

# Treaty establishing the European Economic Community

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## Treaty establishing a European Economic Community (EEC) (1957)

Also known as the Treaty of Rome, signed March 25 1957. Original Founding treaty of the EEC, since renamed the European Community (EC), and integrated as part of the European Union (EU). The main provisions of the treaty still apply, but it has been amended by later treaties so should not be regarded as a current version. Various provision have been reworded and renumbered.

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### Treaty establishing the European Economic Community

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

DETERMINED to establish the foundations of an ever closer union among the European peoples,

DECIDED to ensure the economic and social progress of their countries by common action in eliminating the barriers which divide Europe,

DIRECTING their efforts to the essential purpose of constantly improving the living and working conditions of their peoples,

RECOGNISING that the removal of existing obstacles calls for concerted action in order to guarantee a steady expansion, a balanced trade and fair competition,

ANXIOUS to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and by mitigating the backwardness of the less favoured,

DESIROUS of contributing by means of a common commercial policy to the progressive abolition of restrictions on international trade,

INTENDING to confirm the solidarity which binds Europe and overseas countries, and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations,

RESOLVED to strengthen the safeguards of peace and liberty by establishing this combination of resources, and calling upon the other peoples of Europe who share their ideal to join in their efforts,

HAVE DECIDED to create a European Economic Community and to this end have designated as their plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS:

Mr. Paul-Henri SPAAK, Minister of Foreign Affairs, Baron J. Ch. SNOY and D'OPPUERS, Secretary-General of the Ministry of Economic Affairs, Head of the Belgian delegation to the Intergovernmental Conference;

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY:

Dr. Konrad ADENAUER, Federal Chancellor, Professor Dr. Walter HALLSTEIN, State Secretary of the Federal Foreign Office;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr. Christian PINEAU, Minister of Foreign Affairs, Mr. Maurice FAURE, Under-Secretary of State for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

Mr. Antonio SEGNI, President of the Council of Ministers, Professor Gaetano MARTINO, Ministers of Foreign Affairs;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:

Mr. Joseph BECH, Prime Minister, Minister of Foreign Affairs, Mr. Lambert SCHAUS, Ambassador, Head of the Luxembourg delegation to the Intergovernmental Conference;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Mr. Joseph LUNS, Minister of Foreign Affairs, Mr. J. LINTHORST HOMAN, Head of the Netherlands delegation to the Intergovernmental Conference;

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

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## **PART ONE — Principles**

**Article 1** By the present Treaty, the HIGH CONTRACTING PARTIES establish among themselves a EUROPEAN ECONOMIC COMMUNITY.

**Article 2** It shall be the aim of the Community, by establishing a Common Market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increased stability, an accelerated raising of the standard of living and closer relations between its Member States.

**Article 3** For the purposes set out in the preceding Article, the activities of the Community shall include, under the conditions and with the timing provided for in this Treaty:

(a) the elimination, as between Member States, of customs duties and of quantitative restrictions in regard to the importation and exportation of goods, as well as of all other measures with equivalent effect;

(b) the establishment of a common customs tariff and a common commercial policy towards third countries;

- (c) the abolition, as between Member States, of the obstacles to the free movement of persons, services and capital;
- (d) the inauguration of a common agricultural policy;
- (e) the inauguration of a common transport policy;
- (f) the establishment of a system ensuring that competition shall not be distorted in the Common Market;
- (g) the application of procedures which shall make it possible to co-ordinate the economic policies of Member States and to remedy disequilibria in their balances of payments;
- (h) the approximation of their respective municipal law to the extent necessary for the functioning of the Common Market;
- (i) the creation of a European Social Fund in order to improve the possibilities of employment for workers and to contribute to the raising of their standard of living;
- (j) the establishment of a European Investment Bank intended to facilitate the economic expansion of the Community through the creation of new resources; and
- (k) the association of overseas countries and territories with the Community with a view to increasing trade and to pursuing jointly their effort towards economic and social development.

**Article 4** 1. The achievement of the tasks entrusted to the Community shall be ensured by

- an ASSEMBLY,
- a COUNCIL,
- a COMMISSION, and
- a COURT OF JUSTICE.

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

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

**Article 5** Member States shall take all general or particular measures which are appropriate for ensuring the carrying out of the obligations arising out of this Treaty or resulting from the acts of the institutions of the Community. They shall facilitate the achievement of the Community's aims.

They shall abstain from any measures likely to jeopardise the attainment of the objectives of this Treaty.

**Article 6** 1. Member States, acting in close collaboration with the institutions of the Community, shall co-ordinate their respective economic policies to the extent that is necessary to attain the objectives of this Treaty.

2. The institutions of the Community shall take care not to prejudice the internal and external financial stability of Member States.

**Article 7** Within the field of application of this Treaty and without prejudice to the special provisions mentioned therein, any discrimination on the grounds of nationality shall hereby be prohibited.

The Council may, acting by means of a qualified majority vote on a proposal of the Commission and after the Assembly has been consulted, lay down rules in regard to the prohibition of any such discrimination.

**Article 8 1.** The Common Market shall be progressively established in the course of a transitional period of twelve years.

The transitional period shall be divided into three stages of four years each; the length of each stage may be modified in accordance with the provisions set out below.

2. To each stage there shall be allotted a group of actions which shall be undertaken and pursued concurrently.

3. Transition from the first to the second stage shall be conditional upon a confirmatory statement to the effect that the essence of the objectives specifically laid down in this Treaty for the first stage has been in fact achieved and that, subject to the exceptions and procedures provided for in this Treaty, the obligations have been observed.

This statement shall be made at the end of the fourth year by the Council acting by means of a unanimous vote on a report of the Commission. The invocation by a Member State of the non-fulfilment of its own obligations shall not, however, be an obstacle to a unanimous vote. Failing a unanimous vote, the first stage shall automatically be extended for a period of one year.

At the end of the fifth year, the Council shall make such confirmatory statement under the same conditions. Failing a unanimous vote, the first stage shall automatically be extended for a further period of one year.

At the end of the sixth year, the Council shall make such a statement acting by means of a qualified majority vote on a report of the Commission.

4. Within a period of one month as from the date of this last vote, each Member State voting in a minority or, if the required majority vote has not been obtained, any Member State, shall be entitled to require the Council to appoint an Arbitration Board whose decision shall bind all Member States and the institutions of the Community. The Arbitration Board shall be composed of three members appointed by the Council acting by means of a unanimous vote on a proposal of the Commission.

If the Council has not, within a period of one month from the date of such requirement, appointed the members of the Arbitration Board, they shall be appointed by the Court of Justice within a further period of one month.

The Arbitration Board shall appoint its Chairman.

The Board shall give its award within a period of six months from the date of the vote by the Council referred to in paragraph 3, last sub-paragraph.

5. The second and third stages may not be extended or curtailed except pursuant to a decision of the Council acting by means of a unanimous vote on a proposal of the Commission.

6. The provisions of the preceding paragraphs shall not have the effect of extending the transitional period beyond a total duration of fifteen years after the date of the entry into force of this Treaty.

7. Subject to the exceptions or deviations provided for in this Treaty, the expiry of the transitional period shall constitute the final date for the entry into force of all the rules laid down and for the completion of all the measures required for the establishment of the Common Market.

# **PART TWO — Bases of the Community**

## **TITLE I — Free Movement of Goods**

**Article 9** 1. The Community shall be based upon a customs union covering the exchange of all goods and comprising both the prohibition, as between Member States, of customs duties on importation and exportation and all charges with equivalent effect and the adoption of a common customs tariff in their relations with third countries.

2. The provisions of Chapter 1, Section 1 and of Chapter 2 of this Title shall apply to products originating in Member States and also to products coming from third countries and having been entered for consumption in Member States.

**Article 10** 1. Products having been entered for consumption in a Member State shall be deemed to be products coming from a third country in cases where, in respect of such products, the necessary import formalities have been complied with and the appropriate customs duties or charges with equivalent effect have been levied in such Member State and where such products have not benefited by any total or partial drawback on such duties or charges.

2. The Commission shall, before the end of the first year after the date of the entry into force of this Treaty, lay down the methods of administrative co-operation to be adopted for the application of Article 9, paragraph 2, taking due account of the need for reducing as far as possible the formalities imposed on trade.

Before the end of the first year after the date of the entry into force of this Treaty, the Commission shall lay down the provisions applicable, as regards trade between Member States, to goods originating in another Member State in whose manufacture products have been used on which the appropriate customs duties or charges with equivalent effect in the exporting Member State have not been levied or which have benefited by a total or partial drawback on such duties or charges.

When laying down such provisions, the Commission shall take due account of the rules for the elimination of customs duties within the Community and for the progressive application of the common customs tariff.

**Article 11** The Member States shall take all appropriate measures to enable Governments to carry out, within the time-limits laid down, the obligations with regard to customs duties which are incumbent on them pursuant to this Treaty.

### **Chapter 1 — The Customs Union**

#### **Section 1 — The elimination of customs duties as between Member States**

**Article 12** Member States shall refrain from introducing, as between themselves, any new customs duties on importation or exportation or charges with equivalent effect and from increasing such duties or charges as they apply in their commercial relations with each other.

**Article 13** 1. Customs duties on importation in force between Member States shall be progressively abolished by them in the course of the transitional period under the conditions laid down in Articles 14 and 15.

2. Charges in force between Member States having an effect equivalent to customs duties on importation shall be progressively abolished by them in the course of the transitional period. The Commission shall, by means of

directives, fix the timing of such abolition. It shall be guided by the rules mentioned in Article 14, paragraphs 2 and 3, and by the directives issued by the Council in application of the said paragraph 2.

**Article 14** 1. In respect of each product, the basic duty which shall be subject to the successive reductions shall be the duty applied on 1 January 1957.

2. The timing of the reductions shall be as follows:

(a) in the course of the first stage, the first reduction shall be made one year after the date of the entry into force of this Treaty; the second reduction shall be made eighteen months later; the third, at the end of the fourth year after the date of the entry into force of this Treaty;

(b) in the course of the second stage, a reduction shall be made eighteen months after the beginning of that stage; a second reduction, eighteen months after the preceding one; a third reduction shall be made one year later; and

(c) the reductions which still remain to be made shall be carried out in the course of the third stage; the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall fix their timing by means of directives.

3. At the time of the first reduction, Member States shall, in respect of each product, bring into force as between themselves a duty equal to the basic duty less 10 per cent.

At the time of each subsequent reduction, each Member State shall reduce the total of the duties in such a way as to reduce by 10 per cent its total customs receipts as defined in paragraph 4, it being understood that the reduction in the case of each product shall be equal to at least 5 per cent of the basic duty.

In respect of products, however, on which a duty of more than 30 per cent would still remain, each reduction shall be equal to not less than 10 per cent of the basic duty.

4. The total customs receipts of each Member State, referred to in paragraph 3, shall be calculated by multiplying by the basic duties the value of its imports coming from other Member States during the year 1958.

5. Any special problems raised by the application of the preceding paragraphs shall be settled by directives issued by the Council acting by means of a qualified majority vote on a proposal of the Commission.

6. Member States shall report to the Commission as to the manner in which the preceding rules for the reduction of duties are applied. They shall endeavour to ensure that the reduction applied to the duties on each product shall amount:

- at the end of the first stage to at least 25 per cent of the basic duty; and
- at the end of the second stage to at least 50 per cent of the basic duty.

If the Commission finds that there is a danger that the objectives laid down in Article 13 and the percentages fixed in this paragraph not be achieved, it shall make any appropriate recommendations to the Member States.

7. The provisions of this Article may be amended by the Council acting by means of a unanimous vote on a proposal of the Commission and after the Assembly has been consulted.

**Article 15** 1. Independently of the provisions of Article 14, any Member State may, in the course of the transitional period, suspend in whole or in part the collection of the duties applied by it to products imported from other

Member States. It shall inform the other Member States and the Commission thereof.

2. Member States hereby declare their willingness to reduce their custom duties in regard to other Member States more rapidly than provided for in Article 14 if their general economic situation and the situation of the sector concerned so permit.

The Commission shall make recommendations for this purpose to the Member States concerned.

**Article 16** Member States shall abolish as between themselves, not later than at the end of the first stage, the customs duties on exportation and charges with equivalent effect.

**Article 17** 1. The provisions of Articles 9 to 15, paragraph 1, shall also apply to customs duties of a fiscal nature. Such duties shall not, however, be taken into consideration for the purpose of calculating either total customs receipts or the reduction in total duties referred to in Article 14, paragraphs 3 and 4.

Such duties shall, at each reduction, be lowered by not less than 10 per cent of the basic duty. Member States may reduce their duties more rapidly than is provided for in Article 14.

2. Member States shall, before the end of the first year after the entry into force of this Treaty, inform the Commission of their customs duties of a fiscal nature.

3. Member States shall retain the right to substitute for these duties an internal tax in accordance with the provisions of Article 95.

4. Where the Commission finds that in any Member State the substitution of such duty meets with serious difficulties, it shall authorise such State to retain the said duty provided that the State concerned shall abolish it not later than six years after the date of the entry into force of this Treaty. Such authorisation shall be requested before the end of the first year after the date of the entry into force of this Treaty.

## **Section 2 — Establishment of the Common Customs Tariff**

**Article 18** Member States hereby declare their willingness to contribute to the development of international commerce and the reduction of barriers to trade by entering into reciprocal and mutually advantageous arrangements directed to the reduction of customs duties below the general level which they could claim as a result of the establishment of a customs union between themselves.

**Article 19** 1. Under the conditions and within the limits laid down below, the duties under the common customs tariff shall be at the level of the arithmetical average of the duties applied in the four customs territories covered by the Community.

2. The duties taken into account for calculating this average shall be those applied by Member States on 1 January 1957.

In the case of the Italian tariff, however, the duty applied shall be understood as being that levied before the temporary 10 per cent reduction. Furthermore, in the case of tariff headings in regard to which this tariff contains a conventional duty, this duty shall be substituted for the duty applied as defined above, provided that it does not exceed the latter by more than 10 per cent. If the conventional duty exceeds the applied duty as defined above by more than 10 per cent, the latter duty, increased by 10 per cent, shall be taken into account for calculating the arithmetical average.

With regard to the tariff headings contained in List A, the duties shown in that List shall, for the purpose of calculating the arithmetical average, be substituted for the duties applied.

3. The duties under the common customs tariff shall not exceed:

(a) 3 per cent in the case of products coming under the tariff headings mentioned in List B;

(b) 10 per cent in the case of products coming under the tariff headings mentioned in List C;

(c) 15 per cent in the case of products coming under the tariff headings mentioned in List D; and

(d) 25 per cent in the case of products coming under the tariff headings mentioned in List E; where, in respect of such products, the tariff of the Benelux countries contains a duty of not more than 3 per cent, such duty shall, for the purpose of calculating the arithmetical average, be raised to 12 per cent.

4. The duties applicable to products mentioned in List F shall be those laid down therein.

5. The Lists of tariff headings referred to in this Article and in Article 20 shall be set out in Annex I to this Treaty.

**Article 20** The duties applicable to the products in List G shall be fixed by means of negotiation between the Member States. Each Member State may add further products to this List up to the limit of 2 per cent of the total value of its imports coming from third countries in the course of the year 1956.

The Commission shall take all appropriate steps in order that such negotiations shall be undertaken before the end of the second year after the date of the entry into force of this Treaty and concluded before the end of the first stage.

If, in the case of certain products, no agreement can be reached within these time-limits, the Council, acting up to the end of the second stage by means of a unanimous vote and subsequently by means of a qualified majority vote on a proposal of the Commission, shall fix the duties under the common customs tariff.

**Article 21** 1. Any technical difficulties which may arise in the application of Articles 19 and 20 shall be settled, within a period of two years after the date of the entry into force of this Treaty, by directives issued by the Council acting by means of a qualified majority vote on a proposal of the Commission.

2. Before the end of the first stage and, in any case, not later than at the date of the fixing of such duties, the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall decide as to the adjustments required with a view to ensuring the internal harmony of the common customs tariff following the application of the rules laid down in Articles 19 and 20, particular account being taken of the degree of processing undergone by the various goods to which the common tariff applies.

**Article 22** The Commission shall, within a period of two years after the date of the entry into force of this Treaty, determine the extent to which the customs duties of a fiscal nature mentioned in Article 17, paragraph 2, shall be taken into account for calculating the arithmetical average referred to in Article 19, paragraph 1. The Commission shall take due account of the protective aspect of such duties.

Within a period of not more than six months after the Commission has so determined, any Member State may request that the procedure provided for in Article 20 shall be applied to the product concerned; the limit prescribed in that Article shall not constitute a valid objection.

**Article 23** 1. For the purpose of the progressive introduction of the common customs tariff, Member States shall amend their tariffs applicable to third countries in the following manner:

(a) in the case of tariff headings on which the duties in fact applied on 1 January 1957 do not differ by more than 15 per cent in either direction from the duties under the common customs tariff, the latter duties shall be applied at the end of the fourth year after the date of the entry into force of this Treaty;

(b) in the case of the other tariff headings, each Member State shall, as from the same date, apply a duty which reduces by 30 per cent the difference between the duty in fact applied on 1 January 1957 and that under the common customs tariff;

(c) at the end of the second stage this difference shall again be reduced by 30 per cent; and

(d) in the case of tariff headings for which the duties under the common customs tariff are not yet known at the end of the first stage, each Member State shall, within a period of six months after the Council has acted in accordance with the provisions of Article 20, apply such duties as shall result from the application of the rules contained in this paragraph.

2. Any Member State, which has been granted the authorisation provided for in Article 17, paragraph 4, shall, for as long as that authorisation is valid, be exempted from applying the preceding provisions to the tariff headings covered by the authorisation. At the expiry of such authorisation, the Member State concerned shall apply such duty as would result from the application of the rules contained in the preceding paragraph.

3. The common customs tariff shall be applied in its entirety not later than at the date of the expiry of the transitional period.

**Article 24** With a view to aligning their duties with the common customs tariff, Member States shall be free to modify these duties more rapidly than is provided for in Article 23.

**Article 25** 1. If the Commission finds that the production in the Member States of certain products contained in Lists B, C and D is not sufficient to supply the demands of one of them and that such supply traditionally depends to a considerable extent upon imports coming from third countries, the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall grant to the Member State concerned tariff quotas at a reduced rate of duty or duty free.

Such quotas may not exceed the limits beyond which the transfer of activities to the detriment of other Member States is to be feared.

2. In respect of the products in List E and those in List G for which the duties shall have been fixed in accordance with the procedure provided for in Article 20, third paragraph, the Commission shall, at the request of any Member State concerned, grant to such State tariff quotas at a reduced rate of duty or duty free, where a change in sources of supply or a shortage of supplies within the Community is of such a nature as to entail harmful consequences for the processing industries of the Member State concerned.

Such quotas may not exceed the limits beyond which the transfer of activities to the detriment of other Member States is to be feared.

3. In respect of the products listed in Annex II to this Treaty, the Commission may authorise any Member State to suspend, in whole or in part, the collection of the duties applicable or may grant to such Member State tariff quotas at a reduced rate of duty or duty free provided that no serious disturbance in the market of the products concerned

at a reduced rate of duty or duty free, provided that no serious disturbances in the market of the products concerned may result therefrom.

4. The Commission shall periodically examine any tariff quotas granted in application of this Article.

**Article 26** The Commission may authorise any Member State encountering special difficulties to postpone the lowering or the raising, in accordance with the provisions of Article 23, of the duties on certain headings of its tariff.

Such authorisation may only be granted for a limited period and for tariff headings which together represent for such State not more than 5 per cent of the value of its total imports coming from third countries in the course of the latest year for which statistical data are available.

**Article 27** Before the end of the first stage, Member States shall, in so far as may be necessary, take steps to approximate their legislative and administrative provisions in regard to customs matters. The Commission shall for this purpose make all appropriate recommendations to Member States.

**Article 28** Any autonomous modification or suspension of duties of the common customs tariff shall be decided upon by the Council acting by means of a unanimous vote. After the expiry of the transitional period, the Council, acting by means of a qualified majority vote on a proposal of the Commission, may, however, decide upon modifications or suspensions not exceeding 20 per cent of the rate of any duty and effective for a maximum period of six months. Such modifications or suspensions may only be extended, under the same conditions, for a second period of six months.

**Article 29** In carrying out the tasks entrusted to it under this Section, the Commission shall be guided by:

- (a) the need for promoting commercial exchanges between the Member States and third countries;
- (b) the development of competitive conditions within the Community to the extent to which such development will result in the increase of the competitive capacity of the enterprises;
- (c) the Community's requirements of supply in raw materials and semi-finished goods, while at the same time taking care not to distort competitive conditions between Member States with regard to finished goods; and
- (d) the need for avoiding serious disturbances in the economic life of Member States and for ensuring a rational development of production and an expansion of consumption within the Community.

## **Chapter 2 — The elimination of quantitative restrictions as between Member States**

**Article 30** Quantitative restrictions on importation and all measures with equivalent effect shall, without prejudice to the following provisions, hereby be prohibited between Member States.

**Article 31** Member States shall refrain from introducing as between themselves any new quantitative restrictions or measures with equivalent effect.

This obligation shall, however, only apply to the level of liberalisation attained in application of the decisions of the Council of the Organisation for European Economic Co-operation of 14 January 1955. Member States shall communicate to the Commission, not later than six months after the date of the entry into force of this Treaty, the lists of the products liberalised by them in application of these decisions. The lists thus communicated shall be consolidated between Member States.

**Article 32** Member States shall, in their mutual trade, refrain from making more restrictive the quotas or measures

**Article 32** Member States shall, in their mutual trade, refrain from making more restrictive the quotas or measures with equivalent effect in existence at the date of the entry into force of this Treaty.

Such quotas shall be abolished not later than at the date of the expiry of the transitional period. In the course of this period, they shall be progressively abolished under the conditions specified below.

**Article 33** 1. Each of the Member States shall, at the end of one year after the entry into force of this Treaty, convert any bilateral quotas granted to other Member States into global quotas open, without discrimination, to all other Member States.

On the same date, Member States shall enlarge the whole of the global quotas so established in such a way as to attain an increase of not less than 20 per cent in their total value as compared with the preceding year. Each global quota for each product shall, however, be increased by not less than 10 per cent.

The quotas shall be increased annually in accordance with the same rules and in the same proportions in relation to the preceding year.

The fourth increase shall take place at the end of the fourth year after the date of the entry into force of this Treaty; the fifth increase shall take place at the end of a period of one year after the beginning of the second stage.

2. Where, in the case of a product which has not been liberalised, the global quota does not amount to 3 per cent of the national output of the State concerned, a quota equal to not less than 3 per cent of such output shall be established not later than one year after the date of the entry into force of this Treaty. At the end of the second year, this quota shall be raised to 4 per cent and at the end of the third year to 5 per cent. Thereafter, the Member State concerned shall increase the quota by not less than 15 per cent annually.

In the case where there is no such national output, the Commission shall fix an appropriate quota by means of a decision.

3. At the end of the tenth year, each quota shall be equal to not less than 20 per cent of the national output.

4. Where the Commission, acting by means of a decision, finds that in the course of two successive years the imports of any product have been below the level of the quota granted, this global quota may not be taken into consideration for the purpose of calculating the total value of the global quotas. In such case, the Member State shall abolish the quota for the product concerned.

5. In the case of quotas representing more than 20 per cent of the national output of the product concerned, the Council, acting by means of a qualified majority vote on a proposal of the Commission, may reduce the minimum percentage of 10 per cent laid down in paragraph 1. This modification shall not, however, affect the obligation annually to increase the total value of global quotas by 20 per cent.

6. Member States which have gone beyond their obligations concerning the level of liberalisation attained in implementation of the decisions of the Council of the Organisation for European Economic Co-operation of 14 January 1955 shall, when calculating the annual total increase of 20 per cent provided for in paragraph 1, be entitled to take into account the amount of imports liberalised by autonomous measures. Such calculation shall be submitted to the Commission for its prior approval.

7. Directives issued by the Commission shall lay down the procedure and the timing according to which Member States shall abolish as between themselves any measures which exist at the date of the entry into force of this Treaty and which have an effect equivalent to quotas.

8. If the Commission finds that the application of the provisions of this Article and, in particular, of the provisions concerning percentages does not make it possible to ensure the progressive nature of the abolition of quotas provided for in Article 32, second paragraph, the Council, acting during the first stage by means of a unanimous vote and subsequently by means of a qualified majority vote on a proposal of the Commission, may amend the procedure referred to in this Article and may, in particular, raise the percentages fixed.

**Article 34** 1. Quantitative restrictions on exportation and any measures with equivalent effect shall hereby be prohibited as between Member States.

2. Member States shall abolish, not later than at the end of the first stage, all quantitative restrictions on exportation and any measures with equivalent effect in existence at the date of the entry into force of this Treaty.

**Article 35** Member States hereby declare their willingness to abolish, in relation to other Member States, their quantitative restrictions on importation and exportation more rapidly than is provided for in the preceding Articles, if their general economic situation and the situation of the sector concerned so permit.

The Commission shall make recommendations for this purpose to the States concerned.

**Article 36** The provisions of Articles 30 to 34 inclusive shall not be an obstacle to prohibitions or restrictions in respect of importation, exportation or transit which are justified on grounds of public morality, public order, public safety, the protection of human or animal life or health, the preservation of plant life, the protection of national treasures of artistic, historical or archaeological value or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute either a means of arbitrary discrimination or a disguised restriction on trade between Member States.

**Article 37** 1. Member States shall progressively adjust any State monopolies of a commercial character in such a manner as will ensure the exclusion, at the date of the expiry of the transitional period, of all discrimination between the nationals of Member States in regard to conditions of supply or marketing of goods.

The provisions of this Article shall apply to any body by means of which a Member State shall de jure or de facto either directly or indirectly control, direct or appreciably influence importation or exportation between Member States. These provisions shall apply also to monopolies assigned by the State.

2. Member States shall abstain from any new measure which is contrary to the principles laid down in paragraph 1 or which may limit the scope of the Articles relating to the abolition, as between Member States, of customs duties and quantitative restrictions.

3. The timing of the measures referred to in paragraph 1 shall be adapted to the abolition, as provided for in Articles 30 to 34 inclusive, of the quantitative restrictions on the same products.

In cases where a product is subject to a State monopoly of a commercial character in one Member State or certain Member States only, the Commission may authorise the other Member States to apply, for as long as the adjustment referred to in paragraph 1 has not been carried out, measures of safeguard of which it shall determine the conditions and particulars.

4. In the case of a monopoly of a commercial character which is accompanied by regulations designed to facilitate the marketing or the valorisation of agricultural products, it should be ensured that in the application of the rules of this Article equivalent guarantees are provided in respect of the employment and standard of living of the producers concerned, due account being taken of the timing in respect of possible adjustments and of necessary

specialisations.

5. The obligations incumbent on Member States shall be binding only to such extent as they are compatible with existing international agreements.

6. The Commission shall, as soon as the first stage has begun, make recommendations as to the particulars and the timing according to which the adjustments referred to in this Article shall be carried out.

## **TITLE II — Agriculture**

**Article 38** 1. The Common Market shall extend to agriculture and trade in agricultural products. Agricultural products shall mean the products of the soil, of stock-breeding and of fisheries as well as products after the first processing stage which are directly connected with such products.

2. Save where there are provisions to the contrary in Articles 39 to 46 inclusive, the rules laid down for the establishment of the Common Market shall apply to agricultural products.

3. Products subject to the provisions of Articles 39 to 46 inclusive are listed in Annex II to this Treaty. Within a period of two years after the date of the entry into force of this Treaty the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall decide as to the products to be added to that list.

4. The functioning and development of the Common Market in respect of agricultural products shall be accompanied by the establishment of a common agricultural policy among the Member States.

**Article 39** 1. The common agricultural policy shall have as its objectives:

(a) to increase agricultural productivity by developing technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, particularly labour;

(b) to ensure thereby a fair standard of living for the agricultural population, particularly by the increasing of the individual earnings of persons engaged in agriculture;

(c) to stabilise markets;

(d) to guarantee regular supplies; and

(e) to ensure reasonable prices in supplies to consumers.

2. In working out the common agricultural policy and the special methods which it may involve, due account shall be taken of

(a) the particular character of agricultural activities, arising from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;

(b) the need to make the appropriate adjustments gradually; and

(c) the fact that in Member States agriculture constitutes a sector which is closely linked with the economy as a whole.

**Article 40** 1. Member States shall gradually develop the common agricultural policy during the transitional period and shall establish it not later than at the end of that period.

2. With a view to achieving the objectives set out in Article 39, a common organisation of agricultural markets shall be effected.

This organisation shall take one of the following forms according to the products concerned:

- (a) common rules concerning competition;
- (b) compulsory co-ordination of the various national market organisations; or
- (c) a European market organisation.

3. The common organisation in one of the forms mentioned in paragraph 2 may comprise all measures necessary to achieve the objectives set out in Article 39, in particular, price controls, subsidies as to the production and marketing of various products, arrangements for stock-piling and carry-forward, and common machinery for stabilising importation or exportation.

The organisation shall confine itself to pursuing the objectives set out in Article 39 and shall exclude any discrimination between producers or consumers within the Community.

A common price policy, if any, shall be based on common criteria and on uniform methods of calculation.

4. In order to enable the common organisation referred to in paragraph 2 to achieve its objectives, one or more agricultural orientation and guarantee funds may be established.

**Article 41** In order to permit the achievement of the objectives set out in Article 39, provision may be made within the framework of the common agricultural policy for, inter alia:

- (a) an effective co-ordination of efforts undertaken in the spheres of occupational training, research and the popularisation of rural economy, which may involve projects or institutions financed jointly; and
- (b) common action for the development of the consumption of certain products.

**Article 42** The provisions of the Chapter relating to the rules of competition shall apply to the production of and trade in agricultural products only to the extent determined by the Council within the framework of the provisions and in accordance with the procedure laid down in Article 43, paragraphs 2 and 3, due account being taken of the objectives mentioned in Article 39.

The Council may, in particular, authorise the granting of aids:

- (a) for the protection of enterprises handicapped by structural or natural conditions; and
- (b) within the framework of economic development programmes.

**Article 43** 1. In order to formulate the guiding lines of a common agricultural policy, the Commission shall, upon the date of the entry into force of this Treaty, convene a conference of Member States, with a view to comparing their agricultural policies by drawing up, in particular, a statement of their resources and needs.

2. The Commission, taking due account of the work of the conference provided for in paragraph 1, shall, after consulting the Economic and Social Committee and within a period of two years after the date of the entry into force of this Treaty, submit proposals concerning the working out and putting into effect of the common agricultural

policy, including the substitution of national organisations by one of the forms of common organisation provided for in Article 40, paragraph 2, as well as concerning the putting into effect of the measures specially mentioned under this Title.

These proposals shall take due account of the interdependence of the agricultural questions raised under this Title.

The Council, acting during the first two stages by means of a unanimous vote and subsequently by means of a qualified majority vote on a proposal of the Commission and after the Assembly has been consulted, shall issue regulations or directives or take decisions, without prejudice to any recommendations which it may make.

The common organisation provided for in Article 40, paragraph 2, may, under the conditions provided for in the preceding paragraph, be substituted for national market organisations by the Council acting by means of a qualified majority vote:

- (a) if the common organisation offers to Member States which are opposed to this measure and which possess a national organisation of their own for the production concerned, equivalent guarantees regarding the employment and standard of living of the producers concerned, due account being taken of the time-factor in respect of possible adjustments and of necessary specialisations; and
- (b) if such organisation ensures for exchanges within the Community conditions similar to those existing in a domestic market.

4. If a common organisation is created for certain raw materials at a time when no common organisation yet exists for the corresponding processed products, the raw materials concerned which are used for processed products destined for export to third countries may be imported from outside the Community.

**Article 44** 1. In the course of the transitional period and to the extent that the progressive abolition of customs duties and quantitative restrictions between Member States may result in prices likely to jeopardise the achievement of the objectives set out in Article 39, each Member State shall be permitted to apply to certain products, in a non-discriminatory manner and in substitution for quotas, to such an extent as shall not impede the expansion of the volume of trade provided for in Article 45, paragraph 2, a system of minimum prices below which imports may be:

- temporarily suspended or reduced; or
- made conditional on their price being above the minimum price fixed for the product concerned.

In the second case, the minimum prices shall not include customs duties.

2. The minimum prices shall not be such as to lead to a reduction of exchanges existing between Member States at the date of the entry into force of this Treaty and shall not be an obstacle to a progressive expansion of such exchanges. The minimum prices shall not be applied in such a manner as to be an obstacle to the development of a natural preference between the Member States.

3. Upon the entry into force of this Treaty, the Council, acting on a proposal of the Commission, shall determine objective criteria for the establishment of minimum price systems and for the fixing of such prices.

The criteria shall, in particular, take account of average national costs of production in the Member State applying the minimum price, of the situation of the various enterprises in relation to such costs and of the need for promoting both the progressive improvement of agricultural operations and the adjustments and specialisations necessary within the Common Market.

The Commission shall also propose a procedure for revision of these criteria in order to take into account and accelerate technical progress and in order progressively to approximate prices within the Common Market.

These criteria and the procedure for revision shall be determined by means of a unanimous vote of the Council in the course of the first three years after the date of the entry into force of this Treaty.

4. Until the Council's decision takes effect, Member States may fix minimum prices on condition that they previously communicate them to the Commission and to the other Member States in order to enable them to submit their comments.

As soon as the Council has taken its decision, Member States shall fix minimum prices on the basis of the criteria established under the conditions mentioned above.

The Council, acting by means of a qualified majority vote on a proposal of the Commission, may correct the decisions taken if they do not conform to the criteria so determined.

5. From the beginning of the third stage and in cases where it has not yet been possible in respect of certain products to establish the above objective criteria, the Council, acting by means of a qualified majority vote on a proposal of the Commission, may modify the minimum prices applied to these products.

6. At the expiry of the transitional period, a table of minimum prices still in force shall be drawn up. The Council, acting on a proposal of the Commission by means of a majority of nine votes in accordance with the weighting provided for in Article 14.8, paragraph 2, first sub-paragraph, shall determine the system to be applied within the framework of the common agricultural policy.

**Article 45** 1. Until the substitution of the national organisation by one of the forms of common organisation provided for in Article 40, paragraph 2, the development of exchanges in respect of products for which there exist in certain Member States:

- provisions designed to guarantee to national producers a sale of their production, and
- a need of imports,

shall be pursued by the conclusion of long-term agreements or contracts between exporting and importing Member States.

Such agreements or contracts shall be directed towards the progressive abolition of any discrimination in the application of these provisions to the various producers within the Community.

The conclusion of such agreements or contracts shall take place in the course of the first stage; due account shall be taken of the principle of reciprocity.

2. With regard to quantities, such agreements or contracts shall take as their basis the average volume of exchanges between Member States in the products concerned during the three years preceding the date of the entry into force of this Treaty and shall provide for an increase in that volume within the limit of existing requirements, due account being taken of traditional trade currents.

With regard to prices, such agreements or contracts shall enable producers to dispose of the agreed quantities at prices progressively approximating to those paid to national producers in the home market of the purchasing country.

Community.

This approximating of prices shall proceed as steadily as possible and shall be completed not later than at the end of the transitional period.

Prices shall be negotiated between the parties concerned within the framework of directives drawn up by the Commission for the implementation of the preceding two sub-paragraphs.

In the event of the first stage being extended, such agreements or contracts shall continue to be carried out under the conditions applicable at the end of the fourth year after the date of the entry into force of this Treaty, while the obligations to increase quantities and to approximate prices shall be suspended until entry on the second stage.

Member States shall avail themselves of any possibilities offered to them as a result of their legislative provisions, particularly as regards import policy, with a view to ensuring the conclusion and carrying out of these agreements or contracts.

3. To the extent that Member States require raw materials for the production of goods destined for export outside the Community in competition with producers in third countries, such agreements or contracts shall not be an obstacle to imports, for this purpose, of raw materials coming from third countries. This provision shall not apply if the Council decides by means of a unanimous vote to grant the payments necessary to compensate, in respect of imports effected for this purpose on the basis of such agreements or contracts, for the excess price paid in comparison with the delivery prices of the same supplies obtained on the world market.

**Article 46** Where in a Member State a product is the object of a national market organisation or of any internal regulation with equivalent effect, either of which affects the competitive position of a similar production in another Member State, a countervailing charge on entry shall be applied by Member States on this product when it comes from the Member State where such organisation or regulation exists, unless that State levies a countervailing charge on exit.

The Commission shall fix the amount of these charges, to the extent necessary to re-establish the balance; it may also authorise recourse to other measures of which it shall determine the conditions and particulars.

**Article 47** With regard to the functions of the Economic and Social Committee in the application of this Title, its agriculture section shall be at the disposal of the Commission with a view to preparing the conclusions of the Committee in accordance with the provisions of Articles 197 and 198.

## **TITLE III — The Free Movement of Persons, Services and Capital**

### **Chapter 1 — Workers**

**Article 48** 1. The free movement of workers shall be ensured within the Community not later than at the date of the expiry of the transitional period.

2. This shall involve the abolition of any discrimination based on nationality between workers of the Member States, as regards employment, remuneration and other working conditions.

3. It shall include the right, subject to limitations justified by reasons of public order, public safety and public health:

(a) to accept offers of employment actually made;

(b) to move about freely for this purpose within the territory of Member States;

(b) to move about freely for the purpose within the territory of Member States,

(c) to stay in any Member State in order to carry on an employment in conformity with the legislative and administrative provisions governing the employment of the workers of that State; and

(d) to live, on conditions which shall be the subject of implementing regulations to be laid down by the Commission, in the territory of a Member State after having been employed there.

4. The provisions of this Article shall not apply to employment in the public administration.

**Article 49** Upon the entry into force of this Treaty, the Council, acting on a proposal of the Commission and after the Economic and Social Committee has been consulted, shall, by means of directives or regulations, lay down the measures necessary to effect progressively the free movement of workers, as defined in the preceding Article, in particular:

(a) by ensuring close collaboration between national labour administrations;

(b) by progressively abolishing according to a plan any such administrative procedures and practices and also any such time-limits in respect of eligibility for available employment as are applied as a result either of municipal law or of agreements previously concluded between Member States and the maintenance of which would be an obstacle to the freeing of the movement of workers;

(c) by progressively abolishing according to a plan all such time-limits and other restrictions provided for either under municipal law or under agreements previously concluded between Member States as impose on workers of other Member States conditions for the free choice of employment different from these imposed on workers of the State concerned; and

(d) by setting up appropriate machinery for connecting offers of employment and requests for employment, with a view to equilibrating them in such a way as to avoid serious threats to the standard of living and employment in the various regions and industries.

**Article 50** Member States shall, under a common programme, encourage the exchange of young workers.

**Article 51** The Council, acting by means of a unanimous vote on a proposal of the Commission, shall, in the field of social security, adopt the measures necessary to effect the free movement of workers, in particular, by introducing a system which permits an assurance to be given to migrant workers and their beneficiaries:

(a) that, for the purposes of qualifying for and retaining the right to benefits and of the calculation of these benefits, all periods taken into consideration by the respective municipal law of the countries concerned, shall be added together; and

(b) that these benefits will be paid to persons resident in the territories of Member States.

## **Chapter 2 — The Right of Establishment**

**Article 52** Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be progressively abolished in the course of the transitional period. Such progressive abolition shall also extend to restrictions on the setting up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Freedom of establishment shall include the right to engage in and carry on non-wage-earning activities, and also to

set up and manage enterprises and, in particular, companies within the meaning of Article 58, second paragraph, under the conditions laid down by the law of the country of establishment for its own nationals, subject to the provisions of the Chapter relating to capital.

**Article 53** Member States shall not, subject to the provisions of this Treaty, introduce any new restrictions on the establishment in their territories of nationals of other Member States.

**Article 54** 1. Before the expiry of the first stage, the Council, acting by means of a unanimous vote on a proposal of the Commission and after the Economic and Social Committee and the Assembly have been consulted, shall lay down a general programme for the abolition of restrictions existing within the Community on freedom of establishment. The Commission shall submit such proposal to the Council in the course of the first two years of first the stage.

The programme shall, in respect of each category of activities, fix the general conditions for achieving freedom of establishment and, in particular, the stages by which it shall be attained.

2. In order to implement the general programme or, if no such programme exists, to complete one stage towards the achievement of freedom of establishment for a specific activity, the Council, on a proposal of the Commission and after the Economic and Social Committee and the Assembly have been consulted, shall, until the end of the first stage by means of a unanimous vote and subsequently by means of a qualified majority vote, act by issuing directives.

3. The Council and the Commission shall exercise the functions entrusted to them by the above provisions, in particular:

(a) by according, as a general rule, priority treatment to activities in regard to which freedom of establishment constitutes a specially valuable contribution to the development of production and trade;

(b) by ensuring close collaboration between the competent national authorities with a view to ascertaining the special situation within the Community of the various activities concerned;

(c) by abolishing any such administrative procedures and practice whether resulting from municipal law or from agreements previously concluded between Member States as would, if maintained, be an obstacle to freedom of establishment;

(d) by ensuring that wage-earning workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of undertaking a non-wage-earning activity there, provided that they satisfy the conditions which they would be required to satisfy if they came to that State at the time when they wish to engage in such activity;

(e) by enabling a national of one Member State to acquire and exploit real property situated in the territory of another Member State, to the extent that no infringement of the principles laid down in Article 39, paragraph 2 is thereby caused;

(f) by applying the progressive abolition of restrictions on freedom of establishment, in each branch of activity under consideration, both in respect of the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and in respect of the conditions governing the entry of personnel of the main establishment into the managerial or supervisory organs of such agencies, branches and subsidiaries;

(g) by co-ordinating, to the extent that is necessary and with a view to making them equivalent, the guarantees demanded in Member States from companies within the meaning of Article 58, second paragraph, for the purpose of protecting the interests both of the members of such companies and of third parties; and

(h) by satisfying themselves that conditions of establishment shall not be impaired by any aids granted by Member States.

**Article 55** Activities which in any State include, even incidentally, the exercise of public authority shall, in so far as that State is concerned, be excluded from the application of the provisions of this Chapter.

The Council, acting by means of a qualified majority vote on a proposal of the Commission, may exclude certain activities from the application of the provisions of this Chapter.

**Article 56** 1. The provisions of this Chapter and the measures taken in pursuance thereof shall not prejudice the applicability of legislative and administrative provisions which lay down special treatment for foreign nationals and which are justified by reasons of public order, public safety and public health.

2. Before the expiry of the transitional period, the Council, acting by means of a unanimous vote on a proposal of the Commission and after the Assembly has been consulted, shall issue directives for the co-ordination of the above-mentioned legislative and administrative provisions. After the end of the second stage, however, the Council, acting by means of a qualified majority vote on a proposal of the Commission, shall issue directives for co-ordinating such provisions as, in each Member State, fall within the administrative field.

**Article 57** 1. In order to facilitate the engagement in and exercise of non-wage-earning activities, the Council, on a proposal of the Commission and after the Assembly has been consulted, shall, in the course of the first stage by means of a unanimous vote and subsequently by means of a qualified majority vote, act by issuing directives regarding mutual recognition of diplomas, certificates and other qualifications.

2. For the same purpose, the Council, acting on a proposal of the Commission and after the Assembly has been consulted, shall, before the expiry of the transitional period, issue directives regarding the co-ordination of legislative and administrative provisions of Member States concerning the engagement in and exercise of non-wage-earning activities. A unanimous vote shall be required on matters which, in at least one Member State, are subject to legislative provisions, and on measures concerning the protection of savings, in particular the allotment of credit and the banking profession, and concerning the conditions governing the exercise in the various Member States of the medical, para-medical and pharmaceutical professions. In all other cases, the Council shall act in the course of the first stage by means of a unanimous vote and subsequently by means of a qualified majority vote.

3. In the case of the medical, para-medical and pharmaceutical professions, the progressive removal of restrictions shall be subject to the co-ordination of conditions for their exercise in the various Member States.

**Article 58** Companies constituted in accordance with the law of a Member State and having their registered office, central management or main establishment within the Community shall, for the purpose of applying the provisions of this Chapter, be assimilated to natural persons being nationals of Member States.

The term “companies” shall mean companies under civil or commercial law including co-operative companies and other legal persons under public or private law, with the exception of non-profit-making companies.

### **Chapter 3 — Services**

**Article 59** Within the framework of the provisions set out below, restrictions on the free supply of services within

**Article 57** Within the framework of the provisions set out below, restrictions on the free supply of services within the Community shall be progressively abolished in the course of the transitional period in respect of nationals of Member States who are established in a State of the Community other than that of the person to whom the services are supplied.

The Council, acting by means of a unanimous vote on a proposal of the Commission, may extend the benefit of the provisions of this Chapter to cover services supplied by nationals of any third country who are established within the Community.

**Article 60** Services within the meaning of this Treaty shall be deemed to be services normally supplied for remuneration, to the extent that they are not governed by the provisions relating to the free movement of goods, capital and persons.

Services shall include in particular:

- (a) activities of an industrial character;
- (b) activities of a commercial character;
- (c) artisan activities; and
- (d) activities of the liberal professions.

Without prejudice to the provisions of the Chapter relating to the right of establishment, a person supplying a service may, in order to carry out that service, temporarily exercise his activity in the State where the service is supplied, under the same conditions as are imposed by that State on its own nationals.

**Article 61** 1. The free movement of services in respect of transport shall be governed by the provisions of the Title relating to transport.

2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in harmony with the progressive liberalisation of the movement of capital.

**Article 62** Except where otherwise provided for in this Treaty, Member States shall not introduce any new restrictions on the freedom which has been in fact achieved, in regard to the supply of services, at the date of the entry into force of this Treaty.

**Article 63** 1. Before the end of the first stage, the Council, acting by means of a unanimous vote on a proposal of the Commission and after the Economic and Social Committee and the Assembly have been consulted, shall lay down a general programme for the abolition of restrictions existing within the Community on the free supply of services. The Commission shall submit such proposal to the Council in the course of the first two years of the first stage.

The programme shall, for each category of services, fix the general conditions and the stages of such liberalisation.

2. In order to implement the general programme or, if no such programme exists, to complete one stage in the liberalisation of a specific service, the Council, on a proposal of the Commission and after the Economic and Social Committee and the Assembly have been consulted, shall, before the end of the first stage by means of a unanimous vote and subsequently by means of a qualified majority vote, act by issuing directives.

3. The proposals and decisions referred to in paragraphs 1 and 2 shall, as a general rule, accord priority to services

3. THE PROPOSALS AND DECISIONS REFERRED TO IN PARAGRAPHS 1 AND 2 SHALL, AS A GENERAL RULE, ACCORD PRIORITY TO SERVICES WHICH DIRECTLY AFFECT PRODUCTION COSTS OR THE LIBERALISATION OF WHICH CONTRIBUTES TO FACILITATING THE EXCHANGE OF GOODS.

**Article 64** Member States hereby declare their willingness to undertake the liberalisation of services beyond the extent required by the directives issued in application of Article 63, paragraph 2, if their general economic situation and the situation of the sector concerned so permit.

The Commission shall make recommendations to this effect to the Member States concerned.

**Article 65** As long as the abolition of restrictions on the free supply of services has not been effected, each Member State shall apply such restrictions without distinction on grounds of nationality or residence to all persons within the meaning of Article 59, first paragraph, who supply services.

**Article 66** The provisions of Articles 55 to 58 inclusive shall apply to the matters governed by this Chapter.

#### **Chapter 4 — Capital**

**Article 67** 1. Member States shall, in the course of the transitional period and to the extent necessary for the proper functioning of the Common Market, progressively abolish as between themselves restrictions on the movement of capital belonging to persons resident in Member States and also any discriminatory treatment based on the nationality or place of residence of the parties or on the place in which such capital is invested.

2. Current payments connected with movements of capital between Member States shall be freed from all restrictions not later than at the end of the first stage.

**Article 68** 1. Member States shall, in respect of the matters referred to in this Chapter, grant in the most liberal manner possible such exchange authorisations as are still necessary after the date of the entry into force of this Treaty.

2. Where a Member State applies its domestic provisions in respect of the capital market and credit system to the movements of capital freed in accordance with the provisions of this Chapter, it shall do so in a non-discriminatory manner.

3. Loans intended for the direct or indirect financing of a Member State or of its territorial sub-divisions may not be issued or placed in other Member States save when the States concerned have reached agreement in this respect. This provision shall not be an obstacle to the implementation of Article 22 of the Protocol on the Statute of the European Investment Bank.

**Article 69** The Council, acting on a proposal of the Commission which for this purpose shall consult the Monetary Committee provided for in Article 105, shall, in the course of the first two stages by means of a unanimous vote and subsequently by means of a qualified majority vote, issue the directives necessary for the progressive implementation of the provisions of Article 67.

**Article 70** 1. The Commission shall propose to the Council measures in regard to the progressive co-ordination of the exchange policies of Member States in respect of the movement of capital between those States and third countries. The Council, acting by means of a unanimous vote, shall issue directives in this connection. It shall endeavour to achieve the highest possible degree of liberalisation.

2. Where the action taken in application of the preceding paragraph does not permit the abolition of discrepancies between the exchange rules of Member States and where such discrepancies should lead persons resident in one of

between the exchange rates of Member States and where such discrepancies should lead persons resident in one of

the Member States to make use of the transfer facilities within the Community, as provided for under Article 67, in order to evade the rules of one of the Member States in regard to third countries, that State may, after consulting the other Member States and the Commission, take appropriate measures to overcome these difficulties.

If the Council finds that such measures restrict the free movement of capital within the Community beyond what is required for the purposes of the preceding sub-paragraph, it may, acting by means of a qualified majority vote on a proposal of the Commission, decide that the State concerned shall modify or abolish these measures.

**Article 71** Member States shall endeavour to avoid introducing within the Community any new exchange restrictions which affect the movement of capital and current payments connected with such movement, and making existing rules more restrictive.

They hereby declare their willingness to go beyond the degree of liberalisation of capital provided for in the preceding Articles to the extent that their economic situation, and in particular the situation of their balance of payments, permits.

The Commission may, after consulting the Monetary Committee, make recommendations to Member States on this subject.

**Article 72** Member States shall keep the Commission informed of any movements of capital to and from third countries as are known to them. The Commission may address to Member States any opinion which it deems appropriate on this subject.

**Article 73** 1. In the event of movements of capital leading to disturbances in the functioning of the capital market in any Member State, the Commission shall, after consulting the Monetary Committee, authorise such State to take, in regard to such movements of capital, protective measures of which the Commission shall determine the conditions and particulars.

The Council, acting by means of a qualified majority vote, may revoke this authorisation and may modify such conditions and particulars.

2. The Member State which is in difficulty may, however, on the ground of their secret or urgent character, itself take the abovementioned measures if they should become necessary. The Commission and the other Member States shall be informed of such measures not later than at the date of their entry into force. In this case, the Commission may, after consulting the Monetary Committee, decide that the State concerned shall modify or abolish such measures.

## **TITLE IV — Transport**

**Article 74** The objectives of this Treaty shall, with regard to the subject covered by this Title, be pursued by the Member States within the framework of a common transport policy.

**Article 75** 1. With a view to implementing Article 74 and taking due account of the special aspects of transport, the Council, acting on a proposal of the Commission and after the Economic and Social Committee and the Assembly have been consulted, shall, until the end of the second stage by means of a unanimous vote and subsequently by means of a qualified majority vote, lay down:

(a) common rules applicable to international transport effected from or to the territory of a Member State or crossing the territory of one or more Member States;

CROSSING THE TERRITORY OF ONE OR MORE MEMBER STATES,

- (b) conditions for the admission of non-resident carriers to national transport services within a Member State; and
- (c) any other appropriate provisions.

2. The provisions referred to under (a) and (b) of the preceding paragraph shall be laid down in the course of the transitional period.

3. Notwithstanding the procedure provided for in paragraph 1, provisions which relate to the principles governing transport and the application of which might seriously affect the standard of living and the level of employment in certain regions and also the utilisation of transport equipment, shall, due account being taken of the need for adaptation to economic developments resulting from the establishment of the Common Market, be laid down by the Council acting by means of a unanimous vote.

**Article 76** Until the provisions referred to in Article 75, paragraph 1, are enacted and unless the Council gives its unanimous consent, no Member State shall apply the various provisions governing this subject at the date of the entry into force of this Treaty in such a way as to make them less favourable, in their direct or indirect effect, for carriers of other Member States by comparison with its own national carriers.

**Article 77** Aids which meet the needs of transport co-ordination or which constitute reimbursement for certain obligations inherent in the concept of a public utility shall be deemed to be compatible with this Treaty.

**Article 78** Any measure in the sphere of transport rates and conditions, adopted within the framework of this Treaty, shall take due account of the economic situation of carriers.

**Article 79** 1. Any discrimination which consists in the application by a carrier, in respect of the same goods conveyed in the same circumstances, of transport rates and conditions which differ on the ground of the country of origin or destination of the goods carried, shall be abolished in the traffic within the Community not later than at the end of the second stage.

2. Paragraph 1 shall not exclude the adoption of other measures by the Council in application of Article 75, paragraph 1.

3. The Council, acting by means of a qualified majority vote on a proposal of the Commission and after the Economic and Social Committee has been consulted, shall, within a period of two years after the date of the entry into force of this Treaty, lay down rules for the implementation of the provisions of paragraph 1.

The Council may, in particular, enact the provisions necessary to enable the institutions of the Community to ensure that the rule stated in paragraph 1 is observed and that all the advantages accruing from it are enjoyed by users.

4. The Commission shall, on its own initiative or at the request of a Member State, examine the cases of discrimination referred to in paragraph 1 and shall, after consulting any Member State interested, take the necessary decisions within the framework of the rules laid down in accordance with the provisions of paragraph 3.

**Article 80** 1. The application imposed by a Member State, in respect of transport effected within the Community, of rates and conditions involving any element of support or protection in the interest of one or more particular enterprises or industries shall be prohibited as from the beginning of the second stage, unless authorised by the Commission.

2. The Commission shall, on its own initiative or at the request of a Member State, examine the rates and conditions

referred to in paragraph 1, taking particular account, on the one hand, of the requirements of a suitable regional economic policy, of the needs of under-developed regions and the problems of regions seriously affected by political circumstances and, on the other hand, of the effects of such rates and conditions on competition between the different forms of transport.

After consulting any interested Member State, the Commission shall take the necessary decisions.

3. The prohibition referred to in paragraph 1 shall not apply to competitive tariffs.

**Article 81** Charges or dues collected by a carrier, in addition to the transport rates, for the crossing of frontiers, shall not exceed a reasonable level, due account being taken of real costs actually incurred by such crossing.

Member States shall endeavour to reduce these costs progressively.

The Commission may make recommendations to Member States with a view to the application of this Article.

**Article 82** The provisions of this Chapter shall not be an obstacle to the measures taken in the Federal Republic of Germany, to the extent that such measures may be necessary to compensate for the economic disadvantages caused by the division of Germany to the economy of certain regions of the Federal Republic which are affected by that division.

**Article 83** A Committee with consultative status, composed of experts appointed by the Governments of Member States, shall be established and attached to the Commission. The latter shall, whenever it deems it desirable, consult this Committee on transport questions, without prejudice to the competence of the transport section of the Economic and Social Committee.

**Article 84** 1. The provisions of this Title shall apply to transport by rail, road and inland waterway.

2. The Council, acting by means of a unanimous vote, may decide whether, to what extent, and by what procedure appropriate provisions might be adopted for sea and air transport.

## **PART THREE — Policy of the Community**

### **TITLE I — Common Rules**

#### **Chapter 1 — Rules Governing Competition**

##### **Section 1 — Rules applying to undertakings**

**Article 85** 1. The following shall be prohibited as incompatible with the Common Market: any agreements between undertakings, decisions by associations of undertakings and any concerted practices which may affect trade between the Member States and which have as their object or effect of prevention, restriction or distortion of competition within the Common Market, and in particular those which:

- (a) the direct or indirect fixing of purchase or selling prices or of any other trading conditions;
- (b) the limitation or control of production, markets, technical development or investment;
- (c) market-sharing or the sharing of sources of supply;

(d) the application to parties to transactions of unequal terms in respect of equivalent supplies, thereby placing them at a competitive disadvantage; or

(e) the subjecting of the conclusion of a contract to the acceptance by a party of additional supplies which, either by their nature or according to commercial usage, have no connection with the subject of such contract.

2. Any agreements or decisions prohibited pursuant to this Article shall be null and void.

3. Nevertheless, the provisions of paragraph 1 may be declared inapplicable in the case of:

- any agreements or classes of agreements between enterprises,
- any decisions or classes of decisions by associations of enterprises, and
- any concerted practices or classes of concerted practices which contribute to the improvement of the production or distribution of goods or to the promotion of technical or economic progress while reserving to users an equitable share in the profit resulting therefrom, and which:

(a) neither impose on the enterprises concerned any restrictions not indispensable to the attainment of the above objectives;

(b) nor enable such enterprises to eliminate competition in respect of a substantial proportion of the goods concerned.

**Article 86** To the extent to which trade between any Member States may be affected thereby, action by one or more enterprises to take improper advantage of a dominant position within the Common Market or within a substantial part of it shall be deemed to be incompatible with the Common Market and shall hereby be prohibited.

Such improper practices may, in particular, consist in:

(a) the direct or indirect imposition of any inequitable purchase or selling prices or of any other inequitable trading conditions;

(b) the limitation of production, markets or technical development to the prejudice of consumers;

(c) the application to parties to transactions of unequal terms in respect of equivalent supplies, thereby placing them at a competitive disadvantage; or

(d) the subjecting of the conclusion of a contract to the acceptance, by a party, of additional supplies which, either by their nature or according to commercial usage, have no connection with the subject of such contract.

**Article 87** 1. Within a period of three years after the date of the entry into force of this Treaty, the Council, acting by means of a unanimous vote on a proposal of the Commission and after the Assembly has been consulted, shall lay down any appropriate regulations or directives with a view to the application of the principles set out in Articles 85 and 86.

If such provisions have not been adopted within the above-mentioned time-limit, they shall be laid down by the Council acting by means of a qualified majority vote on a proposal of the Commission and after the Assembly has been consulted.

2. The provisions referred to in paragraph 1 shall be designed, in particular:

(a) to ensure observance, by the institution of fines or penalties, of the prohibitions referred to in Article 85, paragraph 1, and in Article 86;

(b) to determine the particulars of the application of Article 85, paragraph 3, taking due account of the need, on the one hand, of ensuring effective supervision and, on the other hand, of simplifying administrative control to the greatest possible extent;

(c) to specify, where necessary, the scope of application in the various economic sectors of the provisions contained in Articles 85 and 86;

(d) to define the respective responsibilities of the Commission and of the Court of Justice in the application of the provisions referred to in this paragraph; and

(e) to define the relations between, on the one hand, municipal law and, on the other hand, the provisions contained in this Section or adopted in application of this Article.

**Article 88** Until the date of the entry into force of the provisions adopted in application of Article 87, the authorities of Member States shall, in accordance with their respective municipal law and with the provisions of Article 85, particularly paragraph 3, and of Article 86, rule upon the admissibility of any understanding and upon any improper advantage taken of a dominant position in the Common Market.

**Article 89** 1. Without prejudice to the provisions of Article 88, the Commission shall, upon taking up its duties, ensure the application of the principles laid down in Articles 85 and 86. It shall, at the request of a Member State or ex officio, investigate, in conjunction with the competent authorities of the Member States which shall lend it their assistance, any alleged infringement of the above-mentioned principles. If it finds that such infringement has taken place, it shall propose appropriate means for bringing it to an end.

2. If such infringement continues, the Commission shall, by means of a reasoned decision, confirm the existence of such infringement of the principles. The Commission may publish its decision and may authorise Member States to take the necessary measures, of which it shall determine the conditions and particulars, to remedy the situation.

**Article 90** 1. Member States shall, in respect of public enterprises and enterprises to which they grant special or exclusive rights, neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular, to those rules provided for in Article 7 and in Articles 85 to 94 inclusive.

2. Any enterprise charged with the management of services of general economic interest or having the character of a fiscal monopoly shall be subject to the rules contained in this Treaty, in particular to those governing competition, to the extent that the application of such rules does not obstruct the de jure or de facto fulfilment of the specific tasks entrusted to such enterprise. The development of trade may not be affected to such a degree as would be contrary to the interests of the Community.

3. The Commission shall ensure the application of the provisions of this Article and shall, where necessary, issue appropriate directives or decisions to Member States.

## Section 2 — Dumping practices

**Article 91** 1. If in the course of the transitional period, the Commission, at the request of a Member State or of

**Article 91** 1. If, in the course of the transitional period, the Commission, at the request of a Member State or of any other interested party, finds that dumping practices exist within the Common Market, it shall issue recommendations to the originator or originators of such practices with a view to bringing them to an end.

Where such dumping practices continue, the Commission shall authorise the Member State injured to take protective measures of which the Commission shall determine the conditions and particulars.

2. Upon the entry into force of this Treaty, any products originating or having been entered for consumption in one Member State which have been exported to another Member State shall be admitted free of all customs duties, quantitative restrictions or measures with equivalent effect when re-imported into the territory of the first State. The Commission shall lay down appropriate rules for the application of this paragraph.

### **Section 3 — Aids granted by States**

**Article 92** 1. Except where otherwise provided for in this Treaty, any aid, granted by a Member State or granted by means of State resources, in any manner whatsoever, which distorts or threatens to distort competition by favouring certain enterprises or certain productions shall, to the extent to which it adversely affects trade between Member States, be deemed to be incompatible with the Common Market.

2. The following shall be deemed to be compatible with the Common Market:

(a) aids of a social character granted to individual consumers, provided that such aids are granted without any discrimination based on the origin of the products concerned;

(b) aids intended to remedy damage caused by natural calamities or other extraordinary events; or

(c) aids granted to the economy of certain regions of the Federal Republic of Germany affected by the division of Germany, to the extent that such aids are necessary in order to compensate for the economic disadvantages caused by such division.

3. The following may be deemed to be compatible with the Common Market:

(a) aids intended to promote the economic development of regions where the standard of living is abnormally low or where there exists serious under-employment;

(b) aids intended to promote the execution of important projects of common European interest or to remedy a serious disturbance of the economy of a Member State;

(c) aids intended to facilitate the development of certain activities or of certain economic regions, provided that such aids do not change trading conditions to such a degree as would be contrary to the common interest. Any aids to shipbuilding existing on 1 January 1957 shall, to the extent that such aids merely offset the absence of customs protection, be progressively reduced under the same conditions as apply to the abolition of customs duties, subject to the provisions of this Treaty relating to the common commercial policy in regard to third countries; and

(d) such other categories of aids as may be specified by decision of the Council acting by means of a qualified majority vote on a proposal of the Commission.

**Article 93** 1. The Commission shall, together with Member States, constantly examine all systems of aids existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the Common Market

2. If, after having given notice to the parties concerned to submit their comments, the Commission finds that any aid granted by a State or by means of State resources is not compatible with the Common Market within the meaning of Article 92, or that such aid is applied in an improper manner, it shall decide that the State concerned shall abolish or modify such aid within the time-limit prescribed by the Commission.

If the State concerned does not comply with this decision within the prescribed time-limit, the Commission or any other interested State may, notwithstanding the provisions of Articles 169 and 170, refer the matter to the Court of Justice directly.

At the request of any Member State, the Council, acting by means of a unanimous vote, may, if such a decision is justified by exceptional circumstances, decide that any aid instituted or to be instituted by that State shall be deemed to be compatible with the Common Market, notwithstanding the provisions of Article 92 or the regulations provided for in Article 94. If the Commission has, in respect of the aid concerned, already initiated the procedure provided for in the first sub-paragraph of this paragraph, the request made to the Council by the State concerned shall cause such procedure to be suspended until the Council has made its attitude known.

If, however, the Council has not made its attitude known within a period of three months from such request, the Commission shall act.

3. The Commission shall be informed, in due time to enable it to submit its comments, of any plans to institute or to modify aids. If it considers that any such plan is not compatible with the Common Market within the meaning of Article 92, it shall without delay initiate the procedure provided for in the preceding paragraph. The Member State concerned may not put its proposed measures into effect until such procedure shall have resulted in a final decision.

**Article 94** The Council, acting by means of a qualified majority vote on a proposal of the Commission, may make any appropriate regulations with a view to the application of Articles 92 and 93 and may, in particular, fix the conditions of the application of Article 93, paragraph 3, and the categories of aids which are exempted from this procedure.

## **Chapter 2 — Fiscal Provisions**

**Article 95** A Member State shall not impose, directly or indirectly, on the products of other Member States any internal charges of any kind in excess of those applied directly or indirectly to like domestic products.

Furthermore, a Member State shall not impose on the products of other Member States any internal charges of such a nature as to afford indirect protection to other productions.

Member States shall, not later than at the beginning of the second stage, abolish or amend any provisions existing at the date of the entry into force of this Treaty which are contrary to the above rules.

**Article 96** Products exported to the territory of any Member State may not benefit from any drawback of internal charges in excess of those charges imposed directly or indirectly on them.

**Article 97** Any Member States which levy a turnover tax calculated by a cumulative multi-stage system may, in the case of internal charges imposed by them on imported products or of drawbacks granted by them on exported products, establish average rates for specific products or groups of products, provided that such States do not infringe the principles laid down in Articles 95 and 96.

Where the average rates established by a Member State do not conform with the above-mentioned principles, the Commission shall issue to the State concerned appropriate directives or decisions.

**Article 98** With regard to charges other than turnover taxes, excise duties and other forms of indirect taxation, exemptions and drawbacks in respect of exports to other Member States may not be effected and compensatory charges in respect of imports coming from Member States may not be imposed, save to the extent that the measures contemplated have been previously approved for a limited period by the Council acting by means of a qualified majority vote on a proposal of the Commission.

**Article 99** The Commission shall consider in what way the law of the various Member States concerning turnover taxes, excise duties and other forms of indirect taxation, including compensatory measures applying to exchanges between Member States, can be harmonised in the interest of the Common Market.

The Commission shall submit proposals to the Council which shall act by means of a unanimous vote, without prejudice to the provisions of Articles 100 and 101.

### **Chapter 3 — Approximation of Laws**

**Article 100** The Council, acting by means of a unanimous vote on a proposal of the Commission, shall issue directives for the approximation of such legislative and administrative provisions of the Member States as have a direct incidence on the establishment or functioning of the Common Market.

The Assembly and the Economic and Social Committee shall be consulted concerning any directives whose implementation in one or more of the Member States would involve amendment of legislative provisions.

**Article 101** Where the Commission finds that a disparity existing between the legislative or administrative provisions of the Member States distorts the conditions of competition in the Common Market and thereby causes a state of affairs which must be eliminated, it shall enter into consultation with the interested Member States.

If such consultation does not result in an agreement which eliminates the particular distortion, the Council, acting during the first stage by means of a unanimous vote and subsequently by means of a qualified majority vote on a proposal of the Commission, shall issue the directives necessary for this purpose. The Commission and the Council may take any other appropriate measures as provided for in this Treaty.

**Article 102** 1. Where there is reason to fear that the enactment or amendment of a legislative or administrative provision will cause a distortion within the meaning of the preceding Article, the Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall recommend to the States concerned such measures as may be appropriate to avoid the particular distortion.

2. If the State desiring to enact or amend its own provisions does not comply with the recommendation made to it by the Commission, other Member States may not be requested, in application of Article 101, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the Commission's recommendation causes a distortion to its own detriment only, the provisions of Article 101 shall not apply.

## **TITLE II — Economic Policy**

### **Chapter 1 — Policy Relating to Economic Trends**

**Article 103** 1. Member States shall consider their policy relating to economic trends as a matter of common interest. They shall consult with each other and with the Commission on measures to be taken in response to current circumstances.

2. Without prejudice to any other procedures provided for in this Treaty, the Council may, by means of a unanimous vote on a proposal of the Commission, decide on measures appropriate to the situation.

3. The Council, acting by means of a qualified majority vote on a proposal of the Commission, shall, where necessary, issue any requisite directives concerning the particulars of application of the measures decided upon under the terms of paragraph 2.

4. The procedures provided for in this Article shall apply also in the event of difficulties arising in connection with the supply of certain products.

## **Chapter 2 — Balance of Payments**

**Article 104** Each Member State shall pursue the economic policy necessary to ensure the equilibrium of its overall balance of payments and to maintain confidence in its currency, while ensuring a high level of employment and the stability of the level of prices.

**Article 105** 1. In order to facilitate the attainment of the objectives stated in Article 104, Member States shall co-ordinate their economic policies. They shall for this purpose institute a collaboration between the competent services of their administrative departments and between their central banks.

The Commission shall submit to the Council recommendations for the bringing into effect of such collaboration.

2. In order to promote the co-ordination of the policies of Member States in monetary matters to the full extent necessary for the functioning of the Common Market, a Monetary Committee with consultative status shall hereby be established with the following tasks:

- to keep under review the monetary and financial situation of Member States and of the Community and also the general payments system of Member States and to report regularly thereon to the Council and to the Commission; and
- to formulate opinions, at the request of the Council or of the Commission or on its own initiative, for submission to the said institutions.

The Member States and the Commission shall each appoint two members of the Monetary Committee.

**Article 106** 1. Each Member State undertakes to authorise, in the currency of the Member State in which the creditor or the beneficiary resides, any payments connected with the exchange of goods, services or capital, and also any transfers of capital and wages, to the extent that the movement of goods, services, capital and persons is freed as between Member States in application of this Treaty.

Member States hereby declare their willingness to free payments beyond the extent provided for in the preceding sub-paragraph, in so far as their economic situation in general and the situation of their balance of payments in particular so permit.

2. To the extent that exchanges of goods and services and movements of capital are limited only by restrictions on

payments connected therewith, the provisions of the Chapters relating to the abolition of quantitative restrictions, to the freeing of services and to the free movement of capital shall, for the purposes of the progressive abolition of such restrictions, apply by analogy.

3. Member States undertake not to introduce as between themselves any new restrictions on transfers connected with the invisible transactions listed in Annex III to this Treaty.

The progressive abolition of existing restrictions shall be effected in accordance with the provisions of Articles 63 to 65 inclusive, in so far as such abolition is not governed by the provisions contained in paragraphs 1 and 2 or by the Chapter relating to the free movement of capital.

4. Member States shall, where necessary, seek agreement concerning the measures to be taken in order to enable the payments and transfers mentioned in this Article to be effected. These measures shall not adversely affect the attainment of the objectives laid down in this Chapter.

**Article 107** 1. Each Member State shall treat its policy with regard to exchange rates as a matter of common interest.

2. If a Member State alters its exchange rate in a manner which is incompatible with the objectives laid down in Article 104 and which seriously distorts the conditions of competition, the Commission may, after consulting the Monetary Committee, authorise other Member States to take for a strictly limited period the necessary measures, of which it shall determine the conditions and particulars, in order to deal with the consequences of such alteration.

**Article 108** 1. Where a Member State is in difficulties or seriously threatened with difficulties as regards its balance of payments as a result either of overall disequilibrium of the balance of payments or of the kinds of currency at its disposal and where such difficulties are likely, in particular, to prejudice the functioning of the Common Market or the progressive establishment of the common commercial policy, the Commission shall without delay examine the situation of such State and the action which, in making use of all the means at its disposal, that State has taken or may take in conformity with the provisions of Article 104. The Commission shall indicate the measures which it recommends to the State concerned to adopt.

If the action taken by a Member State and the measures suggested by the Commission do not prove sufficient to overcome the difficulties encountered or threatening, the Commission shall, after consulting the Monetary Committee, recommend to the Council the granting of mutual assistance and the appropriate methods therefor.

The Commission shall keep the Council regularly informed of the situation and of its development.

2. The Council, acting by means of a qualified majority vote, shall grant mutual assistance; it shall issue directives or decisions laying down the conditions and particulars thereof. Mutual assistance may take the form, in particular, of:

- (a) concerted action in regard to any other international organisations to which Member States may have recourse;
- (b) any measures necessary to avoid diversions of commercial traffic where the State in difficulties maintains or re-establishes quantitative restrictions with regard to third countries; or
- (c) the granting of limited credits by other Member States, subject to the agreement of the latter.

Furthermore, during the transitional period, mutual assistance may also take the form of special reductions in customs duties or enlargements of quotas, for the purpose of facilitating the increase of imports from the State in difficulties, subject to the agreement of the States by which such measures would have to be taken.

measures, subject to the agreement of the States by which such measures would have to be taken.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorise the State in difficulties to take measures of safeguard of which the Commission shall determine the conditions and particulars.

Such authorisation may be revoked and such conditions and particulars may be amended by the Council acting by means of a qualified majority vote.

**Article 109** 1. Where a sudden crisis in the balance of payments occurs and if a decision, within the meaning of Article 108, paragraph 2, is not immediately taken, the Member State concerned may provisionally take the necessary measures of safeguard. Such measures shall cause the least possible disturbance in the functioning of the Common Market and shall not exceed the minimum strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of such measures of safeguard not later than at the time of their entry into force. The Commission may recommend to the Council mutual assistance under the terms of Article 108.

3. On the basis of an opinion of the Commission and after consulting the Monetary Committee, the Council, acting by means of a qualified majority vote, may decide that the State concerned shall amend, suspend or abolish the measures of safeguard referred to above.

### **Chapter 3 — Commercial Policy**

**Article 110** By establishing a customs union between themselves the Member States intend to contribute, in conformity with the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international exchanges and the lowering of customs barriers.

The common commercial policy shall take into account the favourable incidence which the abolition of customs duties as between Member States may have on the increase of the competitive strength of the enterprises in those States.

**Article 111** In the course of the transitional period and without prejudice to Articles 115 and 116, the following provisions shall apply:

1. Member States shall co-ordinate their commercial relations with third countries in such a way as to bring about, not later than at the expiry of the transitional period, the conditions necessary to the implementation of a common policy in the matter of external trade.

The Commission shall submit to the Council proposals regarding the procedure to be applied, in the course of the transitional period, for the establishment of common action and regarding the achievement of a uniform commercial policy.

2. The Commission shall submit to the Council recommendations with a view to tariff negotiations with third countries concerning the common customs tariff.

The Council shall authorise the Commission to open such negotiations.

The Commission shall conduct these negotiations in consultation with a special Committee appointed by the Council

to assist the Commission in this task and within the framework of such directives as the Council may issue to it.

3. The Council shall, when exercising the powers conferred upon it under this Article, act during the first two stages by means of a unanimous vote and subsequently by means of a qualified majority vote.

4. Member States shall, in consultation with the Commission, take all necessary measures with the object, in particular, of adjusting their tariff agreements in force with third countries in order that the entry into force of the common customs tariff may not be delayed.

5. Member States shall aim at securing uniformity between themselves at as high a level as possible of their lists of liberalisation in regard to third countries or groups of third countries. For this purpose the Commission shall make any appropriate recommendations to Member States.

If Member States abolish or reduce quantitative restrictions in regard to third countries, they shall inform the Commission beforehand and shall accord identical treatment to the other Member States.

**Article 112** 1. Without prejudice to obligations undertaken by Member States within the framework of other international organisations, their measures to aid exports to third countries shall be progressively harmonised before the end of the transitional period to the extent necessary to ensure that competition between enterprises within the Community shall not be distorted.

On a proposal of the Commission, the Council, acting until the end of the second stage by means of a unanimous vote and subsequently by means of a qualified majority vote, shall issue the directives necessary for this purpose.

2. The preceding provisions shall not apply to such drawbacks on customs duties or charges with equivalent effect nor to such refunds of indirect charges including turnover taxes, excise duties and other indirect taxes as are accorded in connection with exports of goods from a Member State to a third country, to the extent that such drawbacks or refunds do not exceed the charges which have been imposed, directly or indirectly, on the products exported.

**Article 113** 1. After the expiry of the transitional period, the common commercial policy shall be based on uniform principles, particularly in regard to tariff amendments, the conclusion of tariff or trade agreements, the alignment of measures of liberalisation, export policy and protective commercial measures including measures to be taken in cases of dumping or subsidies.

2. The Commission shall submit proposals to the Council for the putting into effect of this common commercial policy.

3. Where agreements with third countries require to be negotiated, the Commission shall make recommendations to the Council, which will authorise the Commission to open the necessary negotiations.

The Commission shall conduct these negotiations in consultation with a special Committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it.

4. The Council shall, when exercising the powers conferred upon it by this Article, act by means of a qualified majority vote.

**Article 114** The agreements referred to in Article 111, paragraph 2, and in Article 113 shall be concluded on behalf of the Community by the Council acting during the first two stages by means of a unanimous vote and subsequently by means of a qualified majority vote.

**Article 115** In order to ensure that the execution of measures of commercial policy taken in conformity with this Treaty by any Member State shall not be prevented by diversions of commercial traffic, or where disparities between such measures lead to economic difficulties in one or more of the Member States, the Commission shall recommend the methods whereby the other Member States shall provide the necessary co-operation. Failing this, the Commission shall authorise the Member States to take the necessary protective measures of which it shall determine the conditions and particulars.

In cases of emergency and during the transitional period, Member States may themselves take such necessary measures and shall notify them to the other Member States and also to the Commission which may decide that the State concerned shall amend or revoke such measures.

In choosing such measures, priority shall be given to those which cause the least disturbance to the functioning of the Common Market and which take due account of the necessity for expediting, as far as possible, the introduction of the common customs tariff.

**Article 116** As from the end of the transitional period, Member States shall in respect of all matters of particular interest in regard to the Common Market, within the framework of any international organisations of an economic character, only proceed by way of common action. The Commission shall for this purpose submit to the Council, which shall act by means of a qualified majority vote, proposals concerning the scope and implementation of such common action.

During the transitional period, Member States shall consult with each other with a view to concerting their action and, as far as possible, adopting a uniform attitude.

## **TITLE III — Social Policy**

### **Chapter 1 — Social Provisions**

**Article 117** Member States hereby agree upon the necessity to promote improvement of the living and working conditions of labour so as to permit the equalisation of such conditions in an upward direction.

They consider that such a development will result not only from the functioning of the Common Market which will favour the harmonisation of social systems, but also from the procedures provided for under this Treaty and from the approximation of legislative and administrative provisions.

**Article 118** Without prejudice to the other provisions of this Treaty and in conformity with its general objectives, it shall be the aim of the Commission to promote close collaboration between Member States in the social field, particularly in matters relating to

- employment,
- labour legislation and working conditions,
- occupational and continuation training,
- social security,
- protection against occupational accidents and diseases,
- industrial hygiene,
- the law as to trade unions, and collective bargaining between employers and workers.

For this purpose, the Commission shall act in close contact with Member States by means of studies, the issuing of

opinions, and the organising of consultations both on problems arising at the national level and on those of concern to international organisations.

Before issuing the opinions provided for under this Article, the Commission shall consult the Economic and Social Committee.

**Article 119** Each Member State shall in the course of the first stage ensure and subsequently maintain the application of the principle of equal remuneration for equal work as between men and women workers.

For the purposes of this Article, remuneration shall mean the ordinary basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the workers' employment.

Equal remuneration without discrimination based on sex means:

(a) that remuneration for the same work at piece-rates shall be calculated on the basis of the same unit of measurement; and

(b) that remuneration for work at time-rates shall be the same for the same job.

**Article 120** Member States shall endeavour to maintain the existing equivalence of paid holiday schemes.

**Article 121** The Council, acting by means of a unanimous vote after consulting the Economic and Social Committee, may assign to the Commission functions relating to the implementation of common measures, particularly in regard to the social security of the migrant workers referred to in Articles 48 to 51 inclusive.

**Article 122** The Commission shall, in its annual report to the Assembly, include a special chapter on the development of the social situation within the Community.

The Assembly may invite the Commission to draw up reports on special problems concerning the social situation.

## **Chapter 2 — The European Social Fund**

**Article 123** In order to improve opportunities of employment of workers in the Common Market and thus contribute to raising the standard of living, a European Social Fund shall hereby be established in accordance with the provisions set out below; it shall have the task of promoting within the Community employment facilities and the geographical and occupational mobility of workers.

**Article 124** The administration of the Fund shall be incumbent on the Commission.

The Commission shall be assisted in this task by a Committee presided over by a member of the Commission and composed of representatives of Governments, trade unions and employers' associations.

**Article 125** 1. At the request of a Member State, the Fund shall, within the framework of the rules provided for in Article 127, cover 50 per cent of expenses incurred after the entry into force of this Treaty by that State or by a body under public law for the purpose of:

(a) ensuring productive re-employment of workers by means of:

- occupational re-training

- occupational re-training,
- resettlement allowances; and

(b) granting aids for the benefit of workers whose employment is temporarily reduced or wholly or partly suspended as a result of the conversion of their enterprise to other productions, in order that they may maintain the same wage-level pending their full re-employment.

2. The assistance granted by the Fund towards the cost of occupational re-training shall be conditional upon the impossibility of employing the unemployed workers otherwise than in a new occupation and upon their having been, in productive employment, for a period of at least six months in the occupation for which they have been re-trained.

The assistance granted in respect of resettlement allowances shall be conditional upon the unemployed workers having been obliged to change their residence within the Community and upon their having been in productive employment for a period of at least six months in their new place of residence.

The assistance given for the benefit of workers in cases where an enterprise is converted shall be subject to the following conditions:

- (a) that the workers concerned have again been fully employed in that enterprise for a period of at least six months;
- (b) that the Government concerned has previously submitted a plan, drawn up by such enterprise, for its conversion and for the financing thereof; and
- (c) that the Commission has given its prior approval to such conversion plan.

**Article 126** At the expiry of the transitional period, the Council, on the basis of an opinion of the Commission and after the Economic and Social Committee and the Assembly have been consulted, may:

- (a) acting by means of a qualified majority vote, rule that all or part of the assistance referred to in Article 125 shall no longer be granted; or
- (b) acting by means of a unanimous vote, determine the new tasks which may be entrusted to the Fund within the framework of its mandate as defined in Article 123.

**Article 127** On a proposal of the Commission and after the Economic and Social Committee and the Assembly have been consulted, the Council, acting by means of a qualified majority vote, shall lay down the provisions necessary for the implementation of Articles 124 to 126 inclusive; in particular, it shall fix details concerning the conditions under which the assistance of the Fund shall be granted in accordance with the terms of Article 125 and also concerning the categories of enterprises whose workers shall benefit from the aids provided for in Article 125, paragraph 1 (b).

**Article 128** The Council shall, on a proposal of the Commission and after the Economic and Social Committee has been consulted, establish general principles for the implementation of a common policy of occupational training capable of contributing to the harmonious development both of national economies and of the Common Market.

## **TITLE IV — The European Investment Bank**

**Article 129** A European Investment Bank having legal personality shall hereby be established.

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

The Statute of the European Investment Bank shall form the subject of a Protocol annexed to this Treaty.

**Article 130** The task of the European Investment Bank shall be to contribute, by calling on the capital markets and its own resources, to the balanced and smooth development of the Common Market in the interest of the Community. For this purpose, the Bank shall by granting loans and guarantees on a non-profit-making basis facilitate the financing of the following projects in all sectors of the economy:

(a) projects for developing less developed regions,

(b) projects for modernising or converting enterprises or for creating new activities which are called for by the progressive establishment of the Common Market where such projects by their size or nature cannot be entirely financed by the various means available in each of the Member States; and

(c) projects of common interest to several Member States which by their size or nature cannot be entirely financed by the various means available in each of the Member States.

## **PART FOUR — The Association of Overseas Countries and Territories**

**Article 131** The Member States hereby agree to bring into association with the Community the non-European countries and territories which have special relations with Belgium, France, Italy and the Netherlands. These countries and territories, hereinafter referred to as “the countries and territories”, are listed in Annex IV to this Treaty.

The purpose of this association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole.

In conformity with the principles stated in the Preamble to this Treaty, this association shall in the first place permit the furthering of the interests and prosperity of the inhabitants of these countries and territories in such a manner as to lead them to the economic, social and cultural development which they expect.

**Article 132** Such association shall have the following objects:

1. Member States shall, in their commercial exchanges with the countries and territories, apply the same rules which they apply among themselves pursuant to this Treaty.

2. Each country or territory shall apply to its commercial exchanges with Member States and with the other countries and territories the same rules which it applies in respect of the European State with which it has special relations.

3. Member States shall contribute to the investments required by the progressive development of these countries and territories.

4. As regards investments financed by the Community, participation in tenders and supplies shall be open, on equal terms, to all natural and legal persons being nationals of Member States or of the countries and territories.

5. In relations between Member States and the countries and territories, the right of establishment of nationals and companies shall be regulated in accordance with the provisions, and by application of the procedures, referred to in the Chapter relating to the right of establishment and on a non-discriminatory basis, subject to the special provisions

made pursuant to Article 136.

**Article 133** 1. Imports originating in the countries or territories shall, on their entry into Member States, benefit by the total abolition of customs duties which shall take place progressively between Member States in conformity with the provisions of this Treaty.

2. Customs duties imposed on imports from Member States and from countries or territories shall, on the entry of such imports into any of the other countries or territories, be progressively abolished in conformity with the provisions of Articles 12, 13, 14, 15 and 17.

3. The countries and territories may, however, levy customs duties which correspond to the needs of their development and to the requirements of their industrialisation or which, being of a fiscal nature, have the object of contributing to their budgets.

The duties referred to in the preceding sub-paragraph shall be progressively reduced to the level of those imposed on imports of products coming from the Member State with which each country or territory has special relations. The percentages and the timing of the reductions provided for under this Treaty shall apply to the difference between the duty imposed, on entry into the importing country or territory, on a product coming from the Member State which has special relations with the country or territory concerned and the duty imposed on the same product coming from the Community.

4. Paragraph 2 shall not apply to countries and territories which, by reason of the special international obligations by which they are bound, already apply a non-discriminatory customs tariff at the date of the entry into force of this Treaty.

5. The establishment or amendment of customs duties imposed on goods imported into the countries and territories shall not, either de jure or de facto, give rise to any direct or indirect discrimination between imports coming from the various Member States.

**Article 134** If the level of the duties applicable to goods coming from a third country on entry into a country or territory is likely, having regard to the application of the provisions of Article 133, paragraph 1, to cause diversions of commercial traffic to the detriment of any Member State, the latter may request the Commission to propose to the other Member States the measures necessary to remedy the situation.

**Article 135** Subject to the provisions relating to public health, public safety and public order, the freedom of movement in Member States of workers from the countries and territories, and in the countries and territories of workers from Member States shall be governed by subsequent conventions which shall require unanimous agreement of Member States.

**Article 136** For a first period of five years as from the date of the entry into force of this Treaty, an Implementing Convention annexed to this Treaty shall determine the particulars and procedure concerning the association of the countries and territories with the Community.

Before the expiry of the Convention provided for in the preceding sub-paragraph, the Council, acting by means of a unanimous vote, shall, proceeding from the results achieved and on the basis of the principles set out in this Treaty, determine the provisions to be made for a further period.

## **PART FIVE — Institutions of the Community**

# **TITLE I — Provisions Governing Institutions**

## **Chapter 1 — Institutions**

### **Section 1 — The Assembly**

**Article 137** The Assembly, which shall be composed of representatives of the peoples of the States united within the Community, shall exercise the powers of deliberation and of control which are conferred upon it by this Treaty.

**Article 138** 1. The Assembly shall be composed of delegates whom the Parliaments shall be called upon to appoint from among their members in accordance with the procedure laid down by each Member State.

2. The number of these delegates shall be fixed as follows:

Belgium 14

Germany 36

France 36

Italy 36

Luxembourg 6

Netherlands 14

3. The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States.

The Council, acting by means of a unanimous vote, shall determine the provisions which it shall recommend to Member States for adoption in accordance with their respective constitutional rules.

**Article 139** The Assembly shall hold an annual session. It shall meet as of right on the third Tuesday in October.

The Assembly may meet in extraordinary session at the request of a majority of its members or at the request of the Council or of the Commission.

**Article 140** The Assembly shall appoint its President and its officers from among its members.

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

The Commission shall reply orally or in writing to questions put to it by the Assembly or its members.

The Council shall be heard by the Assembly under the conditions which the Council shall lay down in its rules of procedure.

**Article 141** Except where otherwise provided for in this Treaty, the Assembly shall act by means of an absolute majority of the votes cast.

The quorum shall be laid down in the rules of procedure.

**Article 142** The Assembly shall adopt its rules of procedure by a vote of the majority of its members.

The records of the Assembly shall be published in accordance with the provisions of its rules of procedure.

**Article 143** The Assembly shall discuss in public meeting the annual general report submitted to it by the Commission.

**Article 144** If a motion of censure concerning the activities of the Commission is introduced in the Assembly, a vote may be taken thereon only after a period of not less than three days following its introduction, and such vote shall be by open ballot.

If the motion of censure is adopted by a two-thirds majority of the votes cast, representing a majority of the members of the Assembly, the members of the Commission shall resign their office in a body. They shall continue to carry out current business until their replacement in accordance with the provisions of Article 158 has taken place.

## Section 2 — The Council

**Article 145** With a view to ensuring the achievement of the objectives laid down in this Treaty, and under the conditions provided for therein, the Council shall:

- ensure the co-ordination of the general economic policies of the Member States, and
- dispose of a power of decision.

**Article 146** The Council shall be composed of representatives of the Member States. Each Government shall delegate to it one of its members.

The office of President shall be exercised for a term of six months by each member of the Council in rotation according to the alphabetical order of the Member States.

**Article 147** Meetings of the Council shall be called by the President acting on his own initiative or at the request of a member or of the Commission.

**Article 148** 1. Except where otherwise provided for in this Treaty, the conclusions of the Council shall be reached by a majority vote of its members.

2. Where conclusions of the Council require a qualified majority, the votes of its members shall be weighted as follows:

Belgium 2  
Germany 4  
France 4  
Italy 4  
Luxembourg 1  
Netherlands 2

Majorities shall be required for the adoption of any conclusions as follows:

- twelve votes in cases where this Treaty requires a previous proposal of the Commission, or
- twelve votes including a favourable vote by at least four members in all other cases.

3. Abstentions by members either present or represented shall not prevent the adoption of Council conclusions requiring unanimity.

**Article 149** When, pursuant to this Treaty, the Council acts on a proposal of the Commission, it shall, where the amendment of such proposal is involved, act only by means of a unanimous vote.

As long as the Council has not so acted, the Commission may amend its original proposal, particularly in cases where the Assembly has been consulted on the proposal concerned.

**Article 150** In case of a vote, any member of the Council may act as proxy for not more than one other member.

**Article 151** The Council shall adopt its rules of procedure.

These rules of procedure may provide for the establishment of a committee composed of representatives of Member States. The Council shall determine the task and competence of that committee.

**Article 152** The Council may request the Commission to undertake any studies which the Council considers desirable for the achievement of the common objectives, and to submit to it any appropriate proposals.

**Article 153** The Council shall, after obtaining the opinion of the Commission, lay down the status of the Committees provided for in this Treaty.

**Article 154** The Council, acting by means of a qualified majority vote, shall fix the salaries, allowances and pensions of the President and members of the Commission, and of the President, judges, advocates-general and registrar of the Court of Justice. The Council shall also fix, by means of the same majority, any allowances to be granted in lieu of remuneration.

### **Section 3 — The Commission**

**Article 155** With a view to ensuring the functioning and development of the Common Market, the Commission shall:

- ensure the application of the provisions of this Treaty and of the provisions enacted by the institutions of the Community in pursuance thereof;
- formulate recommendations or opinions in matters which are the subject of this Treaty, where the latter expressly so provides or where the Commission considers it necessary;
- under the conditions laid down in this Treaty dispose of a power of decision of its own and participate in the preparation of acts of the Council and of the Assembly; and
- exercise the competence conferred on it by the Council for the implementation of the rules laid down by the latter.

**Article 156** The Commission shall annually, not later than one month before the opening of the Assembly session, publish a general report on the activities of the Community.

**Article 157** 1. The Commission shall be composed of nine members chosen for their general competence and of indisputable independence.

The number of members of the Commission may be amended by a unanimous vote of the Council.

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

The Commission may not include more than two members having the nationality of the same State.

THE COMMISSION MAY NOT INCLUDE MORE THAN TWO MEMBERS HAVING THE NATIONALITY OF THE SAME STATE.

2. The members of the Commission shall perform their duties in the general interest of the Community with complete independence.

In the performance of their duties, they shall not seek or accept instructions from any Government or other body. They shall refrain from any action incompatible with the character of their duties. Each Member State undertakes to respect this character and not to seek to influence the members of the Commission in the performance of their duties.

The members of the Commission may not, during their term of office, engage in any other paid or unpaid professional activity. When entering upon their duties, they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations resulting therefrom and in particular the duty of exercising honesty and discretion as regards the acceptance, after their term of office, of certain functions or advantages. Should these obligations not be respected, the Court of Justice, on the application of the Council or of the Commission, may according to circumstances rule that the member concerned either be removed from office in accordance with the provisions of Article 160 or forfeit his right to a pension or other advantages in lieu thereof.

**Article 158** The members of the Commission shall be appointed by the Governments of Member States acting in common agreement.

Their term of office shall be for a period of four years. It shall be renewable.

**Article 159** Apart from retirements in regular rotation and the case of death, the duties of a member of the Commission shall be terminated in individual cases by voluntary resignation or by removal from office.

Vacancies thus caused shall be filled for the remainder of the term of office. The Council, acting by means of a unanimous vote, may decide that such vacancies need not be filled.

Except in the case of removal from office referred to in Article 160, a member of the Commission shall remain in office until provision has been made for his replacement.

**Article 160** If any member of the Commission no longer fulfils the conditions required for the performance of his duties or if he commits a serious offence, the Court of Justice, acting on a petition of the Council or of the Commission, may declare him removed from office.

In such case the Council, acting by means of a unanimous vote, may provisionally suspend the member from his duties and make provision for his replacement pending the ruling of the Court of Justice.

The Court of Justice may, on a petition of the Council or of the Commission, provisionally suspend such member from his duties.

**Article 161** The President and the two Vice-Presidents of the Commission shall be appointed from among its members for a term of two years in accordance with the same procedure as that laid down for the appointment of members of the Commission. Their term of office shall be renewable.

Except in the case of an entire renewal of the Commission, such appointments shall be made after the Commission has been consulted.

In the event of resignation or death, the President and the Vice-Presidents shall be replaced for the remainder of

their terms of office in accordance with the procedure laid down in the first paragraph of this Article.

**Article 162** The Council and the Commission shall consult each other and shall settle by mutual agreement the particulars of their collaboration.

The Commission shall adopt its rules of procedure with a view to ensuring its own functioning and that of its services in accordance with the provisions of this Treaty. It shall be responsible for the publication of its rules of procedure.

**Article 163** The conclusions of the Commission shall be reached by a majority of the number of members provided for in Article 157.

A meeting of the Commission shall only be valid if the number of members laid down in its rules of procedure are present.

#### **Section 4 — The Court of Justice**

**Article 164** The Court of Justice shall ensure observance of law and justice in the interpretation and application of this Treaty.

**Article 165** The Court of Justice shall be composed of seven judges.

The Court of Justice shall sit in plenary session. It may, however, set up chambers, each composed of three or five judges, in order either to conduct certain enquiries or to judge certain categories of cases in accordance with provisions to be laid down in rules for this purpose.

The Court of Justice shall, however, always sit in plenary session in order to hear cases submitted to it by a Member State or by one of the institutions of the Community or to deal with preliminary questions submitted to it pursuant to Article 177.

Should the Court of Justice so request, the Council may, by means of a unanimous vote, increase the number of judges and make the requisite amendments to the second and third paragraphs of this Article and to Article 167, second paragraph.

**Article 166** The Court of Justice shall be assisted by two advocates-general.

The duty of the advocate-general shall be to present publicly, with complete impartiality and independence, reasoned conclusions on cases submitted to the Court of Justice, with a view to assisting the latter in the performance of its duties as laid down in Article 164.

Should the Court of Justice so request, the Council may, by means of a unanimous vote, increase the number of advocates-general and make the requisite amendments to Article 167, third paragraph.

**Article 167** The judges and the advocates-general shall be chosen from among persons of indisputable independence who fulfil the conditions required for the holding of the highest judicial office in their respective countries or who are jurists of a recognised competence; they shall be appointed for a term of six years by the Governments of Member States acting in common agreement.

A partial renewal of the Court of Justice shall take place every three years. It shall affect three and four judges alternately. The three judges whose terms of office are to expire at the end of the first period of three years shall be

alternately. The three judges whose terms of office are to expire at the end of the first period of three years shall be chosen by lot.

A partial renewal of the advocates-general shall take place every three years. The advocate-general whose term of office is to expire at the end of the first period of three years shall be chosen by lot.

The retiring judges and advocates-general shall be eligible for reappointment.

The judges shall appoint from among their members the President of the Court of Justice for a term of three years. Such term shall be renewable.

**Article 168** The Court of Justice shall appoint its registrar and determine his status.

**Article 169** If the Commission considers that a Member State has failed to fulfil any of its obligations under this Treaty, it shall give a reasoned opinion on the matter after requiring such State to submit its comments.

If such State does not comply with the terms of such opinion within the period laid down by the Commission, the latter may refer the matter to the Court of Justice.

**Article 170** Any Member State which considers that another Member State has failed to fulfil any of its obligations under this Treaty may refer the matter to the Court of Justice.

Before a Member State institutes, against another Member State, proceedings relating to an alleged infringement of the obligations under this Treaty, it shall refer the matter to the Commission.

The Commission shall give a reasoned opinion after the States concerned have been required to submit their comments in written and oral pleadings.

If the Commission, within a period of three months after the date of reference of the matter to it, has not given an opinion, reference to the Court of Justice shall not thereby be prevented.

**Article 171** If the Court of Justice finds that a Member State has failed to fulfil any of its obligations under this Treaty, such State shall take the measures required for the implementation of the judgment of the Court.

**Article 172** The regulations laid down by the Council pursuant to the provisions of this Treaty may confer on the Court of Justice full jurisdiction in respect of penalties provided for in such regulations.

**Article 173** The Court of Justice shall review the lawfulness of acts other than recommendations or opinions of the Council and the Commission. For this purpose, it shall be competent to give judgment on appeals by a Member State, the Council or the Commission on grounds of incompetence, of errors of substantial form, of infringement of this Treaty or of any legal provision relating to its application, or of abuse of power.

Any natural or legal person may, under the same conditions, appeal against a decision addressed to him or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and specific concern to him.

The appeals provided for in this Article shall be lodged within a period of two months dating, as the case may be, either from the publication of the act concerned or from its notification to the appellant or, failing that, from the day on which the latter had knowledge of that act.

**Article 174** If the appeal is well founded, the Court of Justice shall declare the act concerned to be null and void.



(b) the conclusions of the Board of Governors of the Bank. Any Member State, the Commission or the Board of Directors of the Bank may lodge an appeal in this matter under the conditions laid down in Article 173; and

(c) the conclusions of the Board of Directors of the Bank. Appeals against such conclusions may be lodged, under the conditions laid down in Article 173, provided that they may only be lodged by a Member State or by the Commission, and only on the grounds of an infringement of formal procedures laid down in Article 21, paragraph 2 and paragraphs 5 to 7 inclusive of the Statute of the Bank.

**Article 181** The Court of Justice shall be competent to make a decision pursuant to any arbitration clause contained in a contract concluded, under public or private law, by or on behalf of the Community.

**Article 182** The Court of Justice shall be competent to decide in any dispute between Member States in connection with the object of this Treaty, where such dispute is submitted to it under the terms of a compromise.

**Article 183** Subject to the powers conferred on the Court of Justice by this Treaty, cases to which the Community is a party shall not for that reason alone be excluded from the competence of domestic courts or tribunals.

**Article 184** Where a regulation of the Council or of the Commission is the subject of a dispute in legal proceedings, any of the parties concerned may, notwithstanding the expiry of the period laid down in Article 173, third paragraph invoke the grounds set out in Article 173, first paragraph in order to allege before the Court of Justice that the regulation concerned is inapplicable.

**Article 185** Appeals submitted to the Court of Justice shall not have any staying effect. The Court of Justice may, however, if it considers that circumstances so require, order the suspension of the execution of the act appealed against.

**Article 186** The Court of Justice may, in any cases referred to it, make any necessary interim order.

**Article 187** The judgments of the Court of Justice shall be enforceable under the conditions laid down in Article 192.

**Article 188** The Statute of the Court of Justice shall be laid down in a separate Protocol.

The Court of Justice shall adopt its rules of procedure. They shall be submitted to the Council for unanimous approval.

## **Chapter 2 — Provisions Common to Several Institutions**

**Article 189** For the achievement of their aims and under the conditions provided for in this Treaty, the Council and the Commission shall adopt regulations and directives, make decisions and formulate recommendations or opinions.

Regulations shall have a general application. They shall be binding in every respect and directly applicable in each Member State.

Directives shall bind any Member State to which they are addressed, as to the result to be achieved, while leaving to domestic agencies a competence as to form and means.

Decisions shall be binding in every respect for the addressees named therein.

Recommendations and opinions shall have no binding force.

**Article 190** The regulations, directives and decisions of the Council and of the Commission shall be supported by reasons and shall refer to any proposals or opinions which are to be obtained pursuant to this Treaty.

**Article 191** The regulations shall be published in the Official Journal of the Community. They shall enter into force on the date fixed in them or, failing this, on the twentieth day following their publication.

Directives and decisions shall be notified to their addressees and shall take effect upon such notification.

**Article 192** Decisions of the Council or of the Commission which contain a pecuniary obligation on persons other than States shall be enforceable.

Forced execution shall be governed by the rules of civil procedure in force in the State in whose territory it takes place. The writ of execution shall be served, without other formality than the verification of the authenticity of the written act, by the domestic authority which the Government of each Member State shall designate for this purpose and of which it shall give notice to the Commission and to the Court of Justice.

After completion of these formalities at the request of the party concerned, the latter may, in accordance with municipal law, proceed with such forced execution by applying directly to the authority which is competent.

Forced execution may only be suspended pursuant to a decision of the Court of Justice. Supervision as to the regularity of the measures of execution shall, however, be within the competence of the domestic courts or tribunals.

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

**Article 193** There shall hereby be established an Economic and Social Committee with consultative status.

The Committee shall be composed of representatives of the various categories of economic and social life, in particular, representatives of producers, agriculturists, transport operators, workers, merchants, artisans, the liberal professions and of the general interest.

**Article 194** The number of members of the Committee shall be fixed as follows:

Belgium 12

Germany 24

France 24

Italy 24

Luxembourg 5

Netherlands 12

The members of the Committee shall be appointed for a term of four years by the Council acting by means of a unanimous vote. This term shall be renewable.

The members of the Committee shall be appointed in their personal capacity and shall not be bound by any mandatory instructions.

**Article 195** 1. With a view to the appointment of the members of the Committee, each Member State shall send to the Council a list containing twice as many candidates as there are seats allotted to its nationals.

The Committee shall be composed in such a manner as to secure adequate representation of the different categories of economic and social life.

2. The Council shall consult the Commission. It may obtain the opinion of European organisations representing the various economic and social sectors concerned in the activities of the Community.

**Article 196** The Committee shall appoint from among its members its chairman and officers for a term of two years.

It shall adopt its rules of procedure and shall submit them for approval to the Council which shall act by means of a unanimous vote.

The Committee shall be convened by its chairman at the request of the Council or of the Commission.

**Article 197** The Committee shall include specialised sections for the main fields covered by this Treaty.

It shall contain, in particular, an agricultural section and a transport section, which are the subject of special provisions included in the Titles relating to agriculture and transport.

These specialised sections shall operate within the framework of the general competence of the Committee. They may not be consulted independently of the Committee.

Sub-committees may also be established within the Committee in order to prepare, in specific matters or fields, draft opinions to be submitted to the Committee for consideration.

The rules of procedure shall determine the particulars of the composition of, and the rules of competence concerning, the specialised sections and sub-committees.

**Article 198** The Committee shall be consulted by the Council or by the Commission in the cases provided for in this Treaty. The Committee may be consulted by these institutions in all cases in which they deem it appropriate.

The Council or the Commission shall, if it considers it necessary, lay down for the submission by the Committee of its opinion a time-limit which may not be less than ten days after the communication has been addressed to the chairman for this purpose. If, on the expiry of such time-limit, an opinion has not been submitted, the Council or the Commission may proceed without it.

The opinion of the Committee and that of the specialised section, together with a record of the deliberations, shall be transmitted to the Council and to the Commission.

## **TITLE II — Final Provisions**

**Article 199** Estimates shall be drawn up for each financial year for all revenues and expenditures of the Community, including those relating to the European Social Fund, and shall be shown in the budget.

The budget shall be in balance as to revenues and expenditures.

**Article 200** 1. The revenues of the budget shall comprise, apart from any other revenues, the financial contributions of Member States fixed according to the following scale:

Belgium 7.9

Germany 28

France 28

Italy 28

Luxembourg 0.2

Luxembourg 0.2  
Netherlands 7.9

2. The financial contributions of Member States, however, which are intended to meet the expenses of the European Social Fund, shall be fixed according to the following scale:

Belgium 8.8  
Germany 32  
France 32  
Italy 20  
Luxembourg 0.2  
Netherlands 7

3. The scales may be amended by the Council acting by means of a unanimous vote.

**Article 201** The Commission shall study the conditions under which the financial contributions of Member States provided for in Article 200 may be replaced by other resources of the Community itself, in particular, by revenue accruing from the common customs tariff when the latter has been definitely introduced.

For this purpose, the Commission shall submit proposals to the Council.

The Council, acting by means of a unanimous vote and after consulting the Assembly on such proposals, may lay down the provisions whose adoption it shall recommend to the Member States in accordance with their respective constitutional rules.

**Article 202** The expenditure entered in the budget shall be authorised for the duration of one financial year, unless any provisions to the contrary are contained in the regulations adopted pursuant to Article 209.

Subject to the conditions to be laid down pursuant to Article 209, any such appropriations other than those relating to staff costs as are unexpended at the end of the financial year may be carried over, but not beyond the end of the following financial year.

Appropriations shall be set out under different headings according to the type or purpose of such expenditure and subdivided, as far as necessary, in accordance with the regulations adopted pursuant to Article 209.

The expenses of the Assembly, the Council, the Commission and the Court of Justice shall be set out in separate parts of the budget, without prejudice to the setting up of a special system for certain common expenses.

**Article 203** 1. The financial year shall run from 1 January to 31 December inclusive.

2. Each of the institutions of the Community shall draw up provisional estimates of its expenses. The Commission shall combine these estimates in a preliminary draft budget. It shall attach its opinion which may contain divergent estimates.

The preliminary draft budget shall be laid before the Council by the Commission not later than 30 September of the year preceding that of its implementation.

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

3. The Council, acting by means of a qualified majority vote, shall establish the draft budget and shall then transmit it

to the Assembly.

The draft budget shall be laid before the Assembly not later than 31 October of the year preceding that of its implementation.

The Assembly shall be entitled to propose to the Council amendments to the draft budget.

4. If, within a period of one month after receiving the draft budget, the Assembly has either stated its approval or has not transmitted an opinion to the Council, the draft budget shall be considered as finally adopted.

If, within this period, the Assembly has proposed any amendments, the draft budget so amended shall be transmitted to the Council. The Council shall then discuss it with the Commission and, where appropriate, with the other institutions concerned and shall finally adopt the budget by means of a qualified majority vote.

5. For the adoption of the section of the budget relating to the European Social Fund the votes of the members of the Council shall be weighted as follows:

Belgium 8

Germany 32

France 32

Italy 20

Luxembourg 1

Netherlands 7

A majority of at least 67 votes shall be required for the adoption of any conclusions.

**Article 204** If, at the beginning of the financial year, the budget has not yet been voted, expenditures may be effected on a monthly basis per heading or other division of the budget, according to the provisions of the regulations adopted pursuant to Article 209, up to one-twelfth of the budget appropriations for the preceding financial year, provided that the amount so made available to the Commission shall not exceed one-twelfth of the total appropriations shown in the draft budget in course of preparation.

The Council, acting by means of a qualified majority vote, may, subject to observance of the other provisions laid down in the first paragraph, authorise expenditure in excess of one-twelfth of the appropriations.

Member States shall pay every month, on a provisional basis and in accordance with the scales adopted for the previous financial year, the amounts necessary to ensure implementation of this Article.

**Article 205** The Commission shall, in accordance with the provisions of the regulations adopted pursuant to Article 209, implement the budget on its own responsibility and within the limits of the appropriations made.

Such regulations shall lay down the particular procedure according to which each institution shall participate in the expenditure of its own funds.

Within the budget, the Commission may, subject to the limits and conditions laid down in the regulations adopted pursuant to Article 209, transfer funds as between the various headings or subheadings.

**Article 206** The accounts of all the revenues and expenditures of the budget shall be examined by a committee of control composed of auditors of indisputable independence of whom one shall be the chairman. The Council, acting by means of a unanimous vote, shall fix the number of auditors. The auditors and the chairman of the committee of

by means of a unanimous vote, shall fix the number of auditors. The auditors and the chairman of the committee of control shall be appointed by the Council, acting by means of a unanimous vote, for a period of five years. Their remuneration shall be determined by the Council acting by means of a qualified majority vote.

The auditing of the accounts, which shall be based on vouchers and shall take place, if necessary, on the spot, shall be designed to ascertain that all revenues and expenditures are lawful and proper and that the financial management is sound. After the winding up of each budget, the committee of control shall draw up a report the adoption of which shall require a majority vote of its members.

The Commission shall annually submit to the Council and to the Assembly the accounts of the preceding financial year in respect of the budget, together with the report of the committee of control. The Commission shall also communicate to them a balance sheet showing the assets and liabilities of the Community.

The Council, acting by means of a qualified majority vote, shall give the Commission a discharge in respect of the implementation of the budget. The Council shall communicate such decision to the Assembly.

**Article 207** The budget shall be drawn up in the unit of account fixed in accordance with the provisions of the financial regulations adopted pursuant to Article 209.

The financial contributions provided for in Article 200, paragraph 1, shall be made available to the Community by Member States in their respective domestic currencies.

The available balances of these contributions shall be deposited with the Treasuries of Member States or with bodies designated by them. The funds, while on deposit, shall retain their par value in relation to the unit of account mentioned in the first paragraph, such par value being that in force at the date of deposit.

These balances may be placed under conditions to be settled in agreements concluded between the Commission and the Member State concerned.

The regulations adopted pursuant to Article 209 shall determine the technical conditions for carrying out the financial operations relating to the European Social Fund.

**Article 208** The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer its holdings in the currency of any one Member State into the currency of another Member State, in so far as this may be necessary in order to enable such funds to be used for the purposes for which they are intended in accordance with this Treaty. The Commission shall, as far as possible, refrain from making such transfers if it possesses liquid or realisable assets in the currencies which it needs.

The Commission shall communicate with each Member State through the channel of the authority designated by the State concerned. For the carrying out of financial operations, the Commission shall have recourse to the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

**Article 209** The Council, acting by means of a unanimous vote on a proposal of the Commission, shall:

(a) lay down the financial regulations specifying, in particular, the procedure to be adopted for establishing and implementing the budget, and for rendering and auditing accounts;

(b) determine the methods and procedure whereby the contributions by Member States shall be made available to the Commission; and

(c) establish rules concerning the responsibility of pay-commissioners and accountants and arrange for the relevant supervision

## PART SIX — General and Final Provisions

**Article 210** The Community shall have legal personality.

**Article 211** The Community shall in each of the Member States possess the most extensive legal capacity accorded to legal persons under their respective municipal law; it may, in particular, acquire or transfer movable and immovable property and may sue and be sued in its own name. For this purpose, the Community shall be represented by the Commission.

**Article 212** The Council, acting by means of a unanimous vote, shall, in collaboration with the Commission and after consulting the other institutions concerned, lay down the statute of service for officials and the conditions of employment for other employees of the Community.

After the expiry of the fourth year following the entry into force of this Treaty, this statute and these conditions may be amended by the Council acting by means of a qualified majority vote on a proposal of the Commission and after the other institutions concerned have been consulted.

**Article 213** For the performance of the tasks entrusted to it, the Commission may collect any information and verify any matters within the limits and under the conditions laid down by the Council in accordance with the provisions of this Treaty.

**Article 214** The members of the Community's institutions, the members of committees as well as officials and other employees of the Community shall be required, even after the termination of their functions, not to disclose information which by its nature is a professional secret and, in particular, information relating to enterprises and concerning their commercial relations or the components of their production costs.

**Article 215** The contractual liability of the Community shall be governed by the law applying to the contract concerned.

As regards non-contractual liability, the Community shall, in accordance with the general principles common to the laws of Member States, make reparation for any damage caused by its institutions or by its employees in the performance of their duties.

The personal liability of employees towards the Community shall be determined in the provisions establishing the statute of service or the conditions of employment applicable to them.

**Article 216** The seat of the Community's institutions shall be fixed by the Governments of the Member States acting in common agreement.

**Article 217** The rules concerning the languages of the institutions of the Community shall, without prejudice to the provisions laid down in the rules of the Court of Justice, be determined by the Council acting by means of a unanimous vote.

**Article 218** The Community shall, under conditions defined in a separate Protocol, enjoy in the territories of the Member States the privileges and immunities necessary for the achievement of its aims.

**Article 219** 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 in this Treaty.

**Article 220** Member States shall, in so far as necessary, engage in negotiations with each other with a view to ensuring for the benefit of their nationals:

- the protection of persons as well as the enjoyment and protection of rights under the conditions granted by each State to its own nationals;
- the elimination of double taxation within the Community;
- the mutual recognition of companies within the meaning of Article 58, second paragraph, the maintenance of their legal personality in cases where the registered office is transferred from one country to another, and the possibility for companies subject to the municipal law of different Member States to form mergers; and
- the simplification of the formalities governing the reciprocal recognition and execution of judicial decisions and of arbitral awards.

**Article 221** Within a period of three years after the date of the entry into force of this Treaty, Member States shall treat nationals of other Member States in the same manner, as regards financial participation by such nationals in the capital of companies within the meaning of Article 58, as they treat their own nationals, without prejudice to the application of the other provisions of this Treaty.

**Article 222** This Treaty shall in no way prejudice the system existing in Member States in respect of property.

**Article 223** 1. The provisions of this Treaty shall not detract from the following rules:

(a) No Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;

(b) Any Member State may take the measures which it considers necessary for the protection of the essential interests of its security, and which are connected with the production of or trade in arms, ammunition and war material; such measures shall not, however, prejudice conditions of competition in the Common Market in respect of products not intended for specifically military purposes.

2. In the course of the first year after the date of the entry into force of this Treaty, the Council, acting by means of a unanimous vote, shall determine the list of products to which the provisions of paragraph 1 (b) shall apply.

3. The Council, acting by means of a unanimous vote on a proposal of the Commission, may amend the said list.

**Article 224** Member States shall consult one another for the purpose of enacting in common the necessary provisions to prevent the functioning of the Common Market from being affected by measures which a Member State may be called upon to take in case of serious internal disturbances affecting public order, in case of war or of serious international tension constituting a threat of war or in order to carry out undertakings into which it has entered for the purpose of maintaining peace and international security.

**Article 225** If measures taken in the cases mentioned in Articles 223 and 224 have the effect of distorting conditions of competition in the Common Market, the Commission shall, together with the State concerned, examine the conditions under which these measures may be adapted to the rules established by this Treaty.

Notwithstanding the procedure provided for in Articles 169 and 170, the Commission or any Member State may make direct reference to the Court of Justice if it considers that another Member State is making an improper use of the powers provided for under Articles 223 and 224. The Court of Justice shall sit *in camera*.

**Article 226** 1. In the course of the transitional period, where there are serious difficulties which are likely to persist in any sector of economic activity or difficulties which may seriously impair the economic situation in any region, a

Member State may ask for authorisation to take measures of safeguard in order to restore the situation and adapt the sector concerned to the Common Market economy.

2. At the request of the State concerned, the Commission shall by an expedited procedure immediately determine the measures of safeguard which it considers necessary, specifying the conditions and particulars of application.

3. The measures authorised under paragraph 2 may include derogations from the provisions of this Treaty, to the extent and for the periods strictly necessary for the achievement of the objects referred to in paragraph 1. Priority shall be given in the choice of such measures to those which will least disturb the functioning of the Common Market.

**Article 227** 1. This Treaty shall apply to the Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands.

2. With regard to Algeria and the French overseas departments, the general and special provisions of this Treaty relating to:

- the free movement of goods,
- agriculture, with the exception of Article 40, paragraph 4,
- the liberalisation of services,
- the rules of competition,
- the measures of safeguard provided for in Articles 108, 109 and 226, and
- the institutions,

shall apply as from the date of the entry into force of this Treaty.

The conditions for the application of the other provisions of this Treaty shall be determined, not later than two years after the date of its entry into force, by decisions of the Council acting by means of a unanimous vote on a proposal of the Commission.

The institutions of the Community shall, within the framework of the procedures provided for in this Treaty and, in particular, of Article 226, ensure the possibility of the economic and social development of the regions concerned.

3. The overseas countries and territories listed in Annex IV to this Treaty shall be the subject of the special system of association described in Part IV of this Treaty.

4. The provisions of this Treaty shall apply to European territories for whose external relations a Member State is responsible.

**Article 228** 1. Where this Treaty provides for the conclusion of agreements between the Community and one or more States or an international organisation, such agreements shall be negotiated by the Commission. Subject to the powers conferred upon the Commission in this field, such agreements shall be concluded by the Council after the Assembly has been consulted in the cases provided for by this Treaty.

The Council, the Commission or a Member State may, as a preliminary, obtain the opinion of the Court of Justice as to the compatibility of the contemplated agreements with the provisions of this Treaty. An agreement which is the subject of a negative opinion of the Court of Justice may only enter into force under the conditions laid down, according to the case concerned, in Article 236.

2. Agreements concluded under the conditions laid down above shall be binding on the institutions of the

Community and on Member States.

**Article 229** The Commission shall be responsible for ensuring all suitable contacts with the organs of the United Nations, of their Specialised Agencies and of the General Agreement on Tariffs and Trade.

The Commission shall also ensure appropriate contacts with all international organisations.

**Article 230** The Community shall establish all suitable co-operation with the Council of Europe.

**Article 231** The Community shall establish with the Organisation for European Economic Co-operation close collaboration, the particulars of which shall be determined by common agreement.

**Article 232** 1. The provisions of this Treaty shall not affect those of the Treaty establishing the European Coal and Steel Community, in particular in regard to the rights and obligations of Member States, the powers of the institutions of the said Community and the rules laid down by the said Treaty for the functioning of the common market for coal and steel.

2. The provisions of this Treaty shall not detract from the provisions of the Treaty establishing the European Atomic Energy Community.

**Article 233** The provisions of this Treaty shall not be an obstacle to the existence or completion of regional unions between Belgium and Luxembourg, and between Belgium, Luxembourg and the Netherlands, in so far as the objectives of these regional unions are not achieved by application of this Treaty.

**Article 234** The rights and obligations resulting from conventions concluded prior to the entry into force of this Treaty between one or more Member States, on the one hand, and one or more third countries, on the other hand, shall not be affected by the provisions of this Treaty.

In so far as such conventions are not compatible with this Treaty, the Member State or States concerned shall take all appropriate steps to eliminate any incompatibility found to exist. Member States shall, if necessary, assist each other in order to achieve this purpose and shall, where appropriate, adopt a common attitude.

Member States shall, in the application of the conventions referred to in the first paragraph, take due account of the fact that the advantages granted under this Treaty by each Member State form an integral part of the establishment of the Community and are therefore inseparably linked with the creation of common institutions, the conferring of competences upon such institutions and the granting of the same advantages by all other Member States.

**Article 235** If any action by the Community appears necessary to achieve, in the functioning of the Common Market, one of the aims of the Community in cases where this Treaty has not provided for the requisite powers of action, the Council, acting by means of a unanimous vote on a proposal of the Commission and after the Assembly has been consulted, shall enact the appropriate provisions.

**Article 236** The Government of any Member State or the Commission may submit to the Council proposals for the revision of this Treaty.

If the Council, after consulting the Assembly and, where appropriate, the Commission, expresses an opinion in favour of the calling of a conference of representatives of the Governments of Member States, such conference shall be convened by the President of the Council for the purpose of determining in common agreement the amendments to be made to this Treaty.

Such amendments shall enter into force after being ratified by all Member States in accordance with their respective constitutional rules.

**Article 237** Any European State may apply to become a member of the Community. It shall address its application to the Council which, after obtaining the opinion of the Commission, shall act by means of a unanimous vote.

The conditions of admission and the amendments to this Treaty necessitated thereby shall be the subject of an agreement between the Member States and the applicant State. Such agreement shall be submitted to all the contracting States for ratification in accordance with their respective constitutional rules.

**Article 238** The Community may conclude with a third country, a union of States or an international organisation agreements creating an association embodying reciprocal rights and obligations, joint actions and special procedures.

Such agreements shall be concluded by the Council acting by means of a unanimous vote and after consulting the Assembly.

Where such agreements involve amendments to this Treaty, such amendments shall be subject to prior adoption in accordance with the procedure laid down in Article 236.

**Article 239** The Protocols which are to be annexed to this Treaty by common agreement between the Member States shall form an integral part thereof.

**Article 240** This Treaty shall be concluded for an unlimited period.

The setting up of the Institutions

**Article 241** The Council shall meet within a period of one month after the date of the entry into force of this Treaty.

**Article 242** The Council shall take all appropriate measures to constitute the Economic and Social Committee within a period of three months after the first meeting of the Council.

**Article 243** The Assembly shall meet within a period of two months after the first meeting of the Council and on being convened by the President of the latter in order to elect its officers and draw up its rules of procedure. Pending the election of its officers, the Assembly shall be presided over by its oldest member.

**Article 244** The Court of Justice shall enter upon its duties as soon as its members have been appointed. The first appointment of the President shall be made for a period of three years under the same conditions as the appointment of its members.

The Court of Justice shall adopt its rules of procedure within a period of three months after entering upon its duties.

Reference may not be made to the Court of Justice until after the date of publication of these rules of procedure. Periods laid down for the submission of cases shall only begin to run as from that date.

The President of the Court of Justice shall, upon his appointment, exercise the powers conferred upon him by this Treaty.

**Article 245** The Commission shall enter upon its duties and assume the responsibilities conferred upon it by this Treaty as soon as its members have been appointed.

The Commission shall, on entering upon its duties, undertake the studies and establish the contacts which are necessary for making a general survey of the economic situation of the Community.

**Article 246** 1. The period of the first financial year shall extend from the date of the entry into force of this Treaty to the following 31 December. If, however, this Treaty enters into force during the second half of the year, such period shall continue until 31 December of the following year.

2. Until the budget for the first financial year is adopted, Member States shall make to the Community non-interest-bearing advances which shall be deducted from the financial contributions relating to the implementation of the said budget.

3. Until the statute of service for officials and the conditions of employment applicable to other employees of the Community, as provided for in Article 212, are established, each institution shall recruit the staff it needs and shall, for this purpose, conclude contracts of limited duration.

Each institution shall examine with the Council any questions concerning the number, remuneration and distribution of posts.

#### Final Provisions

**Article 247** This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional rules. The instruments of ratification shall be deposited with the Government of the Italian Republic.

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

**Article 248** The present Treaty, drawn up in a single original in the German, French, Italian and Netherlands 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.

IN FAITH WHEREOF, the undersigned Plenipotentiaries have placed their signatures at the end of the present Treaty.

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

- Treaty establishing the EEC - Annex IV: Overseas countries and territories to which the provisions of Part IV of the Treaty apply

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