid down in paragraph 3 for the arrangements there referred to,

system of exchange rates for the euro in relation to non-Union currencies. The Council may, acting by a qualified majority on a recommendation from the European Central Bank or the Commission and after consulting the European Central Bank in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, the Council, acting by a qualified majority either on a recommendation from the Commission and after consulting the European Central Bank or on a recommendation from the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from [Article 33], where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.

may conclude formal agreements on a system of exchange rates for the euro in relation to non-Community currencies. Member States which are part of the Eurozone, acting by a qualified majority on a recommendation from the European Central Bank or the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The Chairman of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more third-country currencies as referred to in paragraph 1, Member States which are part of the Eurozone, acting by a qualified majority on a recommendation from the Commission after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article 33, where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Community and one or more States or international organisations, Member States which are part of the Eurozone shall, acting by a qualified majority on a recommendation from the Commission and after consulting the European Central Bank, decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Community expresses a single position. The Commission shall be fully associated with the negotiations.

4. Without prejudice to Union competence and agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

## **Chapter VII: Relations with International Organisations and Third Countries and Union delegations**

### **Article III-224**

1. The Union shall establish all appropriate forms of cooperation with the United Nations, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

2. It shall also maintain such relations as are appropriate with other international organisations.

3. The Union's Minister for Foreign Affairs and the Commission shall be instructed to implement the above paragraph.

### **Article III-225**

1. Union delegations in third countries and to international organisations shall represent the Union.

2. Union delegations shall operate under the authority of the Union's Minister for Foreign Affairs and in close cooperation with Member States' missions.

## **Chapter VIII: Implementation of the solidarity clause**

### **Article III-226**

4. Without prejudice to *the Eurozone's* competence as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

*Explanation: References to the Eurozone pertain only to countries who have adopted the Euro as their national currency.*

## **Chapter VII: Relations with International Organisations and Third Countries and Union delegations**

### **Article III-224**

1. The *Community* shall establish all appropriate forms of cooperation with the United Nations, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

2. It shall also maintain such relations as are appropriate with other international organisations.

### **Article III-225**

1. *Community* delegations in third countries and to international organisations shall represent the *Community*.

2. *Community* delegations shall operate under the authority of the *European Council*.

## **Chapter VIII: Implementation of the solidarity clause**

### **Article III-226**

1. On the basis of a joint proposal by the Minister for Foreign Affairs and the Commission, the Council shall adopt a decision defining the arrangements for the implementation of the solidarity clause referred to in [Article I-42].

2. Should a Member State fall victim to a terrorist attack or a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. For the purposes of this Article, the Council shall be assisted by the Political and Security Committee, with the support of the structures developed in the context of the common security and defence policy, and by the Committee provided for in [ex Article 5, JHA], which shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union to take effective action.

## **Title VI: The Functioning of the Union**

### **Chapter III: Enhanced Cooperation**

#### **Article III-318**

The provisions of Article [32b] of the Constitution and Articles [J to P] below shall not apply to the forms of cooperation in the area of defence provided for by Article [30] of the Constitution and governed specifically by Articles [18 to 21] (*Part Three*) of the Constitution.

1. The Council shall adopt a decision defining the arrangements for the implementation of the solidarity clause referred to in [Article I-42].

2. Should a Member State fall victim to a terrorist attack, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. For the purposes of this Article, the Council shall be assisted by the Political and Security Committee and by the Standing Committee on Internal Security, which shall, if necessary, submit joint opinions.

4. Member States should be encouraged to regularly report to the European Council on the possible terrorist threats to their country and these reports shall be discussed and evaluated in Council.

### **Article III-319**

Any enhanced cooperation proposed shall comply with the Union's Constitution and *acquis*.

Such cooperation shall not undermine the internal market or economic and social cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

### **Article III-320**

Any enhanced cooperation proposed shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

### **ARTICLE III-321**

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation which may be laid down in the authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they facilitate participation by as many Member States as possible.

2. The Commission and, where appropriate, the Minister for Foreign Affairs shall keep all Council members and the European Parliament regularly informed regarding developments in enhanced cooperation.



## ARTICLE III-322

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Constitution, with the exception of the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council, acting by a qualified majority on a proposal from the Commission and after obtaining the assent of the European Parliament.

2. In the framework of the common foreign and security policy, the request of the Member States which wish to establish enhanced cooperation between themselves shall be addressed to the Council. It shall be forwarded to the Minister for Foreign Affairs, who shall give an opinion on whether the enhanced cooperation is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council, acting by a qualified majority.

### Article III-323

1. Any Member State which wishes to participate in enhanced cooperation shall notify its intention to the Council, the Commission and, where necessary, the Minister for Foreign Affairs.

Within four months of the date of receipt of the notification the Commission shall confirm the participation of the Member State concerned. It shall note where necessary that any conditions of participation have been fulfilled and shall adopt any transitional arrangements deemed necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that any conditions of participation have not been fulfilled, it shall indicate the measures to be taken to fulfil those conditions and shall set a deadline for re-examining the request for participation. When it re-examines the request, it shall act in accordance with the preceding subparagraph. If the Commission considers that any conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall act by a qualified majority in accordance with Article [32b(3)] of the Constitution. The Council may also adopt the abovementioned transitional arrangements acting on a proposal from the Commission.

2. In the framework of the common foreign and security policy, the Council shall confirm the participation of the Member State concerned, after consulting the Minister for Foreign Affairs. It shall note where necessary that any conditions of participation have been fulfilled. The Council may also adopt transitional arrangements acting on a proposal from the Minister for Foreign Affairs. However, if the Council considers that any conditions of participation have not been fulfilled, it shall indicate the measures to be taken to fulfil those conditions and shall set a deadline for re-examining the request for participation.

**Article III-324**

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the Institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

**Article III-325**

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end.

## PART FOUR: GENERAL AND FINAL PROVISIONS

### ARTICLE IV-1: REPEAL OF EARLIER TREATIES

The Treaty establishing the European Community, the Treaty on European Union and the acts and treaties which have supplemented or amended them and are listed in Protocol ... annexed to the Treaty establishing the Constitution shall be repealed as from the date of entry into force of the Treaty establishing the Constitution.

### Article IV-2: Legal continuity in relation to the European Community and the European Union

The European Union shall succeed to all the rights and obligations of the European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the Treaty establishing the Constitution by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Union, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force under the conditions laid down in Protocol ... annexed to the Treaty establishing the Constitution. The case-law of the Court of Justice of the European Communities shall be maintained as a source of interpretation of Union law.

### Article IV-3: Scope

1. The Treaty establishing the Constitution shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of

### Article IV-1: Repeal of earlier Treaties

The Treaty establishing the European Community, the Treaty on European Union and the acts and treaties which have supplemented or amended them and are listed in Protocol ... annexed to the Treaty establishing the Constitution shall be repealed as from the date of entry into force of the Treaty establishing the Constitution.

### Article IV-2: Legal continuity in relation to the previous European Community and the European Union

The European Community shall succeed to all the rights and obligations of the previous European Communities and of the Union, whether internal or resulting from international agreements, which arose before the entry into force of the simplifying Treaty by virtue of previous treaties, protocols and acts, including all the assets and liabilities of the Communities and of the Union, and their archives.

The provisions of the acts of the Institutions of the Community, adopted by virtue of the treaties and acts mentioned in the first paragraph, shall remain in force under the conditions laid down in Protocol ... annexed to the simplifying Treaty establishing the simplifying Treaty. The case-law of the Court of Justice of the European Communities shall be maintained as a source of interpretation of Community law.

*Explanation: If the European Union were to revert back to being the European Community (the option presented by the Convention Chairman which I support), the simplifying Treaty would need to differentiate between the previous Community and the new Community.*

### Article IV-3: Scope

1. The simplifying Treaty shall apply to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United

Sweden, the United Kingdom of Great Britain and Northern Ireland, ...

2. The Treaty establishing the Constitution shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article ... of Part Three.

3. The special arrangements for association set out in Part [Four of the TEC] of the Treaty establishing the Constitution shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The Treaty establishing the Constitution shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The Treaty establishing the Constitution shall apply to the European territories for whose external relations a Member State is responsible.

5. The Treaty establishing the Constitution shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding the preceding paragraphs:

(a) the Treaty establishing the Constitution shall not apply to the Faeroe Islands;

(b) the Treaty establishing the Constitution shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;

(c) the Treaty establishing the Constitution shall

Kingdom of Great Britain and Northern Ireland, ...

2. The *simplifying* Treaty shall apply to the French overseas departments, the Azores, Madeira and the Canary Islands in accordance with Article ... of Part Two.

3. The special arrangements for association set out in Part [Four of the TEC] of the *simplifying* Treaty shall apply to the overseas countries and territories listed in [Annex II to the TEC].

The *simplifying* Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

4. The *simplifying* Treaty shall apply to the European territories for whose external relations a Member State is responsible.

5. The *simplifying* Treaty shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

6. Notwithstanding the preceding paragraphs:

(a) the *simplifying* Treaty shall not apply to the Faeroe Islands;

(b) the *simplifying* Treaty shall not apply to the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;

(c) the *simplifying* Treaty shall apply to the Channel Islands and the Isle of Man only to the extent

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 IV-4: REGIONAL UNIONS

The Treaty establishing the Constitution 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 the said Treaty.

#### ARTICLE IV-5: PROTOCOLS

The protocols annexed to this Treaty shall form an integral part thereof.

#### Article IV-6: Procedure for revising the Treaty establishing the Constitution

1. The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaty establishing the Constitution. The national Parliaments of the Member States shall be notified of these proposals.

2. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national

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 IV-4: Regional unions

The *simplifying* 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 the *simplifying* Treaty.

#### Article IV-5: Protocols

The protocols annexed to this *simplifying* Treaty shall form an integral part thereof.

#### Article IV-6: Procedure for revising the *simplifying* Treaty

1. The government of any Member State *or the European Parliament* may submit to the Council proposals for the amendment of the *simplifying* Treaty. The national Parliaments shall be notified of these proposals.

2. If the European Council, after consulting the European Parliament, adopts by *unanimity* a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments of the Member States, of the

Parliaments of the Member States, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The European Council may decide by a simple majority not to convene the Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for the conference of representatives of the governments of the Member States.

The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

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

#### **Article IV-7: Adoption, ratification and entry into force of the Treaty establishing the Constitution**

1. The Treaty establishing the Constitution shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the

Heads of State or Government of the Member States, of the European Parliament and *any accession states*. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area.

The Convention shall examine the proposals for amendments and shall adopt *one or more* recommendation to the conference of representatives of the governments of the Member States provided for in paragraph 3.

3. The conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaty establishing the Constitution.

The amendments shall enter into force after being ratified by all the Member States in *national referenda, where permitted by national constitutions*.

*Explanation: As the directly elected institution of the Community, the European Parliament should have the power to propose amendments to the simplifying Treaty to the Council.*

#### **Article IV-7: Adoption, ratification and entry into force of the *simplifying* Treaty**

1. The *simplifying* Treaty shall be ratified by the High Contracting Parties *through national referenda, where permitted by national constitutions*. The instruments of ratification shall be deposited with the

Government of the Italian Republic.

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

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

#### ARTICLE IV-8: DURATION

The Treaty establishing the Constitution is concluded for an unlimited period.

#### ARTICLE IV-9: LANGUAGES

The Treaty establishing the Constitution, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian,

Government of the Italian Republic.

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

3. If, two years after the signature of the simplifying Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council which shall act on a unanimous basis.

*Explanation: Unanimity is important because Member States should not proceed without the full support of other Member States, unless they are doing so on a bilateral or multilateral basis.*

#### Article IV-8: Duration

The simplifying Treaty is concluded for an unlimited period. If, however, an amending Convention has not been convened for more than ten years since the date of ratification, a new Convention shall be automatically convened to review the simplifying Treaty.

*Explanation: The simplifying Treaty should be reviewed every ten years, thus keeping the scrutiny of the purposes and principles of the Community under regular review.*

#### Article IV-9: Languages

The simplifying Treaty, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish, Swedish, [Czech, Estonian, Latvian, Lithuanian,



Portuguese, Spanish, Swedish, [Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovakian and Slovene] languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

Hungarian, Maltese, Polish, Slovakian and Slovene] languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

**DRAFT PROTOCOL ON THE ROLE OF  
NATIONAL PARLIAMENTS IN THE  
EUROPEAN UNION**

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which individual national Parliaments scrutinise their own governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State.

DESIRING, however, to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on legislative proposals as well as on other matters which may be of particular interest to them.

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

**I. Information for Member States' national parliaments**

1. All Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to Member States' national Parliaments upon publication. The Commission shall also send Member States' national Parliaments the annual legislative programme as well as any other instrument of legislative planning or policy strategy that it submits to the European Parliament and to the Council, at the same time as to those Institutions.

2. All legislative proposals sent to the European

**DRAFT PROTOCOL ON THE ROLE OF  
NATIONAL PARLIAMENTS IN THE  
EUROPEAN COMMUNITY**

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which individual national parliaments scrutinise their own governments in relation to the activities of the Community is a matter for the particular constitutional organisation and practice of each Member State.

DESIRING, however, to encourage greater involvement of national parliaments in the activities of the European Community and to enhance their ability to express their views on legislative proposals as well as on other matters which may be of particular interest to them.

**15. HAVE AGREED UPON THE FOLLOWING PROVISIONS, WHICH SHALL BE ANNEXED TO THE SIMPLIFYING TREATY:**

**I. Information for Member States' national parliaments**

1. All European Parliament consultation documents (green and white papers and communications) shall be forwarded directly by the Parliament to Member States' national parliaments upon publication. The Parliament shall also send Member States' national Parliaments the annual legislative programme as well as any other instrument of legislative planning or policy strategy that it submits to the European Council and Commission, at the same time as to those institutions.

**16.**

2. The European Parliament shall send all its

Parliament and to the Council shall simultaneously be sent to Member States' national Parliaments.

3. Member States' national Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a legislative proposal complies with the principle of subsidiarity, according to the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

4. A six-week period shall elapse between a legislative proposal being made available by the Commission to the European Parliament, the Council and the Member States' national Parliaments in the official languages of the European Union and the date when it is placed on a Council agenda for adoption or for adoption of a position under a legislative procedure, subject to exceptions on grounds of urgency, the reasons for which shall be stated in the act or common position. Save in urgent cases for which due reasons have been given, no agreement may be established on a legislative proposal during those six weeks. Ten days must elapse between the placing of a proposal on the Council agenda and the adoption of a common position.

5. The agendas for and the outcome of Council meetings, including the minutes of meetings where the Council is deliberating on legislative proposals, shall be transmitted directly to Member States' national Parliaments, at the same time as to Member States' governments.

6. The Court of Auditors shall send its annual report to Member States' national Parliaments, for information, at the same time as to the European

*proposals for legislation directly to Member States' national parliaments at the same time as to the European Commission and to the Council.*

17.

18. **3. THE MEMBER STATES' NATIONAL PARLIAMENTS MAY SEND TO THE MEDIATING COMMITTEE A REASONED OPINION ON WHETHER THE EUROPEAN PARLIAMENT'S LEGISLATIVE PROPOSAL COMPLIES WITH THE PRINCIPLE OF SUBSIDIARITY, ACCORDING TO THE PROCEDURE LAID DOWN IN THE PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY.**

19. **4. A SIX-WEEK PERIOD SHALL ELAPSE BETWEEN A LEGISLATIVE PROPOSAL BEING MADE AVAILABLE BY THE EUROPEAN PARLIAMENT TO THE EUROPEAN COMMISSION, THE COUNCIL AND THE MEMBER STATES' NATIONAL PARLIAMENTS IN THEIR LANGUAGES AND THE DATE WHEN IT IS PLACED ON A COUNCIL AGENDA FOR ADOPTION OR FOR ADOPTION OF A POSITION UNDER THE LEGISLATIVE PROCEDURE SUBJECT TO EXCEPTIONS ON GROUNDS OF EXTREME URGENCY, THE REASONS FOR WHICH SHALL BE STATED IN THE ACT OR COMMON POSITION.**

5. The agendas for and the outcome of Council meetings, including the minutes of meetings where the Council is deliberating on legislative proposals, shall be transmitted directly to Member States' national Parliaments, at the same time as to Member States' governments.

6. The Court of Auditors shall send its annual report to the Member States' national parliaments, for information, at the same time as to the European

Parliament and to the Council.

7. In the case of bicameral national Parliaments, these provisions shall apply to both chambers.

## **II. Interparliamentary cooperation**

8. The European Parliament and the national Parliaments shall together determine how interparliamentary cooperation may be effectively and regularly organised and promoted within the European Union.

9. The Conference of European Affairs Committees may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That Conference shall in addition promote the exchange of information and best practice between Member States' Parliaments and the European Parliament, including their special committees. The Conference may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy and of common security and defence policy. Contributions from the Conference shall in no way bind national Parliaments or prejudice their positions.

Parliament and to the Council.

7. In the case of bicameral national Parliaments, these provisions shall apply to both chambers.

## **II. Interparliamentary cooperation**

8. The European Parliament and the national Parliaments shall together determine how interparliamentary cooperation may be effectively and regularly organised and promoted within the European *Community*.

### **20.**

9. The Conference of European Affairs Committees, set up on 16 and 17 November 1989, may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That Conference shall in addition promote the exchange of information and best practice between Member States' Parliaments and the European Parliament, including their special committees. The Conference may also organise interparliamentary conferences on specific topics. Contributions from the Conference shall in no way bind national parliaments or prejudice their position.

PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND  
PROPORTIONALITY

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union,

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as enshrined in Article I-9 of the Constitution, and to establish a system for monitoring the application by the Institutions of those principles,

HAVE AGREED UPON the following provisions, which shall be annexed to the Constitution:

1. Each Institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article I-9 of the Constitution.
2. Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for the decision in its proposal.
3. The Commission shall send all its legislative proposals and its amended proposals to the national Parliaments of the Member States at the same time as to the Union legislator. The European Parliament and the Council shall send their legislative resolutions and common positions respectively, upon adoption, to the national Parliaments of the Member States.
4. The Commission shall justify its proposal with

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Community.

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as enshrined in Article 8 of the simplifying Treaty, and to establish a system for monitoring the application by the institutions of those principles.

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

1. Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 8 of the simplifying Treaty.
2. The European Parliament shall have the right of initiative.
3. The European Parliament shall send all legislative proposals agreed to by a majority vote to the European Council who will then decide, by qualified majority, which should be debated by national parliaments.
4. The European Parliament shall justify its proposal

regard to the principles of subsidiarity and proportionality. Any legislative proposal should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. This statement should contain some assessment of the proposal's financial impact and, in the case of a framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level must be substantiated by qualitative and, wherever possible, quantitative indicators. The Commission shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

5. Any national Parliament or any chamber of a national Parliament of a Member State may, within six weeks from the date of transmission of the Commission's legislative proposal, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the proposal in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional Parliaments with legislative powers.

6. The European Parliament, the Council and the Commission shall take account of the reasoned opinions issued by Member States' national Parliaments or by a chamber of a national Parliament.

The national Parliaments of Member States with unicameral Parliamentary systems shall have two votes, while each of the chambers of a bicameral

*to the European Council* with regard to the principle of subsidiarity. Any legislative proposal should contain a detailed statement making it possible to appraise compliance with the principle of subsidiarity. This statement should contain an assessment of the proposal's financial impact. The reasons for concluding that a *Community* objective can be better achieved at *Community* level must be substantiated by qualitative and, wherever possible, quantitative indicators. The *Parliament* shall take account of the need for any burden, whether financial or administrative, falling upon the *Community*, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

21. **5. ANY NATIONAL PARLIAMENT OF A MEMBER STATE MAY, WITHIN SIX WEEKS FROM THE DATE OF TRANSMISSION OF A EUROPEAN PARLIAMENT PROPOSAL APPROVED BY THE EUROPEAN COUNCIL, SEND TO A MEDIATING COMMITTEE A REASONED OPINION STATING WHY IT CONSIDERS THAT THE PROPOSAL IN QUESTION DOES NOT COMPLY WITH THE PRINCIPLE OF SUBSIDIARITY. IT WILL BE FOR EACH NATIONAL PARLIAMENT TO MAKE THE INTERNAL ARRANGEMENTS FOR CONSULTING EACH CHAMBER IN THE CASE OF BICAMERAL PARLIAMENTS AND/OR, WHERE APPROPRIATE, REGIONAL PARLIAMENTS WITH LEGISLATIVE POWERS.**

6. The *Mediating Committee* shall take account of the reasoned opinions of the national parliaments.

The national Parliaments of Member States with unicameral Parliamentary systems shall have two votes, while each of the chambers of a bicameral

Parliamentary system shall have one vote.

Where reasoned opinions on a Commission proposal's non-compliance with the principle of subsidiarity represent at least one third of all the votes allocated to the Member States' national Parliaments and their chambers, the Commission shall review its proposal. This threshold shall be at least a quarter in the case of a Commission proposal or an initiative emanating from a group of Member States under the provisions of Article [...] of Chapter X of Part Three of the Constitution on the area of freedom, security and justice.

After such review, the Commission may decide to maintain, amend or withdraw its proposal. The Commission shall give reasons for its decision.

7. The Court of Justice shall have jurisdiction to hear actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in accordance with the rules laid down in Article [230] by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber of it.

In accordance with the same Article of the Constitution, the Committee of the Regions may also bring such actions as regards legislative acts for the adoption of which the Constitution provides that it be consulted.

8. The Commission shall submit each year to the European Council, the European Parliament, the Council and the national Parliaments of the Member States a report on the application of Article 8(3) of the Constitution. This annual report shall also be forwarded to the Committee of the Regions and to the Economic and Social Committee.

Parliamentary system shall have one vote.

22. WHERE AT LEAST ONE THIRD OF NATIONAL PARLIAMENTS ISSUE REASONED OPINIONS ON THE PROPOSAL'S NON-COMPLIANCE WITH THE PRINCIPLE OF SUBSIDIARITY, THE PROPOSAL SHALL BE WITHDRAWN AND MEMBER STATES MAY PROCEED ON A BILATERAL BASIS.

23. 7. UNDER ARTICLE [CURRENT ARTICLE 230] OF THE SIMPLIFYING TREATY, THERE SHALL BE A EUROPEAN ARBITRATOR WHO CAN BE CONSULTED IN CASES WHEN IT IS FELT THAT THE PRINCIPLE OF SUBSIDIARITY HAS BEEN MISAPPLIED, AT THE REQUEST OF A SINGLE NATIONAL GOVERNMENT OR A PETITION BY FORTY PERCENT OF MPs IN THE NATIONAL PARLIAMENTS OF AT LEAST A QUARTER OF THE MEMBER STATES.

24. 9. THE COMMISSION SHALL SUBMIT EACH YEAR TO THE EUROPEAN COUNCIL, THE EUROPEAN PARLIAMENT AND NATIONAL PARLIAMENTS A REPORT ON THE APPLICATION OF ARTICLE 8(3) OF THE SIMPLIFYING TREATY.