

PROTOCOL
ANNEXED TO THE TREATY ON EUROPEAN UNION AND TO THE
TREATY ON FUNCTIONING OF THE EUROPEAN UNION
ON THE SWITCH OF THE TREATY ESTABLISHING THE
EUROPEAN ATOMIC ENERGY COMMUNITY INTO A TREATY ON
RENEWABLE ENERGY, ENERGY EFFICIENCY AND ENERGY
SAVING

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PREAMBLE

THE HIGH CONTRACTING PARTIES,

DETERMINED to promote sustainable development of the Parties for the purpose of their citizens' welfare,

BEARING IN MIND the significance of environmental protection as a cross-sectional task of the European Union, which is to be taken into account in the establishment and implementation of all policies and measures of the Parties,

CONFIRMING the pursuit of the objective of a high level of protection of the Parties' common environmental policy, which is based on the precautionary principle and on the principles that preventive action should be taken, environmental damage should, as a priority, be rectified at source and that the polluter should pay,

IN VIEW of safeguarding the functioning of the energy market, the guaranteeing of the security of energy supply of the Parties, the promotion of energy efficiency and energy savings, the development of new and renewable energy sources and their integration into the market, as well as the promotion of the interconnection of energy networks as objectives of the Parties' common energy policy,

WITH THE INTENTION to ensure safe, environmentally friendly and sustainable energy production in Europe, which guarantees security of energy supply and by creating jobs in the manufacture of products, technologies and services, which help to avoid environmental damages and preserve natural resources, can make a significant contribution to the Parties' economic growth,

DETERMINED, in terms of the Parties' strategic orientation towards smart, sustainable and integrative growth while pursuing the targets – which have to be updated on a regularly basis – of increasing the proportion of renewable energies in energy consumption and achieving savings in primary energy consumption,

IN AWARENESS of the fact that there is a need for the Parties' common energy market to become more flexible, both on the supply and demand side, in order to prepare the market comprehensively for the integration of renewable energy sources,

IN VIEW of the necessity to take into account the positive effects on regional and local development possibilities, export opportunities, social cohesion and employment opportunities, particularly for SMEs and independent energy producers, when promoting the development of the market for renewable energy sources,

AGAINST THE BACKGROUND that public action to support innovation in the energy sector, particularly in the field of renewable energy sources, as well as the concurrent discontinuation of promotion measures that are harmful to the environment are both necessary and justified,

WHEREAS in the context of responsible energy supply, private households require support in multiple ways to achieve energy efficiency in order to relieve the environment and the energy supply, especially for consumers who are in particular need of protection,

WITH THE KNOWLEDGE that the utilisation of energy from renewable sources and the employment of energy efficiency technologies in the building, heating and transport sectors are some of the most effective tools, by which the Parties jointly can reduce their dependence on crude oil imports, thereby strengthening the security of energy supply,

WITH THE CONVICTION that energy savings and a greater awareness when handling the use of

energy, for example by promoting alternative mobility concepts, can make a major contribution towards reaching the objectives specified in this Agreement,

IN AWARENESS of the fact that by the control of European energy consumption as well as the increased use of energy from renewable energy sources the Parties common environmental policy contributes towards the pursuit of the objectives of a careful and rational use of natural resources and towards the promotion of measures at an international level to combat climatic change,

DETERMINED to reduce the Parties' greenhouse gas emissions by 100% below 1990 levels by 2050 or sooner in order to limit global warming to below 2 °C or, if possible, below 1.5 °C,

DETERMINED to promote a fast and consistent decarbonisation of energy production using market-based instruments, a clear enhancement of energy efficiency, as well as a transition to sustainable production technologies, mobility systems and consumption patterns, which use the natural resources sparingly, in order to reach this target,

IN AWARENESS that the decarbonisation of energy production can only succeed – even with clearly reduced energy consumption levels – if the highest possible share of generation is covered by reliable renewable energy resources and all costs of a carbon-based energy production are integrated,

DETERMINED to achieve the Parties' joint long-term political targets relating to environmental protection, climate and security of energy supply, even with regard to Europe's external energy policy relationships,

HAVE DECIDED to gradually end the EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM) by the EUROPEAN UNION (EU) focusing on Renewable Energy, Energy Efficiency and Energy Saving and have agreed as follows:

TITLE I: THE TASKS OF THE EUROPEAN ATOMIC ENERGY COMMUNITY

Article 1

The EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM) will be dissolved on 31 December 2040..

Until its dissolution it shall be the task of EURATOM to prepare for an orderly withdrawal of the Member States from the use of nuclear energy

Article 2

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

- (a) promote research and ensure the dissemination of technical information with regard to the withdrawal from the nuclear energy program;
- (b) improve uniform safety standards to protect the health of workers and of the general public and ensure that they are applied throughout the process of withdrawal and thereafter;
- (c) facilitate investment and ensure, particularly by encouraging ventures on the part of undertakings, the closure of the basic installations necessary for the development of nuclear energy in EURATOM;
- (d) until its expiry ensure that all users in EURATOM receive a regular and equitable supply of ores and nuclear fuels and thereafter that all ores and nuclear fuels will be disposed of safely and decontaminated;

- (e) make certain, by appropriate supervision, that nuclear materials are not diverted to purposes other than those for which they are intended and will be decontaminated and stored safely until and beyond expiry of EURATOM;
- (f) exercise the right of ownership conferred upon it with respect to special fissile materials;
- (g) ensure wide commercial outlets and access to the best technical facilities for EURATOM with the view of the withdrawal from nuclear energy;
- (h) establish with other countries and international organisations such relations as will foster progress in the withdrawal from the peaceful uses of nuclear energy.

TITLE II: THE TASKS OF THE EUROPEAN UNION (EU) WITH REGARD TO RENEWABLE ENERGY

Article 3

The European Union (EU) within its general obligation according to Article 11 Treaty on the Functioning of the European Union (TFEU) to integrate environmental protection requirements into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development, and considering Articles 191 – 194 TFEU shall contribute to the withdrawal from nuclear energy and contribute to the protection of the environment, the security of energy supply and the competitiveness of the Parties by increasing their use of renewable energy sources for electricity generation.

(1) The EU shall pursue the following objectives:

- a) To create an “energy transition” by the increased use of energy from renewable energy sources together with the control of energy consumption by energy savings and enhanced energy efficiency;
- b) To ensure secure, environmentally friendly, sustainable and affordable energy supply in Europe by means of renewable energies;
- c) To create a favourable environment for technical improvements, the employment of energy efficiency technologies and the use of energy from renewable sources in the transportation sector, in which the security of energy supply problem is most acute.

(2) In order to achieve these objectives, the EU has particularly the following tasks:

- a) Adopt appropriate measures to promote energy savings and energy efficiency;
- b) Establish binding targets to achieve a gradual increase in the share of energy from renewable sources in the Parties' energy consumption;
- c) Promote research and innovation in the field of energy production from renewable sources, energy efficiency and energy savings, which help significantly to achieve environmentally compatible and resource efficient growth and new employment opportunities;
- d) Ensure the dissemination of knowledge on new and renewable energy sources, energy efficiency and energy saving, as well as facilitate investments in this area in order to ensure the establishment of facilities that are necessary to develop new and renewable energy sources in the Parties, specifically by encouraging entrepreneurial initiative;
- e) Promote the development of the market for renewable energy sources while taking into account the beneficial effects on regional and local development possibilities, export opportunities, social cohesion, particularly for SMEs and independent energy producers;
- f) Support and promote collaboration among the Member States, in particular through the exchange of best practices;
- g) Cooperate with other countries and international organisations to promote energy efficiency and energy savings, as well as to develop and disseminate new and renewable energy sources.

TITLE III: PROVISIONS FOR THE ENCOURAGEMENT OF PROGRESS IN THE FIELD OF WITHDRAWAL FROM NUCLEAR ENERGY

CHAPTER 1: PROMOTION OF RESEARCH

Article 4

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

Article 5

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

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

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

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

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

Article 6

To encourage the carrying out of research programmes on withdrawal from nuclear energy communicated to it the Commission may:

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

Article 7

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

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

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

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

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

Article 8

1. After consulting the Scientific and Technical Committee, the Commission shall replace the Joint Nuclear Research Centre by a Centre on Research of Withdrawal from Nuclear Energy.

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

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

It shall set up a central bureau for nuclear measurements.

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

Article 9

1. After obtaining the opinion of the Economic and Social Committee the Commission may, within the framework of the Joint Research Centre on Withdrawal from Nuclear Energy, set up schools for the training of specialists for final storage and decontamination of nuclear waste, and health and safety in the withdrawal process and all times thereafter.

The Commission shall determine the details of such training.

2. The institution of university status established for nuclear research shall be renamed and redirected accordingly and the way in which it will function shall be determined by the Council, acting by majority on a proposal from the Commission.

Article 10

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

Article 11

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

CHAPTER 2: DISSEMINATION OF INFORMATION

Section 1

Information over which EURATOM has power of disposal

Article 12

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

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

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

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

Article 13

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

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

S e c t i o n 2

Other information

(a) Dissemination by amicable agreement

Article 14

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

Article 15

The Commission shall establish a procedure by which Member States, persons and undertakings may use it as an intermediary for exchanging provisional or final results of their research as to withdrawal from nuclear energy, insofar as these results have not been acquired by EURATOM under research contracts awarded by the Commission.

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

(b) Compulsory communication to the Commission

Article 16

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

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

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

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

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

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

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

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

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

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

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

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

Article 17

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

(a) to EURATOM or to Joint Undertakings accorded this right under Article 43 in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with research on withdrawal from nuclear energy, where the granting of such licences is necessary for the continuance of their own research or indispensable to the operation of their installations.

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

(b) to persons or undertakings which have applied to the Commission for them in respect of patents, provisionally protected patent rights or utility models relating to inventions directly connected with and essential to the withdrawal from nuclear energy in EURATOM, provided that all the following conditions are fulfilled:

(i) at least two years have elapsed since the filing of the patent application, save in the case of an invention relating to a subject specifically linked to withdrawal from nuclear energy;

(ii) the requirements arising out of withdrawal from nuclear energy, in the Commission's conception of such withdrawal, in the territory of a Member State where an invention is protected, are not being met with regard to that invention;

(iii) the proprietor, having been called upon to meet such requirements either himself or through his licensees, has not complied with this request;

(iv) the persons or undertakings applying for licences are in a position to meet such requirements effectively by making use of the invention.

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

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

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

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

Article 18

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

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

The final decisions of the Arbitration Committee shall have the force of *res judicata* between the parties concerned. They shall be enforceable as provided in Article 111.

Article 19

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

Article 20

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

Should the Commission or the applicant refuse to enter into such an agreement, the Commission shall not require the Member State or its appropriate authorities to grant the licence or cause it to be granted. If, when the matter is referred to it under a special agreement, the Arbitration Committee finds that the request from the Commission complies with the provisions of Article 17, it shall give a reasoned decision containing a grant of the licence to the applicant and laying down the terms of the licence and the remuneration therefor, to the extent that the parties have not reached agreement on these points.

Article 21

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

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

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

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

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

Article 22

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

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

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

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

Article 23

After the lapse of one year, the decisions of the Arbitration Committee or the appropriate national authorities may, if there are new facts to justify it, be revised with respect to the terms of the licence. Such revision shall be a matter for the body which gave the decision.

S e c t i o n 3

Special provisions

Article 24

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

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

CHAPTER 3: HEALTH AND SAFETY

Article 25

Basic standards shall be laid down within EURATOM for the protection of the health of workers and the general public against the dangers arising from ionizing radiations prior and after withdrawal from nuclear energy.

The expression 'basic standards' means:

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

Article 26

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

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

Article 27

At the request of the Commission or of a Member State, the basic standards may be revised or supplemented in accordance with the procedure laid down in Article 26.

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

Article 28

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

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

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

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

Article 29

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

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

Article 30

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

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

Article 31

The appropriate authorities shall periodically communicate information on the checks referred to in Article 30 to the Commission so that it is kept informed of the level of radioactivity to which the public is exposed or may be exposed after withdrawal from nuclear energy.

Article 32

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

The Commission shall deliver its opinion within six months, after consulting the group of experts referred to in Article 26.

Article 33

The Commission shall make recommendations to the Member States with regard to the level of radioactivity in the air, water and soil prior and after withdrawal from nuclear energy.

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

Should the State in question fail to comply with the Commission directive within the period laid down, the Commission or any Member State concerned may forthwith, by way of derogation from Articles 258 and 259 TFEU, bring the matter before the Court of Justice of the European Union.

Article 34

The Commission shall update within the framework of the Joint Research Centre on Withdrawal from Nuclear Energy, a health and safety documentation and study section.

This section shall in particular have the task of collecting the documentation and information referred to in Articles 28, 31 and 32 and of assisting the Commission in carrying out the tasks assigned to it by this Chapter.

CHAPTER 4: INVESTMENT

Article 35

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

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

Article 36

Persons and undertakings engaged in industrial activities as to the withdrawal from nuclear energy shall communicate to the Commission investment projects relating to new installations and also to replacements or conversions which fulfil the criteria as to type and size laid down by the Council on a proposal from the Commission.

Article 37

The projects referred to in Article 36 shall be communicated to the Commission and, for information purposes, to the Member State concerned not later than three months before the first contracts are concluded with the suppliers or, if the work is to be carried out by the undertaking with its own resources, three months before the work begins.

Article 38

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

It shall communicate its views to the Member State concerned.

Article 39

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

CHAPTER 5: JOINT UNDERTAKINGS

Article 40

Undertakings which are of fundamental importance to the withdrawal from nuclear energy in EURATOM may be established as Joint Undertakings within the meaning of this Treaty, in accordance with the following Articles.

Article 41

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

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

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

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

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

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

Article 42

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

If the Council, acting by a majority, considers that a project forwarded by the Commission with an unfavourable opinion should nevertheless be carried out, the Commission shall submit to the Council the proposals and the detailed report referred to in Article 41.

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

The Council shall, however, act by a qualified majority in respect of:

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

Article 43

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

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

Article 44

Joint Undertakings shall be established by Council decision.

Each Joint Undertaking shall have legal personality.

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

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

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

Article 45

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

Such amendments shall not, however, enter into force until they have been approved by the Council, acting in accordance with the procedure laid down in Article 42 on a proposal from the Commission.

Article 46

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

CHAPTER 6: SUPPLIES

Section 1

The Agency

Article 47

The Agency established under Article 52 para 2 b old of the EURATOM Treaty shall be liquidated at the date of expiry of EURATOM. The Council, acting by majority, shall determine the procedure and conditions of the Agency's liquidation. Until its liquidation, the following Articles shall apply on its activity:

Article 48

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

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

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

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

The Agency may not discriminate in any way between users on grounds of the use which they intend to make of the supplies requested unless such use is unlawful or is found to be contrary to the conditions imposed by suppliers outside EURATOM on the consignment in question.

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

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

Article 49

Until its liquidation, the Agency shall have legal personality and financial autonomy.

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

The statutes, laid down by the Council, and determining the Agency's capital and the terms upon which it is to be subscribed and including the rules for commercial management of the activities of the Agency will expire upon the Agency's liquidation. EURATOM.

Article 50

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

Article 51

Until the Agency's liquidation, the Member States shall be responsible for ensuring that the Agency may operate freely in their territories.

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

S e c t i o n 2

Ores, source materials and special fissile materials coming from inside EURATOM

Article 52

1. Until its liquidation, the right of option of the Agency shall cover:

(a) the acquisition of rights to use and consume materials owned by EURATOM under the provisions of Chapter 7;

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

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

Subject to Articles 53, 57 and 58, every producer shall offer to the Agency the ores, source materials or special fissile materials which he produces within the territories of Member States before they are used, transferred or stored.

Article 53

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

The same shall apply to two or more connected undertakings, where the connection has been duly communicated to the Commission and discussed with it in accordance with the procedures laid down in Articles 38 and 39.

Article 54

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

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

(b) shall be authorised by a decision of the Commission to dispose of his available production outside EURATOM, provided that the terms he offers are not more favourable than those previously offered to the Agency. However, special fissile materials may be exported only through the Agency and in accordance with the provisions of Article 57.

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

Article 55

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

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

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

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

If the Agency cannot meet in their entirety all the orders received, it shall, subject to the provisions of Articles 63 and 64, share out the supplies proportionately among the orders relating to each offer.

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

Article 56

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

When concluding a contract, the Agency may, while complying with the provisions of Article 48, require users to make appropriate advance payments either as security or to assist in meeting the Agency's own long term commitments to producers where these are essential to carrying out the order.

Article 57

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

(a) to meet demand from users within EURATOM in accordance with Article 55; or

(b) to store such materials itself; or

(c) to export such materials with the authorisation of the Commission which shall comply with the second subparagraph of Article 55(b).

2. Nevertheless, while continuing to be subject to the provisions of Chapter 6, such materials and any fertile wastes shall be left in the possession of the producer, so that he may:

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

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

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

3. The provisions of Article 80(1)(a) shall apply to special fissile materials which are produced in the territories of Member States and on which the Agency has not exercised its right of option.

Article 58

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

S e c t i o n 3

Ores, source materials and special fissile materials coming from outside EURATOM

Article 59

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

Article 60

Article 55 shall apply to applications from users and to contracts between users and the Agency relating to the supply of ores, source materials or special fissile materials coming from outside EURATOM.

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

Article 61

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

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

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

Section 4

Prices

Article 62

Save where exceptions are provided for in this Treaty, prices shall be determined as a result of balancing supply against demand as provided in Article 55; the national regulations of the Member States shall not contravene such provisions.

Article 63

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

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

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

Article 64

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

When the Agency lays down, in pursuance of Article 55, the terms on which orders can be met, it may propose to the users who have placed orders that prices be equalized.

Section 5

Special provisions

Article 65

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

Article 66

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

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

Article 67

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

- (a) by several persons or undertakings, where the material is to return to the original person or undertaking after being processed, converted or shaped; or
- (b) by a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped outside EURATOM and then returned to the original person or undertaking; or
- (c) by a person or undertaking and an international organisation or a national of a third State, where the material is processed, converted or shaped inside EURATOM and is then returned either to the

original organisation or national or to any other consignee likewise outside EURATOM designated by such organisation or national.

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

The materials to which such commitments relate shall be subject in the territories of the Member States to the safeguards laid down in Chapter 6 The provisions of Chapter 7 shall not, however, be applicable to special fissile materials covered by the commitments referred to in subparagraph (c).

CHAPTER 7: SAFEGUARDS

Article 68

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

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

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

Article 69

Anyone setting up or operating an installation for the production, separation or other use of source materials or special fissile materials or for the processing of irradiated nuclear fuels shall declare to the Commission the basic technical characteristics of the installations, to the extent that knowledge of these characteristics is necessary for the attainment of the objectives set out in Article 68.

The Commission must approve the techniques to be used for the chemical processing of irradiated materials, to the extent necessary to attain the objectives set out in Article 68.

Article 70

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

Those subject to such requirements shall notify the authorities of the Member State concerned of any communications they make to the Commission pursuant to Article 69 and to the first paragraph of this Article.

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

Article 71

The Commission may require that any excess special fissile materials recovered or obtained as by products and not actually being used or ready for use shall be decontaminated and submitted to final storage.

Article 72

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

On presentation of a document establishing their authority, inspectors shall at all times have access to all places and data and to all persons who, by reason of their occupation, deal with materials, equipment or installations subject to the safeguards provided for in this Chapter, to the extent necessary in order to apply such safeguards to ores, source materials and special fissile materials and to ensure compliance with the provisions of Article 68 until and after withdrawal from nuclear energy. Should the State concerned so request, inspectors appointed by the Commission shall be accompanied by representatives of the authorities of that State; however, the inspectors shall not thereby be delayed or otherwise impeded in the performance of their duties.

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

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

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

Article 73

Inspectors shall be recruited by the Commission.

They shall be responsible for obtaining and verifying the records referred to in Article 70. They shall report any infringement to the Commission.

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

If the Member State does not comply with the Commission directive by the time limit set, the Commission or any Member State concerned may, in derogation from Articles 258 and 259 of the TFEU, refer the matter to the Court of Justice of the European Union direct.

Article 74

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

These sanctions shall be in order of severity:

- (a) a warning;
- (b) the withdrawal of special benefits such as financial or technical assistance;
- (c) the placing of the undertaking for a period not exceeding four months under the administration of a person or board appointed by common accord of the Commission and the State having jurisdiction over the undertaking;
- (d) total or partial withdrawal of source materials or special fissile materials.

2. Decisions taken by the Commission in implementation of paragraph 1 and requiring the surrender of materials shall be enforceable. They may be enforced in the territories of Member States in accordance with Article 110.

By way of derogation from Article 109, appeals brought before the Court of Justice of the European Union against decisions of the Commission which impose any of the sanctions provided for in paragraph 1 shall have suspensory effect. The Court of Justice of the European Union may, however,

on application by the Commission or by any Member State concerned, order that the decision be enforced forthwith.

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

3. The Commission may make any recommendations to Member States concerning laws or regulations which are designed to ensure compliance in their territories with the obligations arising under this Chapter.

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

Article 75

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

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

Article 76

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

CHAPTER 8: PROPERTY OWNERSHIP

Article 77

Special fissile materials shall be the property of EURATOM.

EURATOM's right of ownership shall extend to all special fissile materials which are produced or imported by a Member State, a person or an undertaking and are subject to the safeguards provided for in Chapter 6.

Article 78

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

Article 79

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

Article 80

1. In the Special Fissile Materials Financial Account:

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

(b) the value of special fissile materials which are produced or imported by a Member State, person or undertaking and become the property of EURATOM shall be debited to EURATOM and credited to

that Member State, person or undertaking. A similar entry shall be made when a Member State, person or undertaking restores to EURATOM special fissile materials previously left in the possession of or put at the disposal of that State, person or undertaking.

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

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

Article 81

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

Article 82

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

2. Upon expiry of EURATOM all ownership of EURATOM shall automatically become ownership of the European Union.

Article 83

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

Acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, the European Parliament and the Council shall, issue directives for the application of this Article.

TITLE IV: ENCOURAGEMENT OF PROGRESS IN THE FIELD OF RENEWABLE ENERGIES, ENERGY EFFICIENCY AND ENERGY SAVING

CHAPTER 9: PROMOTION OF RESEARCH

Article 84

Promotion of Research, Education and Training

(1) The Commission shall be responsible for promoting and facilitating research in the field of new and renewable energy sources, energy efficiency and energy saving in the Member States and for complementing such research by carrying out the "European Research and Training Programme for Renewable Energy Sources, Energy Efficiency and Energy Saving" "EURENEWENERGY" as defined in Article 87 below.

(2) With regard to its tasks under this chapter, the Commission shall receive assistance from the European Environment Agency.

Article 85

Research Coordination

(1) To promote and complement the coordination and concentration of the research undertaken in Member States in the field of new and renewable energy sources, energy efficiency and energy saving,

the Commission shall call upon Member States, persons or undertakings to communicate to the Commission their programmes relating to the research which it specifies in the request. It shall do this either by a specific request addressed to given recipients and conveyed to the government concerned, or by a general published request.

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

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

(3) The Commission shall publish at regular intervals a list of those research sectors in the field of new and renewable energy sources, energy efficiency and energy saving which it considers to be insufficiently explored.

(4) The Commission may invite representatives of public and private research centres, as well as any experts engaged in research in the same or related fields, to conferences for the purpose of mutual consultation and exchange of information.

Article 86

Assistance with Research

(1) To encourage the implementation of research programmes communicated to it, the Commission may

- a) provide financial assistance within the framework of research contracts,
- b) place plants, equipment or expert assistance at the disposal of Member States, persons or undertakings, either free of charge or against payment,
- c) promote joint financing by the Member States, persons or undertakings.

Article 87

“European Research and Training Programme for Renewable Energy Sources, Energy Efficiency and Energy Saving” “EURENEWENERGY” (1) The “European Research and Training Programme for Renewable Energy Sources, Energy Efficiency and Energy Saving” “EURENEWENERGY” shall be established by the European Parliament and the Council acting in accordance with the ordinary legislative procedure on a proposal from the Commission, after consulting the Committee pursuant to Article 102 below.

(2) The funds required for implementing EURENEWENERGY shall be included each year in the EU’s research and investment budget.

(3) This framework programme shall be implemented through specific programmes that will be developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and define the funds deemed necessary. The sum of the amounts deemed necessary for the specific programmes must not exceed the overall maximum amount defined for the framework programme and each activity.

(4) The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, shall adopt the specific programmes.

(5) The European Environment Agency shall be responsible for providing logistical and administrative assistance for the specific programmes.

Article 88

Entrusting Others with the Implementation of the Research and Training Programme

After consulting the Committee, acting in accordance with Article 102 below, the Commission may, by contract, entrust Member States, persons or undertakings as well as third countries, intergovernmental organisations or nationals of third countries with the implementation of certain parts of EURENEWENERGY.

Article 89

Joint Undertakings to Promote Research

(1) Undertakings which are of fundamental importance to the development of research in the sector of new and renewable energy sources, energy efficiency and energy saving in the EU may be established as Joint Undertakings within the meaning of this provision.

(2) Every project for establishing a Joint Undertaking, whether originating from the Commission, a Member State or any other quarter, shall be the subject of an inquiry by the Committee acting in accordance with Article 102 below.

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

(3) The Commission shall forward to the European Parliament and the Council any project for establishing a Joint Undertaking, together with its reasoned opinion.

(4) Acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, the European Parliament and the Council shall define the provisions required for the establishment of the Joint Undertaking.

(5) In particular, the following points have to be defined:

a) location,

b) statutes,

c) the scale of and timetable for financing,

d) possible participation by the EU in the financing of the Joint Undertaking,

e) possible participation by a third State, an inter-governmental organisation or a natural or legal entity in the financing or management of the Joint Undertaking,

f) the granting of certain advantages.

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

Article 90

Publication of Programmes and Reports

(1) The Commission shall publish the research and training programmes and specific programmes referred to in Article 87 on the implementation, and also regular progress reports.

(2) The Commission shall submit a report on the activities of the Joint Undertakings established in accordance with Article 89 to the European Parliament and the Council at the beginning of each year.

CHAPTER 10: DISSEMINATION OF INFORMATION

Article 91

Procedure on the Exchange of Research Work

(1) After consulting the Committee in accordance with Article 102 below, the Commission shall define a procedure by which Member States, persons and undertakings may use it as an intermediary for exchanging provisional or final results of their research in the field of new and renewable energy sources, energy efficiency and energy saving, insofar as these results have not been acquired by the EU under research contracts awarded by the Commission.

(2) This procedure must be such as to ensure the confidential nature of the exchange.

Article 92

Publication of Knowledge

(1) The Commission shall publish the knowledge acquired by the EU, which it either derived from its own research programme or which was communicated to the Commission with authority to make free use of it. In this respect, the Commission shall receive assistance from the European Environment Agency.

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

(2) The Commission shall endeavour, by amicable agreement, to secure both the communication of information which is of use to the EU in the attainment of its objectives in the field of new and renewable energy sources, energy efficiency and energy saving and the granting of licences under

patents, provisionally protected patent rights, utility models or patent applications covering such information.

(3) Member States, persons or undertakings shall have the right, on application to obtain nonexclusive licences under patents, provisionally protected patent rights, utility models or patent applications in the field of new and renewable energy sources, energy efficiency and energy saving, owned by the EU, where they are able to make effective use of the inventions covered by such rights or applications.

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

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

CHAPTER 11: PROMOTION OF INVESTMENT

Article 93

Investment Programmes

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

The Commission shall take into account the particular needs and the special eligibility for the promotion of micro enterprises and small and medium-sized enterprises (SMEs).

(2) The Commission shall obtain the opinion of the Economic and Social Committee and the committee established in accordance with Article 102 below on such programmes before their publication.

Article 94

Joint Undertakings to Promote Investment

(1) Undertakings which are of fundamental importance to the field of new and renewable energy sources, energy efficiency and energy saving in the EU may be established as Joint Undertakings within the meaning of this provision.

(2) Every project for establishing a Joint Undertaking, whether originating from the Commission, a Member State or any other quarter, shall be reviewed by the Commission after consultation of the Committee acting in accordance with Article 102 below.

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

(3) The Commission shall forward to the European Parliament and the Council any project for establishing a Joint Undertaking, together with its reasoned opinion.

(4) Acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, the European Parliament and the Council shall define the provisions required for the establishment of the Joint Undertaking.

(5) In particular, the following points have to be defined:

a) location,

b) statutes,

c) the scale of and timetable for financing,

d) possible participation by the EU in the financing of the Joint Undertaking,

e) possible participation by a third State, an inter-governmental organisation or a natural or legal entity in the financing or management of the Joint Undertaking,

f) the granting of certain advantages.

(6) Each Joint Undertaking shall have legal personality. In each of the Member States, it shall enjoy the most extensive legal capacity accorded to legal persons under their respective national laws; it

may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings.

CHAPTER 12: RENEWABLE ENERGY SOURCES

Article 95

Targets and Action Plans

For the purpose of ensuring a safe, sustainable and affordable energy supply in Europe by means of renewable energies, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt appropriate measures, such as:

- a) definition of binding targets to progressively increase the share of energy from renewable sources in Europe's gross final consumption of energy as a whole;
- b) definition of binding national targets to progressively increase the share of energy from renewable sources in view of attaining the EU's overall objective;
- c) obligation of the Member States to adopt national action plans for renewable energy, which contain appropriate suitable measures to be taken to achieve the national targets;
- d) obligation of the Member States to submit periodically a progress report on the promotion and use of energy from renewable sources;
- e) framework conditions to promote common projects between two or more Member States or between Member States and third countries to produce electricity, heating or cooling energy from renewable energy sources.

Article 96

Energy Market

1. With regard to the promotion of the development of the market for renewable energy sources, the EU shall take into account the positive effects on regional and local development possibilities, export opportunities, social cohesion and employment opportunities, as well as the avoided costs for damage to the environment, particularly for SMEs and independent energy producers.

2 For the purpose of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedures in the context of securing the functioning of the energy market in accordance with Article 192(1)(b) of the TFEU, shall adopt appropriate measures to make the internal energy market more flexible, both on the supply and demand side, in order to prepare the market comprehensively for the integration of renewable energy sources.

3. The Social Protection Committee that was established in accordance with Article 160 of the Treaty on the Functioning of the European Union shall prepare regular reports on the situation of particularly vulnerable consumers in the energy market and promote the exchange of information, experience and good practices on solidarity, discount and compensation mechanisms between the Member States and the Commission.

Article 97

Energy Efficiency and Energy Saving

For the purpose of ensuring a safe, sustainable and affordable energy supply in Europe, the European Parliament and the Council, acting in accordance with ordinary legislative procedures, shall adopt appropriate measures, such as:

- a) definition of binding energy efficiency and energy saving targets for Europe as a whole;
- b) obligation of the Member States to define binding national energy efficiency and energy saving targets, which relate either to primary energy consumption or final energy consumption or primary energy savings or final energy savings or to energy intensity, in view of achieving the EU's overall objective;
- c) obligation of the Member States to adopt national energy efficiency and energy saving action plans, which contain appropriate measures to be taken to achieve the national targets;
- d) obligation of the Member States to submit periodically a report on the progress achieved in the implementation of the national energy efficiency and energy saving targets.

Article 98

1. Acting in accordance with the ordinary legislative procedures and after consulting the Economic and Social Committee, the European Parliament and the Council shall adopt measures appropriate to promote energy efficiency and energy saving.
2. The Commission, in its proposals envisaged in paragraph 1, shall aim at a high level of energy efficiency and energy saving, taking into account in particular any new developments based on scientific facts, taking account of their advantages for security of supply, environmental protection, social cohesion and regional development. Each within their respective powers, the European Parliament and the Council shall also pursue this goal.
3. Acting in accordance with the ordinary legislative procedures and after consulting the Economic and Social Committee, the European Parliament and the Council shall adopt measures to support and complement the policy of the Member States to promote consumer information concerning the efficient use of energy, energy saving and cost-effective ways to change energy usage behaviour.

CHAPTER 13: FINANCING AND COMPETITION AS TO RENEWABLE ENERGY

Article 99

Financing Instruments

1. To attain the objectives and tasks in accordance with this Protocol, the EU and the Member States shall take appropriate measures for increased investment in the use of energy from renewable sources, energy efficiency and energy saving to create the necessary incentives, without prejudice to Article 100 below.
2. Taking into account Article 2, the EU shall provide itself with the means necessary to implement its targets and tasks.

In particular, based on the European Union's existing financing instruments, the funding for investments leading to the increased use of energy from renewable energy sources, energy saving or enhanced energy efficiency shall be provided.

Article 100

State Aid

1. The provisions on State aid specified in the Treaty on the Functioning of the European Union shall apply unless any provisions to the contrary are provided for renewable energy in this Treaty.
2. State aid for energy saving and energy efficiency measures as well as for renewable energy carriers are exempted from the notification requirement pursuant to Article 108(3) of the TFEU, provided that it meets the general and particular exemption requirements to be defined in a regulation adopted by the Commission pursuant to Article 108(4) of the TFEU. The exemption requirements shall contribute towards attaining the renewable energy objectives defined for the EU.
3. Pursuant to Article 107(3)(c) of the TFEU, the Commission can consider any other aids for energy saving and energy efficiency measures as well as for renewable energy carriers, which are not exempted from the notification requirements pursuant to Article 108(3) of the TFEU as compatible with the internal market.

The Commission shall exercise its discretionary power in terms of the targets incorporated for renewable energy and develop such criteria of compatibility that strengthen the use of energy from renewable energy sources as well as control energy consumption by means of energy savings and improved energy efficiency.

In particular, the Commission must ensure that the Member States may grant State aid in any form and by any means, provided that it is guaranteed that such aid will contribute to achieve the renewable energy objectives of the EU in a reasonable manner and taking into account a Member State's right, pursuant to Article 194(2) of the TFEU, to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply system.

Article 101

Public Procurement

1. The Member States shall ensure that public institutions at a national, regional and local level within the scope of EU law shall only procure products, services and works with high energy efficiency if this is compatible with the aspects cost effectiveness, economic viability, sustainability in the broader sense and technical suitability as well as sufficient competition.

With regard to public procurement within the scope of EU right, the promotion of the use of renewable energies, energy efficiency and energy savings must be particularly ensured in the context of the contract specifications, the award criteria and the conditions for the contract execution, as far as these objectives are related to the subject of the public contract.

2. If possible and appropriate in view of the relevant subject of the public contract, environmental characteristics of the works, goods or services, in particular energy efficiency and energy saving criteria, as well as the use of energy from renewable sources, must be taken into account in the technical specifications.

Such criteria must be included in the performance and functional requirements across all stages of the lifecycle of works, goods or services, including the research and development to be conducted, production, trade and the associated conditions, transport, use and maintenance, during the service life of a product or building or while a service is being provided, starting with the procurement of raw materials or the production of resources to the disposal, clean-up operations and termination of the service or use.

If public-sector contracting authorities intend to purchase work, goods or services with such specific environment-related characteristics, those must be demanded that bear a seal of quality that is accessible to all involved and is related to the subject of the public contract and has requirements that are defined by a third party upon which the economic operator applying for the seal of quality can exercise no significant influence.

3. The contracting authorities shall award the contract to the economically most advantageous tender. The evaluation of the economically most advantageous tender shall primarily be based on the lifecycle costing approach. Apart from that, further award criteria can be defined, provided that they are linked to the subject of the public contract and their overall weighting does not exceed that of the lifecycle costs. Further award criteria may include additional environmental aspects to promote the use of energy from renewable sources, energy efficiency and energy saving, particularly ones that go beyond the minimum requirements contained in the specifications.

The lifecycle costing comprises the following costs during the lifecycle of a product, a service or a work, wholly or partially:

a) Costs borne by the public contracting authority or other users, such as:

i) procurement costs,

ii) usage costs, such as e.g. consumption of energy and other resources,

iii) maintenance costs,

iv) costs at the end of the useful life (cost of removal, recycling and disposal);

b) Costs arising from the external effects of the environmental impact, linked to the product, the service or work during its lifecycle, provided that its monetary value can be determined and assessed; such costs may be the costs of the emission of greenhouse gases or other pollutants, as well as costs to limit further climate change.

4. The public contracting authorities shall also define environment-related conditions, particularly in view of energy efficiency and energy saving, as well as the use of energy from renewable sources for the implementation of the contract, provided that this is possible and appropriate in view of the relevant subject of the public contract. These conditions must not be discriminating and must be included in the invitation to tender or in the contract documentation.

CHAPTER 14: COMMITTEE TO PROMOTE ENVIRONMENTALLY FRIENDLY FORMS OF ENERGY

Article 102

An advisory committee shall be established, composed of representatives of the Member States. The Committee shall participate in the preparations for the Council's work and in the coordination of the tasks of the Member States for renewable energy and advise the Commission and the Council.

TITLE V: EXTERNAL RELATIONS AND INTERNATIONAL AGREEMENTS

Article 103

EURATOM and the EU for promotion of energy efficiency and energy savings as well development and dissemination of new and renewable energy sources. may, within the limits of their powers and jurisdiction, enter into obligations by concluding agreements or contracts with a third State, an international organisation or a national of a third State.

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

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

Article 104

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

Article 105

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

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

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

Article 106

No person or undertaking concluding or renewing an agreement or contract with a third State, an international organisation or a national of a third State after 1 January 2022 or, for acceding States, after the date of their accession, may invoke that agreement or contract in order to evade the obligations imposed by this Treaty.

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

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

TITLE VI: INSTITUTIONAL AND FINANCIAL PROVISIONS

Application of certain provisions of the Treaty on European Union (TEU) and of the Treaty on the Functioning of the European Union (TFEU)

Article 107

1. Article 7, Articles 13 to 19, Article 48(2) to (5), and Articles 49 and 50 of the Treaty on European Union, and Article 15, Articles 223 to 236, Articles 237 to 244, Article 245, Articles 246 to 270, Article 272, 273 and 274, Articles 277 to 281, Articles 285 to 304, Articles 310 to 320, Articles 322 to 325 and Articles 336, 342 and 344 of the Treaty on the Functioning of the European Union, and the Protocol on Transitional Provisions, shall apply for EURATOM until the date of its expiry.

2. Within the framework of this Treaty, the references to the Union, to the ‘Treaty on European Union’, to the ‘Treaty on the Functioning of the European Union’ or to the ‘Treaties’ in the provisions referred to in paragraph 1 and those in the protocols annexed both to those Treaties and to this Treaty shall be taken, respectively, as references to EURATOM and to this Treaty.

3. The provisions of the Treaty on European Union and of the Treaty on the Functioning of the European Union shall not derogate from the provisions of this Treaty as to EURATOM until the date of its expiry.

Article 108

1. The Scientific and Technical Committee for EURATOM attached to the Commission and holding advisory status shall advise on all matters of withdrawal from nuclear energy.

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

2. The Committee shall consist of forty-one members, appointed by the Council after consultation with the Commission.

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

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

Article 109

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

Article 110

The Court of Justice of the European Union shall have unlimited jurisdiction in:

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

(b) proceedings instituted by persons or undertakings against sanctions imposed on them by the Commission under Article 74.

Article 111

If the Commission considers that a person or undertaking has committed an infringement of this Treaty to which the provisions of Article 74 do not apply, it shall call upon the Member State having jurisdiction over that person or undertaking to cause sanctions to be imposed in respect of the infringement in accordance with its national law.

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

Article 112

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

Article 113

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

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

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

Article 114

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

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

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

The manner of estimating, implementing and auditing such revenue and expenditure shall be laid down, with due regard to the statutes of the Agency, in financial regulations made pursuant to Article 322 of the TFEU.

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

Article 115

Loans for the financing of research or investment shall be raised on terms fixed by the Council in the manner provided for in Article 314 of the TFEU.

EURATOM.

Article 116

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

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

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

- (a) expenditure relating to the implementation of the EURATOM research programme;

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

Article 117

1. Subject to the limits resulting from programmes or decisions involving expenditure which, in pursuance of this Treaty, require the unanimous approval of the Council, allocations for research and investment expenditure shall include:
 - (a) commitment appropriations, covering a series of items which constitute a separate unit and form a coherent whole;
 - (b) payment appropriations which represent the maximum amount payable each year in respect of the commitments entered into under subparagraph (a).
2. The schedule of due dates for commitments and payments shall be annexed to the corresponding draft budget proposed by the Commission.
3. Appropriations for research and investment shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided, as far as may be necessary, in accordance with the regulations made pursuant to Article 322 of the TFEU.
4. Unused payment authorisations shall be carried forward to the next financial year by decision of the Commission, unless the Council decides otherwise.

Article 118

1. The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings of currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of this Treaty. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.
2. The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or any other financial institutions approved by that State.
3. As regards expenditure which EURATOM has to incur in the currencies of third countries, the Commission shall, before the budgets are finally adopted, submit to the Council a programme indicating anticipated revenue and expenditure in the different currencies.
This programme shall be approved by the Council, acting by a qualified majority. It may be modified in the course of the financial year in accordance with the same procedure.
4. Member States shall provide the Commission with the currency of third countries needed for the expenditure shown in the programme provided for in paragraph 3 according to the scales laid down in Article 115. Amounts collected by the Commission in the currency of third countries shall be transferred to Member States in accordance with the same scales.
5. The Commission may freely make use of any amounts in the currency of third countries derived from loans it has raised in such countries.
6. The Council may, acting unanimously on a proposal from the Commission apply, in whole or in part, to the Agency and to Joint Undertakings the exchange arrangements provided for in the preceding paragraphs, and, where appropriate, adapt these arrangements to their operational requirements.

TITLE VII: GENERAL PROVISIONS

Article 119

EURATOM shall have legal personality until the date of its expiry.

Article 120

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

Article 121

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

Article 122

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

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

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

Article 123

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

(repealed)Article 124

Until the date of its expiry EURATOM shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol on the privileges and immunities of the European Union.

Article 125

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

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

Article 126

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

Article 127

1. The members of the institutions of EURATOM, the members of committees, the officials and other servants of EURATOM and any other persons who by reason of their duties or their public or private

relations with the institutions or installations of EURATOM or with Joint Undertakings are called upon to acquire or obtain cognisance of any facts, information, knowledge, documents or objects which are subject to a security system in accordance with provisions laid down by a Member State or by an institution of EURATOM, shall be required, even after such duties or relations have ceased, to keep them secret from any unauthorised person and from the general public.

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

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

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

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

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

Article 128

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

Article 129

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

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

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

Article 130

For the purposes of this Treaty:

1. 'Special fissile materials' means plutonium 239; uranium 233; uranium enriched in uranium 235 or uranium 233; and any substance containing one or more of the foregoing isotopes and such other fissile materials as may be specified by the Council, acting by a qualified majority on a proposal from the Commission; the expression 'special fissile materials' does not, however, include source materials.

2. 'Uranium enriched in uranium 235 or uranium 233' means uranium containing uranium 235 or uranium 233 or both in an amount such that the abundance ratio of the sum of these isotopes to isotope 238 is greater than the ratio of isotope 235 to isotope 238 occurring in nature.

3. 'Source materials' means uranium containing the mixture of isotopes occurring in nature; uranium whose content in uranium 235 is less than the normal; thorium; any of the foregoing in the form of metal, alloy, chemical compound or concentrate; any other substance containing one or more of the foregoing in such a concentration as shall be specified by the Council, acting by a qualified majority on a proposal from the Commission.

4. 'Ores' means any ore containing, in such average concentration as shall be specified by the Council acting by a qualified majority on a proposal from the Commission, substances from which the source materials defined above may be obtained by the appropriate chemical and physical processing.

Article 131

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

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

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

Notwithstanding the previous paragraphs:

(a) this Treaty shall not apply to the Faroe Islands.

This Treaty shall not apply to Greenland;

(b) this Treaty shall not apply to the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus;

(c) this Treaty shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not listed in Annex II to the Treaty on European Union and the Treaty on the Functioning of the European Union;

(d) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

Article 132

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

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

Article 133

For the period until its expiry, EURATOM shall establish all appropriate forms of cooperation with the Council of Europe.

Article 134

For the period until its expiry, EURATOM shall establish close cooperation with the Organisation for Economic Cooperation and Development, the details of which shall be determined by common accord.

Article 135

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

Article 136

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

Article 137

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

Article 138

The parts of this Treaty, relating to EURATOM expire on 31 December 2040. All other parts are concluded for an unlimited period.

Article 139

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

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

Article 140

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

Pursuant to the Accession Treaties, the Bulgarian, Czech, Danish, English, Estonian, Finnish, Greek, Hungarian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish versions of this Treaty shall also be authentic.

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

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

(List of signatories not reproduced)

ANNEXES

Repealed

Repealed

ANNEX I

ADVANTAGES WHICH MAY BE CONFERRED ON JOINT UNDERTAKINGS UNDER ARTICLE 48 OF THIS TREATY

1. (a) Recognition that public interest status in conformity with the national laws applies to the acquisition of immovable property required for the establishment of Joint Undertakings.
(b) Application of national procedure for compulsory acquisition on the grounds of public interest, so that such acquisition may be effected where amicable agreement has not been reached.
2. The right to be granted licences, either through arbitration or under compulsory powers as provided in Articles 17 to 23.
3. Exemption from all duties and charges when Joint Undertakings are established and from all duties on assets contributed.
4. Exemption from all duties and charges levied upon acquisition of immovable property and from all registration and recording charges.
5. Exemption from all direct taxes to which Joint Undertakings, their property, assets and revenue might otherwise be liable.
6. Exemption from all customs duties and charges having equivalent effect and from all prohibitions and restrictions on imports or exports, whether of an economic or of a fiscal nature, with regard to:
 - (a) scientific and technical equipment, excluding building materials and equipment for administrative purposes;
 - (b) substances which have been or are to be processed in the Joint Undertaking.
7. Exchange arrangements provided for in Article 182(6).
8. Exemption from restrictions on entry and residence for nationals of Member States employed by Joint Undertakings and for their spouses and dependent members of their families.

Repealed

PROTOCOLS

PROTOCOL ON THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which national Parliaments scrutinise their governments in relation to the activities of the Union is a matter for the particular constitutional organisation and practice of each Member State,

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft legislative acts of the Union 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 Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

TITLE I: INFORMATION FOR NATIONAL PARLIAMENTS

Article 1

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.

Article 2

Draft legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments.

For the purposes of this Protocol, 'draft legislative acts' shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Draft legislative acts originating from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same time as to the European Parliament and the Council.

Draft legislative acts originating from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

Article 3

National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft legislative act complies with the principle of subsidiarity, in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned.

Article 4

An eight-week period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft legislative act during those eight weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position.

Article 5

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

Article 6

When the European Council intends to make use of the first or second subparagraphs of Article 48(7) of the Treaty on European Union, national Parliaments shall be informed of the initiative of the European Council at least six months before any decision is adopted.

Article 7

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

Article 8

Where the national Parliamentary system is not unicameral, Articles 1 to 7 shall apply to the component chambers.

TITLE II: INTERPARLIAMENTARY COOPERATION

Article 9

The European Parliament and national Parliaments shall together determine the organisation and promotion of effective and regular interparliamentary cooperation within the Union.

Article 10

A conference of Parliamentary Committees for Union Affairs 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 national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

PROTOCOL ON THE STATUTE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

DESIRING to lay down the Statute of the Court of Justice of the European Union provided for in Article 281 of the Treaty on the Functioning of the European Union,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

Article 1

The Court of Justice of the European Union shall be constituted and shall function in accordance with the provisions of the Treaties, of the Treaty establishing the European Atomic Energy Community (EAEC Treaty) and of this Statute.

TITLE I: JUDGES AND ADVOCATES-GENERAL

Article 2

Before taking up his duties each Judge shall, before the Court of Justice sitting in open court, take an oath to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 3

The Judges shall be immune from legal proceedings. After they have ceased to hold office, they shall continue to enjoy immunity in respect of acts performed by them in their official capacity, including words spoken or written.

The Court of Justice, sitting as a full Court, may waive the immunity. If the decision concerns a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.

Where immunity has been waived and criminal proceedings are instituted against a Judge, he shall be tried, in any of the Member States, only by the court competent to judge the members of the highest national judiciary.

Articles 11 to 14 and Article 17 of the Protocol on the privileges and immunities of the European Union shall apply to the Judges, Advocates-General, Registrar and Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions relating to immunity from legal proceedings of Judges which are set out in the preceding paragraphs.

Article 4

The Judges may not hold any political or administrative office.

They may not engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Council, acting by a simple majority.

When taking up their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom, in particular the duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

Any doubt on this point shall be settled by decision of the Court of Justice. If the decision concerns a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.

Article 5

Apart from normal replacement, or death, the duties of a Judge shall end when he resigns.

Where a Judge resigns, his letter of resignation shall be addressed to the President of the Court of Justice for transmission to the President of the Council. Upon this notification a vacancy shall arise on the bench.

Save where Article 6 applies, a Judge shall continue to hold office until his successor takes up his duties.

Article 6

A Judge may be deprived of his office or of his right to a pension or other benefits in its stead only if, in the unanimous opinion of the Judges and Advocates-General of the Court of Justice, he no longer fulfils the requisite conditions or meets the obligations arising from his office. The Judge concerned shall not take part in any such deliberations. If the person concerned is a member of the General Court or of a specialised court, the Court shall decide after consulting the court concerned.

The Registrar of the Court shall communicate the decision of the Court to the President of the European Parliament and to the President of the Commission and shall notify it to the President of the Council.

In the case of a decision depriving a Judge of his office, a vacancy shall arise on the bench upon this latter notification.

Article 7

A Judge who is to replace a member of the Court whose term of office has not expired shall be appointed for the remainder of his predecessor's term.

Article 8

The provisions of Articles 2 to 7 shall apply to the Advocates-General.

TITLE II: ORGANISATION OF THE COURT OF JUSTICE

Article 9

When, every three years, the Judges are partially replaced, 14 and 13 Judges shall be replaced alternately.

When, every three years, the Advocates-General are partially replaced, four Advocates-General shall be replaced on each occasion.

Article 10

The Registrar shall take an oath before the Court of Justice to perform his duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court of Justice.

Article 11

The Court of Justice shall arrange for replacement of the Registrar on occasions when he is prevented from attending the Court of Justice.

Article 12

Officials and other servants shall be attached to the Court of Justice to enable it to function. They shall be responsible to the Registrar under the authority of the President.

Article 13

At the request of the Court of Justice, the European Parliament and the Council may, acting in accordance with the ordinary legislative procedure, provide for the appointment of Assistant Rapporteurs and lay down the rules governing their service. The Assistant Rapporteurs may be required, under conditions laid down in the Rules of Procedure, to participate in preparatory inquiries in cases pending before the Court and to cooperate with the Judge who acts as Rapporteur.

The Assistant Rapporteurs shall be chosen from persons whose independence is beyond doubt and who possess the necessary legal qualifications; they shall be appointed by the Council, acting by a simple majority. They shall take an oath before the Court to perform their duties impartially and conscientiously and to preserve the secrecy of the deliberations of the Court.

Article 14

The Judges, the Advocates-General and the Registrar shall be required to reside at the place where the Court of Justice has its seat.

Article 15

The Court of Justice shall remain permanently in session. The duration of the judicial vacations shall be determined by the Court with due regard to the needs of its business.

Article 16

The Court of Justice shall form chambers consisting of three and five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The Grand Chamber shall consist of 13 Judges. It shall be presided over by the President of the Court. The Presidents of the chambers of five Judges and other Judges appointed in accordance with the conditions laid down in the Rules of Procedure shall also form part of the Grand Chamber.

The Court shall sit in a Grand Chamber when a Member State or an institution of the Union that is party to the proceedings so requests.

The Court shall sit as a full Court where cases are brought before it pursuant to Article 228(2), Article 245(2), Article 247 or Article 286(6) of the Treaty on the Functioning of the European Union.

Moreover, where it considers that a case before it is of exceptional importance, the Court may decide, after hearing the Advocate-General, to refer the case to the full Court.

Article 17

Decisions of the Court of Justice shall be valid only when an uneven number of its members is sitting in the deliberations.

Decisions of the chambers consisting of either three or five Judges shall be valid only if they are taken by three Judges.

Decisions of the Grand Chamber shall be valid only if nine Judges are sitting.

Decisions of the full Court shall be valid only if 15 Judges are sitting.

In the event of one of the Judges of a chamber being prevented from attending, a Judge of another chamber may be called upon to sit in accordance with conditions laid down in the Rules of Procedure.

Article 18

No Judge or Advocate-General may take part in the disposal of any case in which he has previously taken part as agent or adviser or has acted for one of the parties, or in which he has been called upon to pronounce as a member of a court or tribunal, of a commission of inquiry or in any other capacity.

If, for some special reason, any Judge or Advocate-General considers that he should not take part in the judgment or examination of a particular case, he shall so inform the President. If, for some special reason, the President considers that any Judge or Advocate-General should not sit or make submissions in a particular case, he shall notify him accordingly.

Any difficulty arising as to the application of this Article shall be settled by decision of the Court of Justice.

A party may not apply for a change in the composition of the Court or of one of its chambers on the grounds of either the nationality of a Judge or the absence from the Court or from the chamber of a Judge of the nationality of that party.

TITLE III: PROCEDURE BEFORE THE COURT OF JUSTICE

Article 19

The Member States and the institutions of the Union shall be represented before the Court of Justice by an agent appointed for each case; the agent may be assisted by an adviser or by a lawyer.

The States, other than the Member States, which are parties to the Agreement on the European Economic Area and also the EFTA Surveillance Authority referred to in that Agreement shall be represented in same manner.

Other parties must be represented by a lawyer.

Only a lawyer authorised to practise before a court of a Member State or of another State which is a party to the Agreement on the European Economic Area may represent or assist a party before the Court.

Such agents, advisers and lawyers shall, when they appear before the Court, enjoy the rights and immunities necessary to the independent exercise of their duties, under conditions laid down in the Rules of Procedure.

As regards such advisers and lawyers who appear before it, the Court shall have the powers normally accorded to courts of law, under conditions laid down in the Rules of Procedure.

University teachers being nationals of a Member State whose law accords them a right of audience shall have the same rights before the Court as are accorded by this Article to lawyers.

Article 20

The procedure before the Court of Justice shall consist of two parts: written and oral.

The written procedure shall consist of the communication to the parties and to the institutions of the Union whose decisions are in dispute, of applications, statements of case, defences and observations, and of replies, if any, as well as of all papers and documents in support or of certified copies of them.

Communications shall be made by the Registrar in the order and within the time laid down in the Rules of Procedure.

The oral procedure shall consist of the reading of the report presented by a Judge acting as Rapporteur, the hearing by the Court of agents, advisers and lawyers and of the submissions of the Advocate-General, as well as the hearing, if any, of witnesses and experts.

Where it considers that the case raises no new point of law, the Court may decide, after hearing the Advocate-General, that the case shall be determined without a submission from the Advocate-General.

Article 21

A case shall be brought before the Court of Justice by a written application addressed to the Registrar. The application shall contain the applicant's name and permanent address and the description of the signatory, the name of the party or names of the parties against whom the application is made, the subject-matter of the dispute, the form of order sought and a brief statement of the pleas in law on which the application is based.

The application shall be accompanied, where appropriate, by the measure the annulment of which is sought or, in the circumstances referred to in Article 265 of the Treaty on the Functioning of the European Union, by documentary evidence of the date on which an institution was, in accordance with those Articles, requested to act. If the documents are not submitted with the application, the Registrar shall ask the party concerned to produce them within a reasonable period, but in that event the rights of the party shall not lapse even if such documents are produced after the time limit for bringing proceedings.

Article 22

A case governed by Article 18 of the EAEC Treaty shall be brought before the Court of Justice by an appeal addressed to the Registrar. The appeal shall contain the name and permanent address of the applicant and the description of the signatory, a reference to the decision against which the appeal is brought, the names of the respondents, the subject-matter of the dispute, the submissions and a brief statement of the grounds on which the appeal is based.

The appeal shall be accompanied by a certified copy of the decision of the Arbitration Committee which is contested.

If the Court rejects the appeal, the decision of the Arbitration Committee shall become final.

If the Court annuls the decision of the Arbitration Committee, the matter may be re-opened, where appropriate, on the initiative of one of the parties in the case, before the Arbitration Committee. The latter shall conform to any decisions on points of law given by the Court.

Article 23

In the cases governed by Article 267 of the Treaty on the Functioning of the European Union, the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court of Justice shall be notified to the Court by the court or tribunal concerned. The decision shall then be notified by the Registrar of the Court to the parties, to the Member States and to the Commission, and to the institution, body, office or agency of the Union which adopted the act the validity or interpretation of which is in dispute.

Within two months of this notification, the parties, the Member States, the Commission and, where appropriate, the institution, body, office or agency which adopted the act the validity or interpretation of which is in dispute, shall be entitled to submit statements of case or written observations to the Court.

In the cases governed by Article 267 of the Treaty on the Functioning of the European Union, the decision of the national court or tribunal shall, moreover, be notified by the Registrar of the Court to the States, other than the Member States, which are parties to the Agreement on the European Economic Area and also to the EFTA Surveillance Authority referred to in that Agreement which may, within two months of notification, where one of the fields of application of that Agreement is concerned, submit statements of case or written observations to the Court.

Where an agreement relating to a specific subject matter, concluded by the Council and one or more non-member States, provides that those States are to be entitled to submit statements of case or written observations where a court or tribunal of a Member State refers to the Court of Justice for a preliminary ruling a question falling within the scope of the agreement, the decision of the national court or tribunal containing that question shall also be notified to the non-member States concerned. Within two months from such notification, those States may lodge at the Court statements of case or written observations.

Article 23a ()*

The Rules of Procedure may provide for an expedited or accelerated procedure and, for references for a preliminary ruling relating to the area of freedom, security and justice, an urgent procedure.

Those procedures may provide, in respect of the submission of statements of case or written observations, for a shorter period than that provided for by Article 23, and, in derogation from the fourth paragraph of Article 20, for the case to be determined without a submission from the Advocate General.

In addition, the urgent procedure may provide for restriction of the parties and other interested persons mentioned in Article 23, authorised to submit statements of case or written observations and, in cases of extreme urgency, for the written stage of the procedure to be omitted.

Article 24

The Court of Justice may require the parties to produce all documents and to supply all information which the Court considers desirable. Formal note shall be taken of any refusal.

The Court may also require the Member States and institutions, bodies, offices and agencies not being parties to the case to supply all information which the Court considers necessary for the proceedings.

Article 25

The Court of Justice may at any time entrust any individual, body, authority, committee or other organisation it chooses with the task of giving an expert opinion.

Article 26

Witnesses may be heard under conditions laid down in the Rules of Procedure.

Article 27

With respect to defaulting witnesses the Court of Justice shall have the powers generally granted to courts and tribunals and may impose pecuniary penalties under conditions laid down in the Rules of Procedure.

Article 28

Witnesses and experts may be heard on oath taken in the form laid down in the Rules of Procedure or in the manner laid down by the law of the country of the witness or expert.

Article 29

The Court of Justice may order that a witness or expert be heard by the judicial authority of his place of permanent residence.

The order shall be sent for implementation to the competent judicial authority under conditions laid down in the Rules of Procedure. The documents drawn up in compliance with the letters rogatory shall be returned to the Court under the same conditions.

The Court shall defray the expenses, without prejudice to the right to charge them, where appropriate, to the parties.

Article 30

A Member State shall treat any violation of an oath by a witness or expert in the same manner as if the offence had been committed before one of its courts with jurisdiction in civil proceedings. At the instance of the Court of Justice, the Member State concerned shall prosecute the offender before its competent court.

Article 31

The hearing in court shall be public, unless the Court of Justice, of its own motion or on application by the parties, decides otherwise for serious reasons.

Article 32

During the hearings the Court of Justice may examine the experts, the witnesses and the parties themselves. The latter, however, may address the Court of Justice only through their representatives.

Article 33

Minutes shall be made of each hearing and signed by the President and the Registrar.

Article 34

The case list shall be established by the President.

Article 35

The deliberations of the Court of Justice shall be and shall remain secret.

Article 36

Judgments shall state the reasons on which they are based. They shall contain the names of the Judges who took part in the deliberations.

Article 37

Judgments shall be signed by the President and the Registrar. They shall be read in open court.

Article 38

The Court of Justice shall adjudicate upon costs.

Article 39

The President of the Court of Justice may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Statute and which shall be laid down in the Rules of Procedure, adjudicate upon applications to suspend execution, as provided for in Article 278 of the Treaty on the Functioning of the European Union and Article 157 of the EAEC Treaty, or to prescribe interim measures pursuant to Article 279 of the Treaty on the Functioning of the European Union, or to suspend enforcement in accordance with the fourth paragraph of Article 299 of the Treaty on the Functioning of the European Union or the third paragraph of Article 164 of the EAEC Treaty. Should the President be prevented from attending, his place shall be taken by another Judge under conditions laid down in the Rules of Procedure.

The ruling of the President or of the Judge replacing him shall be provisional and shall in no way prejudice the decision of the Court on the substance of the case.

Article 40

Member States and institutions of the Union may intervene in cases before the Court of Justice.

The same right shall be open to the bodies, offices and agencies of the Union and to any other person which can establish an interest in the result of a case submitted to the Court. Natural or legal persons shall not intervene in cases between Member States, between institutions of the Union or between Member States and institutions of the Union.

Without prejudice to the second paragraph, the States, other than the Member States, which are parties to the Agreement on the European Economic Area, and also the EFTA Surveillance Authority referred

to in that Agreement, may intervene in cases before the Court where one of the fields of application of that Agreement is concerned.

An application to intervene shall be limited to supporting the form of order sought by one of the parties.

Article 41

Where the defending party, after having been duly summoned, fails to file written submissions in defence, judgment shall be given against that party by default. An objection may be lodged against the judgment within one month of it being notified. The objection shall not have the effect of staying enforcement of the judgment by default unless the Court of Justice decides otherwise.

Article 42

Member States, institutions, bodies, offices and agencies of the Union and any other natural or legal persons may, in cases and under conditions to be determined by the Rules of Procedure, institute third-party proceedings to contest a judgment rendered without their being heard, where the judgment is prejudicial to their rights.

Article 43

If the meaning or scope of a judgment is in doubt, the Court of Justice shall construe it on application by any party or any institution of the Union establishing an interest therein.

Article 44

An application for revision of a judgment may be made to the Court of Justice only on discovery of a fact which is of such a nature as to be a decisive factor, and which, when the judgment was given, was unknown to the Court and to the party claiming the revision.

The revision shall be opened by a judgment of the Court expressly recording the existence of a new fact, recognising that it is of such a character as to lay the case open to revision and declaring the application admissible on this ground.

No application for revision may be made after the lapse of 10 years from the date of the judgment.

Article 45

Periods of grace based on considerations of distance shall be determined by the Rules of Procedure.

No right shall be prejudiced in consequence of the expiry of a time limit if the party concerned proves the existence of unforeseeable circumstances or of *force majeure*.

Article 46

Proceedings against the Union in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto. The period of limitation shall be interrupted if proceedings are instituted before the Court of Justice or if prior to such proceedings an application is made by the aggrieved party to the relevant institution of the Union. In the latter event the proceedings must be instituted within the period of two months provided for in Article 263 of the Treaty on the Functioning of the European Union; the provisions of the second paragraph of Article 265 of the Treaty on the Functioning of the European Union shall apply where appropriate.

This Article shall also apply to proceedings against the European Central Bank regarding non-contractual liability.

TITLE IV: GENERAL COURT

Article 47

The first paragraph of Article 9, Articles 14 and 15, the first, second, fourth and fifth paragraphs of Article 17 and Article 18 shall apply to the General Court and its members.

The fourth paragraph of Article 3 and Articles 10, 11 and 14 shall apply to the Registrar of the General Court *mutatis mutandis*.

Article 48

The General Court shall consist of 27 Judges.

Article 49

The Members of the General Court may be called upon to perform the task of an Advocate-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on certain cases brought before the General Court in order to assist the General Court in the performance of its task.

The criteria for selecting such cases, as well as the procedures for designating the Advocates-General, shall be laid down in the Rules of Procedure of the General Court.

A Member called upon to perform the task of Advocate-General in a case may not take part in the judgment of the case.

Article 50

The General Court shall sit in chambers of three or five Judges. The Judges shall elect the Presidents of the chambers from among their number. The Presidents of the chambers of five Judges shall be elected for three years. They may be re-elected once.

The composition of the chambers and the assignment of cases to them shall be governed by the Rules of Procedure. In certain cases governed by the Rules of Procedure, the General Court may sit as a full court or be constituted by a single Judge.

The Rules of Procedure may also provide that the General Court may sit in a Grand Chamber in cases and under the conditions specified therein.

Article 51

By way of derogation from the rule laid down in Article 256(1) of the Treaty on the Functioning of the European Union, jurisdiction shall be reserved to the Court of Justice in the actions referred to in Articles 263 and 265 of the Treaty on the Functioning of the European Union when they are brought by a Member State against:

(a) an act of or failure to act by the European Parliament or the Council, or by those institutions acting jointly, except for:

— decisions taken by the Council under the third subparagraph of Article 108(2) of the Treaty on the Functioning of the European Union;

— acts of the Council adopted pursuant to a Council regulation concerning measures to protect trade within the meaning of Article 207 of the Treaty on the Functioning of the European Union;

— acts of the Council by which the Council exercises implementing powers in accordance with the second paragraph of Article 291 of the Treaty on the Functioning of the European Union;

(b) against an act of or failure to act by the Commission under the first paragraph of Article 331 of the Treaty on the Functioning of the European Union.

Jurisdiction shall also be reserved to the Court of Justice in the actions referred to in the same Articles when they are brought by an institution of the Union against an act of or failure to act by the European

Parliament, the Council, both those institutions acting jointly, or the Commission, or brought by an institution of the Union against an act of or failure to act by the European Central Bank.

Article 52

The President of the Court of Justice and the President of the General Court shall determine, by common accord, the conditions under which officials and other servants attached to the Court shall render their services to the General Court to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the General Court under the authority of the President of the General Court.

Article 53

The procedure before the General Court shall be governed by Title III.

Such further and more detailed provisions as may be necessary shall be laid down in its Rules of Procedure. The Rules of Procedure may derogate from the fourth paragraph of Article 40 and from Article 41 in order to take account of the specific features of litigation in the field of intellectual property.

Notwithstanding the fourth paragraph of Article 20, the Advocate-General may make his reasoned submissions in writing.

Article 54

Where an application or other procedural document addressed to the General Court is lodged by mistake with the Registrar of the Court of Justice, it shall be transmitted immediately by that Registrar to the Registrar of the General Court; likewise, where an application or other procedural document addressed to the Court of Justice is lodged by mistake with the Registrar of the General Court, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice.

Where the General Court finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice has jurisdiction, it shall refer that action to the Court of Justice; likewise, where the Court of Justice finds that an action falls within the jurisdiction of the General Court, it shall refer that action to the General Court, whereupon that Court may not decline jurisdiction.

Where the Court of Justice and the General Court are seized of cases in which the same relief is sought, the same issue of interpretation is raised or the validity of the same act is called in question, the General Court may, after hearing the parties, stay the proceedings before it until such time as the Court of Justice has delivered judgment or, where the action is one brought pursuant to Article 263 of the Treaty on the Functioning of the European Union, may decline jurisdiction so as to allow the Court of Justice to rule on such actions. In the same circumstances, the Court of Justice may also decide to stay the proceedings before it; in that event, the proceedings before the General Court shall continue.

Where a Member State and an institution of the Union are challenging the same act, the General Court shall decline jurisdiction so that the Court of Justice may rule on those applications.

Article 55

Final decisions of the General Court, decisions disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility, shall be notified by the Registrar of the General Court to all parties as well as all Member States and the institutions of the Union even if they did not intervene in the case before the General Court.

Article 56

An appeal may be brought before the Court of Justice, within two months of the notification of the decision appealed against, against final decisions of the General Court and decisions of that Court

disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of competence or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Union may bring such an appeal only where the decision of the General Court directly affects them.

With the exception of cases relating to disputes between the Union and its servants, an appeal may also be brought by Member States and institutions of the Union which did not intervene in the proceedings before the General Court. Such Member States and institutions shall be in the same position as Member States or institutions which intervened at first instance.

Article 57

Any person whose application to intervene has been dismissed by the General Court may appeal to the Court of Justice within two weeks from the notification of the decision dismissing the application.

The parties to the proceedings may appeal to the Court of Justice against any decision of the General Court made pursuant to Article 278 or Article 279 or the fourth paragraph of Article 299 of the Treaty on the Functioning of the European Union or Article 157 or the third paragraph of Article 164 of the EAEC Treaty within two months from their notification.

The appeal referred to in the first two paragraphs of this Article shall be heard and determined under the procedure referred to in Article 39.

Article 58

An appeal to the Court of Justice shall be limited to points of law. It shall lie on the grounds of lack of competence of the General Court, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Union law by the General Court.

No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 59

Where an appeal is brought against a decision of the General Court, the procedure before the Court of Justice shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure, the Court of Justice, having heard the Advocate-General and the parties, may dispense with the oral procedure.

Article 60

Without prejudice to Articles 278 and 279 of the Treaty on the Functioning of the European Union or Article 157 of the EAEC Treaty, an appeal shall not have suspensory effect.

By way of derogation from Article 280 of the Treaty on the Functioning of the European Union, decisions of the General Court declaring a regulation to be void shall take effect only as from the date of expiry of the period referred to in the first paragraph of Article 56 of this Statute or, if an appeal shall have been brought within that period, as from the date of dismissal of the appeal, without prejudice, however, to the right of a party to apply to the Court of Justice, pursuant to Articles 278 and 279 of the Treaty on the Functioning of the European Union or Article 157 of the EAEC Treaty, for the suspension of the effects of the regulation which has been declared void or for the prescription of any other interim measure.

Article 61

If the appeal is well founded, the Court of Justice shall quash the decision of the General Court. It may itself give final judgment in the matter, where the state of the proceedings so permits, or refer the case back to the General Court for judgment.

Where a case is referred back to the General Court, that Court shall be bound by the decision of the Court of Justice on points of law.

When an appeal brought by a Member State or an institution of the Union, which did not intervene in the proceedings before the General Court, is well founded, the Court of Justice may, if it considers this necessary, state which of the effects of the decision of the General Court which has been quashed shall be considered as definitive in respect of the parties to the litigation.

Article 62

In the cases provided for in Article 256(2) and (3) of the Treaty on the Functioning of the European Union, where the First Advocate-General considers that there is a serious risk of the unity or consistency of Union law being affected, he may propose that the Court of Justice review the decision of the General Court.

The proposal must be made within one month of delivery of the decision by the General Court. Within one month of receiving the proposal made by the First Advocate-General, the Court of Justice shall decide whether or not the decision should be reviewed.

Article 62a

The Court of Justice shall give a ruling on the questions which are subject to review by means of an urgent procedure on the basis of the file forwarded to it by the General Court.

Those referred to in Article 23 of this Statute and, in the cases provided for in Article 256(2) of the EC Treaty, the parties to the proceedings before the General Court shall be entitled to lodge statements or written observations with the Court of Justice relating to questions which are subject to review within a period prescribed for that purpose.

The Court of Justice may decide to open the oral procedure before giving a ruling.

Article 62b

In the cases provided for in Article 256(2) of the Treaty on the Functioning of the European Union, without prejudice to Articles 278 and 279 of the Treaty on the Functioning of the European Union, proposals for review and decisions to open the review procedure shall not have suspensory effect. If the Court of Justice finds that the decision of the General Court affects the unity or consistency of Union law, it shall refer the case back to the General Court which shall be bound by the points of law decided by the Court of Justice; the Court of Justice may state which of the effects of the decision of the General Court are to be considered as definitive in respect of the parties to the litigation. If, however, having regard to the result of the review, the outcome of the proceedings flows from the findings of fact on which the decision of the General Court was based, the Court of Justice shall give final judgment.

In the cases provided for in Article 256(3) of the Treaty on the Functioning of the European Union, in the absence of proposals for review or decisions to open the review procedure, the answer(s) given by the General Court to the questions submitted to it shall take effect upon expiry of the periods prescribed for that purpose in the second paragraph of Article 62. Should a review procedure be opened, the answer(s) subject to review shall take effect following that procedure, unless the Court of Justice decides otherwise. If the Court of Justice finds that the decision of the General Court affects the unity or consistency of Union law, the answer given by the Court of Justice to the questions subject to review shall be substituted for that given by the General Court.

TITLE IVa: SPECIALISED COURTS

Article 62c

The provisions relating to the jurisdiction, composition, organisation and procedure of the specialised courts established under Article 257 of the Treaty on the Functioning of the European Union are set out in an Annex to this Statute.

TITLE V: FINAL PROVISIONS

Article 63

The Rules of Procedure of the Court of Justice and of the General Court shall contain any provisions necessary for applying and, where required, supplementing this Statute.

Article 64

The rules governing the language arrangements applicable at the Court of Justice of the European Union shall be laid down by a regulation of the Council acting unanimously. This regulation shall be adopted either at the request of the Court of Justice and after consultation of the Commission and the European Parliament, or on a proposal from the Commission and after consultation of the Court of Justice and of the European Parliament.

Until those rules have been adopted, the provisions of the Rules of Procedure of the Court of Justice and of the Rules of Procedure of the General Court governing language arrangements shall continue to apply. By way of derogation from Articles 253 and 254 of the Treaty on the Functioning of the European Union, those provisions may only be amended or repealed with the unanimous consent of the Council.

ANNEX I

THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Article 1

The European Union Civil Service Tribunal (hereafter ‘the Civil Service Tribunal’) shall exercise at first instance jurisdiction in disputes between the Union and its servants referred to in Article 270 of the Treaty on the Functioning of the European Union, including disputes between all bodies or agencies and their servants in respect of which jurisdiction is conferred on the Court of Justice of the European Union.

Article 2

The Civil Service Tribunal shall consist of seven judges. Should the Court of Justice so request, the Council, acting by a qualified majority, may increase the number of judges.

The judges shall be appointed for a period of six years. Retiring judges may be reappointed.

Any vacancy shall be filled by the appointment of a new judge for a period of six years.

Article 3

1. The judges shall be appointed by the Council, acting in accordance with the fourth paragraph of Article 257 of the Treaty on the Functioning of the European Union, after consulting the committee provided for by this Article. When appointing judges, the Council shall ensure a balanced composition of the Civil Service Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented.

2. Any person who is a Union citizen and fulfils the conditions laid down in the fourth paragraph of Article 257 of the Treaty on the Functioning of the European Union may submit an application. The Council, acting on a recommendation from the Court of Justice, shall determine the conditions and the arrangements governing the submission and processing of such applications.

3. A committee shall be set up comprising seven persons chosen from among former members of the Court of Justice and the General Court and lawyers of recognised competence. The committee's membership and operating rules shall be determined by the Council, acting on a recommendation by the President of the Court of Justice.

4. The committee shall give an opinion on candidates' suitability to perform the duties of judge at the Civil Service Tribunal. The committee shall append to its opinion a list of candidates having the most suitable high-level experience. Such list shall contain the names of at least twice as many candidates as there are judges to be appointed by the Council.

Article 4

1. The judges shall elect the President of the Civil Service Tribunal from among their number for a term of three years. He may be re-elected.

2. The Civil Service Tribunal shall sit in chambers of three judges. It may, in certain cases determined by its Rules of Procedure, sit in full court or in a chamber of five judges or of a single judge.

3. The President of the Civil Service Tribunal shall preside over the full court and the chamber of five judges. The Presidents of the chambers of three judges shall be designated as provided in paragraph 1. If the President of the Civil Service Tribunal is assigned to a chamber of three judges, he shall preside over that chamber.

4. The jurisdiction of and quorum for the full court as well as the composition of the chambers and the assignment of cases to them shall be governed by the Rules of Procedure.

Article 5

Articles 2 to 6, 14, 15, the first, second and fifth paragraphs of Article 17, and Article 18 of the Statute of the Court of Justice of the European Union shall apply to the Civil Service Tribunal and its members.

The oath referred to in Article 2 of the Statute shall be taken before the Court of Justice, and the decisions referred to in Articles 3, 4 and 6 thereof shall be adopted by the Court of Justice after consulting the Civil Service Tribunal.

Article 6

1. The Civil Service Tribunal shall be supported by the departments of the Court of Justice and of the General Court. The President of the Court of Justice or, in appropriate cases, the President of the General Court, shall determine by common accord with the President of the Civil Service Tribunal the conditions under which officials and other servants attached to the Court of Justice or the General Court shall render their services to the Civil Service Tribunal to enable it to function. Certain officials or other servants shall be responsible to the Registrar of the Civil Service Tribunal under the authority of the President of that Tribunal.

2. The Civil Service Tribunal shall appoint its Registrar and lay down the rules governing his service. The fourth paragraph of Article 3 and Articles 10, 11 and 14 of the Statute of the Court of Justice of the European Union shall apply to the Registrar of the Tribunal.

Article 7

1. The procedure before the Civil Service Tribunal shall be governed by Title III of the Statute of the Court of Justice of the European Union, with the exception of Articles 22 and 23. Such further and more detailed provisions as may be necessary shall be laid down in the Rules of Procedure.

2. The provisions concerning the General Court's language arrangements shall apply to the Civil Service Tribunal.

3. The written stage of the procedure shall comprise the presentation of the application and of the statement of defence, unless the Civil Service Tribunal decides that a second exchange of written pleadings is necessary. Where there is such second exchange, the Civil Service Tribunal may, with the agreement of the parties, decide to proceed to judgment without an oral procedure.

4. At all stages of the procedure, including the time when the application is filed, the Civil Service Tribunal may examine the possibilities of an amicable settlement of the dispute and may try to facilitate such settlement.

5. The Civil Service Tribunal shall rule on the costs of a case. Subject to the specific provisions of the Rules of Procedure, the unsuccessful party shall be ordered to pay the costs should the court so decide.

Article 8

1. Where an application or other procedural document addressed to the Civil Service Tribunal is lodged by mistake with the Registrar of the Court of Justice or General Court, it shall be transmitted immediately by that Registrar to the Registrar of the Civil Service Tribunal. Likewise, where an application or other procedural document addressed to the Court of Justice or to the General Court is lodged by mistake with the Registrar of the Civil Service Tribunal, it shall be transmitted immediately by that Registrar to the Registrar of the Court of Justice or General Court.

2. Where the Civil Service Tribunal finds that it does not have jurisdiction to hear and determine an action in respect of which the Court of Justice or the General Court has jurisdiction, it shall refer that action to the Court of Justice or to the General Court. Likewise, where the Court of Justice or the General Court finds that an action falls within the jurisdiction of the Civil Service Tribunal, the Court seised shall refer that action to the Civil Service Tribunal, whereupon that Tribunal may not decline jurisdiction.

3. Where the Civil Service Tribunal and the General Court are seised of cases in which the same issue of interpretation is raised or the validity of the same act is called in question, the Civil Service

Tribunal, after hearing the parties, may stay the proceedings until the judgment of the General Court has been delivered.

Where the Civil Service Tribunal and the General Court are seised of cases in which the same relief is sought, the Civil Service Tribunal shall decline jurisdiction so that the General Court may act on those cases.

Article 9

An appeal may be brought before the General Court, within two months of notification of the decision appealed against, against final decisions of the Civil Service Tribunal and decisions of that Tribunal disposing of the substantive issues in part only or disposing of a procedural issue concerning a plea of lack of jurisdiction or inadmissibility.

Such an appeal may be brought by any party which has been unsuccessful, in whole or in part, in its submissions. However, interveners other than the Member States and the institutions of the Union may bring such an appeal only where the decision of the Civil Service Tribunal directly affects them.

Article 10

1. Any person whose application to intervene has been dismissed by the Civil Service Tribunal may appeal to the General Court within two weeks of notification of the decision dismissing the application.
2. The parties to the proceedings may appeal to the General Court against any decision of the Civil Service Tribunal made pursuant to Article 278 or Article 279 or the fourth paragraph of Article 299 of the Treaty on the Functioning of the European Union or Article 157 or the third paragraph of Article 164 of the EAEC Treaty within two months of its notification.
3. The President of the General Court may, by way of summary procedure, which may, in so far as necessary, differ from some of the rules contained in this Annex and which shall be laid down in the Rules of Procedure of the General Court, adjudicate upon appeals brought in accordance with paragraphs 1 and 2.

Article 11

1. An appeal to the General Court shall be limited to points of law. It shall lie on the grounds of lack of jurisdiction of the Civil Service Tribunal, a breach of procedure before it which adversely affects the interests of the appellant, as well as the infringement of Union law by the Tribunal.
2. No appeal shall lie regarding only the amount of the costs or the party ordered to pay them.

Article 12

1. Without prejudice to Articles 278 and 279 of the Treaty on the Functioning of the European Union or Article 157 of the EAEC Treaty, an appeal before the General Court shall not have suspensory effect.
2. Where an appeal is brought against a decision of the Civil Service Tribunal, the procedure before the General Court shall consist of a written part and an oral part. In accordance with conditions laid down in the Rules of Procedure, the General Court, having heard the parties, may dispense with the oral procedure.

Article 13

1. If the appeal is well founded, the General Court shall quash the decision of the Civil Service Tribunal and itself give judgment in the matter. It shall refer the case back to the Civil Service Tribunal for judgment where the state of the proceedings does not permit a decision by the Court.
2. Where a case is referred back to the Civil Service Tribunal, the Tribunal shall be bound by the decision of the General Court on points of law.

PROTOCOL ON THE LOCATION OF THE SEATS OF THE INSTITUTIONS AND OF CERTAIN BODIES, OFFICES, AGENCIES AND DEPARTMENTS OF THE EUROPEAN UNION

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES,

HAVING REGARD to Article 341 of the Treaty on the Functioning of the European Union and Article 189 of the Treaty establishing the European Atomic Energy Community,

RECALLING AND CONFIRMING the Decision of 8 April 1965, and without prejudice to the decisions concerning the seat of future institutions, bodies, offices, agencies and departments,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and to the Treaty establishing the European Atomic Energy Community:

Sole Article

- (a) The European Parliament shall have its seat in Strasbourg where the 12 periods of monthly plenary sessions, including the budget session, shall be held. The periods of additional plenary sessions shall be held in Brussels. The committees of the European Parliament shall meet in Brussels. The General Secretariat of the European Parliament and its departments shall remain in Luxembourg.
- (b) The Council shall have its seat in Brussels. During the months of April, June and October, the Council shall hold its meetings in Luxembourg.
- (c) The Commission shall have its seat in Brussels. The departments listed in Articles 7, 8 and 9 of the Decision of 8 April 1965 shall be established in Luxembourg.
- (d) The Court of Justice of the European Union shall have its seat in Luxembourg.
- (e) The Court of Auditors shall have its seat in Luxembourg.
- (f) The Economic and Social Committee shall have its seat in Brussels.
- (g) The Committee of the Regions shall have its seat in Brussels.
- (h) The European Investment Bank shall have its seat in Luxembourg.
- (i) The European Central Bank shall have its seat in Frankfurt.
- (j) The European Police Office (Europol) shall have its seat in The Hague.

PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

CONSIDERING that, in accordance with Article 343 of the Treaty on the Functioning of the European Union and Article 191 of the Treaty establishing the European Atomic Energy Community ('EAEC'), the European Union and the EAEC shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of their tasks,

HAVE AGREED upon the following provisions, which shall be annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community:

CHAPTER I: PROPERTY FUNDS, ASSETS AND OPERATIONS OF THE EUROPEAN UNION

Article 1

The premises and buildings of the Union shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Union shall not be the subject of any administrative or legal measure of constraint without the authorisation of the Court of Justice.

Article 2

The archives of the Union shall be inviolable.

Article 3

The Union, its assets, revenues and other property shall be exempt from all direct taxes.

The governments of the Member States shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Union makes, for its official use, substantial purchases the price of which includes taxes of this kind. These provisions shall not be applied, however, so as to have the effect of distorting competition within the Union.

No exemption shall be granted in respect of taxes and dues which amount merely to charges for public utility services.

Article 4

The Union shall be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of articles intended for its official use: articles so imported shall not be disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the government of that country.

The Union shall also be exempt from any customs duties and any prohibitions and restrictions on import and exports in respect of its publications.

CHAPTER II: COMMUNICATIONS AND LAISSEZ-PASSER

Article 5

(ex Article 6)

For their official communications and the transmission of all their documents, the institutions of the Union shall enjoy in the territory of each Member State the treatment accorded by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Union shall not be subject to censorship.

Article 6

(ex Article 7)

Laissez-passer in a form to be prescribed by the Council, acting by a simple majority, which shall be recognised as valid travel documents by the authorities of the Member States, may be issued to members and servants of the institutions of the Union by the Presidents of these institutions. These *laissez-passer* shall be issued to officials and other servants under conditions laid down in the Staff Regulations of officials and the Conditions of Employment of other servants of the Union.

The Commission may conclude agreements for these *laissez-passer* to be recognised as valid travel documents within the territory of third countries.

CHAPTER III: MEMBERS OF THE EUROPEAN PARLIAMENT

Article 7

(ex Article 8)

No administrative or other restriction shall be imposed on the free movement of Members of the European Parliament travelling to or from the place of meeting of the European Parliament.

Members of the European Parliament shall, in respect of customs and exchange control, be accorded:

(a) by their own government, the same facilities as those accorded to senior officials travelling abroad on temporary official missions;

(b) by the government of other Member States, the same facilities as those accorded to representatives of foreign governments on temporary official missions.

Article 8

(ex Article 9)

Members of the European Parliament shall not be subject to any form of inquiry, detention or legal proceedings in respect of opinions expressed or votes cast by them in the performance of their duties.

Article 9

(ex Article 10)

During the sessions of the European Parliament, its Members shall enjoy:

(a) in the territory of their own State, the immunities accorded to members of their parliament;

(b) in the territory of any other Member State, immunity from any measure of detention and from legal proceedings.

Immunity shall likewise apply to Members while they are travelling to and from the place of meeting of the European Parliament.

Immunity cannot be claimed when a Member is found in the act of committing an offence and shall not prevent the European Parliament from exercising its right to waive the immunity of one of its Members.

CHAPTER IV: REPRESENTATIVES OF MEMBER STATES TAKING PART IN THE WORK OF THE INSTITUTIONS OF THE EUROPEAN UNION

Article 10

(ex Article 11)

Representatives of Member States taking part in the work of the institutions of the Union, their advisers and technical experts shall, in the performance of their duties and during their travel to and from the place of meeting, enjoy the customary privileges, immunities and facilities.

This Article shall also apply to members of the advisory bodies of the Union.

CHAPTER V: OFFICIALS AND OTHER SERVANTS OF THE EUROPEAN UNION

Article 11

(ex Article 12)

In the territory of each Member State and whatever their nationality, officials and other servants of the Union shall:

- (a) subject to the provisions of the Treaties relating, on the one hand, to the rules on the liability of officials and other servants towards the Union and, on the other hand, to the jurisdiction of the Court of Justice of the European Union in disputes between the Union and its officials and other servants, be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written. They shall continue to enjoy this immunity after they have ceased to hold office;
- (b) together with their spouses and dependent members of their families, not be subject to immigration restrictions or to formalities for the registration of aliens;
- (c) in respect of currency or exchange regulations, be accorded the same facilities as are customarily accorded to officials of international organisations;
- (d) enjoy the right to import free of duty their furniture and effects at the time of first taking up their post in the country concerned, and the right to re-export free of duty their furniture and effects, on termination of their duties in that country, subject in either case to the conditions considered to be necessary by the government of the country in which this right is exercised;
- (e) have the right to import free of duty a motor car for their personal use, acquired either in the country of their last residence or in the country of which they are nationals on the terms ruling in the home market in that country, and to re-export it free of duty, subject in either case to the conditions considered to be necessary by the government of the country concerned.

Article 12

(ex Article 13)

Officials and other servants of the Union shall be liable to a tax for the benefit of the Union on salaries, wages and emoluments paid to them by the Union, in accordance with the conditions and procedure laid down by the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned. They shall be exempt from national taxes on salaries, wages and emoluments paid by the Union.

Article 13

(ex Article 14)

In the application of income tax, wealth tax and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Union, officials and other servants of the Union who, solely by reason of the performance of their duties in the service of the Union, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Union, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Union. This provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the preceding paragraph and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 14

(ex Article 15)

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and after consultation of the institutions concerned, shall lay down the scheme of social security benefits for officials and other servants of the Union.

Article 15

(ex Article 16)

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, and after consulting the other institutions concerned, shall determine the categories of officials and other servants of the Union to whom the provisions of Article 11, the second paragraph of Article 12, and Article 13 shall apply, in whole or in part.

The names, grades and addresses of officials and other servants included in such categories shall be communicated periodically to the governments of the Member States.

**CHAPTER VI: PRIVILEGES AND IMMUNITIES OF MISSIONS OF THIRD COUNTRIES
ACCREDITED TO THE EUROPEAN UNION**

Article 16

(ex Article 17)

The Member State in whose territory the Union has its seat shall accord the customary diplomatic immunities and privileges to missions of third countries accredited to the Union.

CHAPTER VII: GENERAL PROVISIONS

Article 17

(ex Article 18)

Privileges, immunities and facilities shall be accorded to officials and other servants of the Union solely in the interests of the Union.

Each institution of the Union shall be required to waive the immunity accorded to an official or other servant wherever that institution considers that the waiver of such immunity is not contrary to the interests of the Union.

Article 18

(ex Article 19)

The institutions of the Union shall, for the purpose of applying this Protocol, cooperate with the responsible authorities of the Member States concerned.

Article 19

(ex Article 20)

Articles 11 to 14 and Article 17 shall apply to the President of the European Council.

They shall also apply to Members of the Commission.

Article 20

(ex Article 21)

Articles 11 to 14 and Article 17 shall apply to the Judges, the Advocates-General, the Registrars and the Assistant Rapporteurs of the Court of Justice of the European Union, without prejudice to the provisions of Article 3 of the Protocol on the Statute of the Court of Justice of the European Union relating to immunity from legal proceedings of Judges and Advocates-General.

Article 21

(ex Article 22)

This Protocol shall also apply to the European Investment Bank, to the members of its organs, to its staff and to the representatives of the Member States taking part in its activities, without prejudice to the provisions of the Protocol on the Statute of the Bank.

The European Investment Bank shall in addition be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the Bank has its seat. Similarly, its dissolution or liquidation shall not give rise to any imposition. Finally, the activities of the Bank and of its organs carried on in accordance with its Statute shall not be subject to any turnover tax.

Article 22

(ex Article 23)

This Protocol shall also apply to the European Central Bank, to the members of its organs and to its staff, without prejudice to the provisions of the Protocol on the Statute of the European System of Central Banks and the European Central Bank.

The European Central Bank shall, in addition, be exempt from any form of taxation or imposition of a like nature on the occasion of any increase in its capital and from the various formalities which may be connected therewith in the State where the bank has its seat. The activities of the Bank and of its organs carried on in accordance with the Statute of the European System of Central Banks and of the European Central Bank shall not be subject to any turnover tax.

PROTOCOL ON ARTICLE 40.3.3 OF THE CONSTITUTION OF IRELAND

THE HIGH CONTRACTING PARTIES,

HAVE AGREED upon the following provision, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

Nothing in the Treaties, or in the Treaty establishing the European Atomic Energy Community, or in the Treaties or Acts modifying or supplementing those Treaties, shall affect the application in Ireland of Article 40.3.3 of the Constitution of Ireland.