

Treaty Establishing the European Economic Community

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BELGIUM—FRANCE—GERMAN FEDERAL REPUBLIC— ITALY—LUXEMBOURG—NETHERLANDS

TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY *

Signed at Rome March 25, 1957.

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

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

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

ASSIGNING to their efforts the main purpose of constantly improving the living and working conditions of their peoples,

REALISING that the removal of existing obstacles calls for concerted action in order to guarantee stable conditions of expansion, balanced trade and fair competition,

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

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

PURPOSING to confirm the ties which unite Europe and overseas countries and territories, and wishing to ensure their increasing prosperity in accordance with the principles of the United Nations Charter,

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

HAVE DECIDED to set up a European Economic Community and to this end have designated as their Plenipotentiaries:

* Provisional English text. Since going to press a definite English text has been issued by the Secretariat of the Interim Committee for the Common Market and Euratom, Brussels. The treaty has been ratified by the governments of France, the Federal Republic of Germany, and Italy.

HIS MAJESTY THE KING OF THE BELGIANS :

M. Paul-Henri SPAAK, Minister for Foreign Affairs ;
Baron J. Ch. SNOY et d'OPPUERS, Secretary-General of the Ministry of
Economic Affairs, Leader of the Belgian delegation to the Intergovern-
mental Conference ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Christian PINEAU, Minister for Foreign Affairs ;
M. Maurice FAURE, Parliamentary Under-Secretary in the Ministry of
Foreign Affairs ;

THE PRESIDENT OF THE GERMAN FEDERAL REPUBLIC :

Dr. Konrad ADENAUER, Federal Chancellor ;
Professor Dr. Walter HALLSTEIN, permanent Under-Secretary in the Min-
istry of Foreign Affairs ;

THE PRESIDENT OF THE ITALIAN REPUBLIC :

M. Antonio SEGNI, President of the Council of Ministers ;
Professor Gaetano MARTINO, Minister for Foreign Affairs ;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG :

M. Joseph BECH, Minister of State, Minister for Foreign Affairs ;
M. Lambert SCHAUS, Ambassador, Leader of the Luxembourg delegation
to the Intergovernmental Conference ;

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

M. Joseph LUNS, Minister for Foreign Affairs ;
M. 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 on the following provisions :

PART ONE. PRINCIPLES**ARTICLE 1**

By the present Treaty, the High Contracting Parties establish among
themselves a European Economic Community.

ARTICLE 2

The Community's mission shall be, by establishing a common market and
gradually removing differences between the economic policies of Member
States, to promote throughout the Community the harmonious development
of economic activities, continuous and balanced expansion, increased sta-
bility, a more rapid improvement in the standard of living and closer re-
lations between its Member States.

ARTICLE 3

With the objects set out in the preceding Article the Community's action shall include, on the conditions and at the rates provided for in the present Treaty:

(a) the removal of customs duties, as between Member States, and of quantitative restrictions on 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 States outside the Community,

(c) the abolition, as between Member States, of 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 hampered in the common market,

(g) the adoption of procedures to enable the economic policies of Member States to be co-ordinated and to remedy disequilibria in their balances of payments,

(h) the removal of differences in national laws so far as is necessary for the operation of the common market,

(i) the creation of a European Social Fund in order to enhance possibilities of employment for workers and contribute to the raising of their standard of living,

(j) the establishment of a European Investment Bank to facilitate economic expansion of the Community by creating fresh resources,

(k) the association of overseas countries and territories with the Community with a view to increasing trade and to pursuing in common efforts towards economic and social development.

ARTICLE 4

1. Responsibility for carrying out the tasks entrusted to the Community shall be vested in

—an Assembly

—a Council

—a Commission

—a Court of Justice.

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

2. The Council and the Commission shall be assisted by an Economic and Social Committee exercising advisory functions.

ARTICLE 5

Member States shall take all appropriate general or special measures to ensure the fulfilment of the obligations resulting from the present Treaty or from the decisions of the institutions of the Community, and shall facilitate the accomplishment of its mission.

They shall refrain from all measures likely to jeopardise achievement of the aims of the present Treaty.

ARTICLE 6

1. Member States, acting in close collaboration with the institutions of the Community, shall co-ordinate their respective economic policies so far as is necessary to achieve the aims of the present Treaty.

2. The institutions of the Community shall be careful not to endanger the internal and external financial stability of Member States.

ARTICLE 7

Within the field of application of the present Treaty and without prejudice to the special provisions included therein, all discrimination on the grounds of nationality shall be prohibited.

On the proposal of the Commission and after consulting the Assembly, the Council may, by the prescribed majority, lay down regulations prohibiting such discrimination.

ARTICLE 8

1. The common market shall be gradually established over a transitional period of 12 years.

The transitional period shall be divided into three stages of four years each, which may be altered on the conditions set out hereunder.

2. To each stage there shall be assigned a co-ordinated group of activities which must be undertaken and pursued concurrently.

3. Passage from the first to the second stage shall be conditional upon establishment of the fact that the main aims specifically laid down in the present Treaty for the first stage have been effectively achieved, and that, subject to the exceptions and procedures provided for in this Treaty, commitments have been met.

This fact shall be established at the end of the fourth year by the Council voting unanimously on a report by the Commission. However, a Member State may not prevent a unanimous decision by availing itself of its failure to fulfil its own obligations. In the absence of a unanimous decision the first stage shall automatically be extended for one year.

At the end of the fifth year, the Council shall establish the aforesaid fact under the same conditions. In the absence of a unanimous decision, the first stage shall be automatically extended for a further year.

At the end of the sixth year, the Council shall establish the aforesaid fact by a prescribed majority vote on a report by the Commission.

4. Within one month as from this last vote, each Member State which voted with the minority or, if the requisite majority was not obtained, any Member State shall be entitled to ask the Council to appoint an Arbitration Board whose decision shall bind all Member States and the institutions of the Community. The Arbitration Board shall consist of three members appointed by a unanimous vote of the Council taken on a proposal by the Commission.

If the Council has not appointed the members of the Arbitration Board within one month of being asked to do so, they shall be appointed by the Court of Justice within a further period of one month.

The Arbitration Board shall appoint its own President.

It shall give its award within six months of the date of the vote by the Council referred to in the last sub-paragraph of paragraph 3.

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

6. The provisions of the foregoing paragraphs shall not have as their result any extension of the transitional period beyond a total duration of fifteen years from the date of the entry into force of the present Treaty.

7. Subject to the exceptions or derogations provided for in the present Treaty, the expiration of the transitional period shall mark the final date for the entry into force of the whole body of regulations provided for, and for the completion of all the operations entailed by the establishment of the common market.

PART TWO. BASES OF THE COMMUNITY

CHAPTER I

Free Movement of Goods

ARTICLE 9

1. The Community is based upon a customs union covering the exchange of all goods and comprising both the abolition, as between Member States, of customs duties on imports and exports and all taxes with equivalent effect, and also the adoption of a common customs tariff in their relations with outside countries.

2. The provisions of Section 1, Sub-section 1 and of Section 2 of the present Chapter shall apply to products originating in Member States and to those coming from outside countries which are freely available in Member States.

ARTICLE 10

1. Products freely available in a Member State shall be understood to mean products coming from an outside country, in respect of which the necessary import formalities have been carried out and the customs duties or equivalent taxes have been collected in the Member State in question, and in respect of which a total or partial drawback on such duties or taxes has not been granted.

2. Before the end of the first year following the entry into force of the present Treaty, the Commission shall decide upon the measures required to ensure the administrative co-operation necessary to the application of paragraph 2 of Article 9, taking due account of the need for reducing to the minimum the formalities imposed on trade.

Before the end of the first year following the entry into force of the

present Treaty, the Commission shall decide upon the provisions applicable, in trade between Member States, to goods originating in one of them the manufacture of which has involved the use of products on which the customs duties or equivalent taxes chargeable on them in the exporting Member State have not been levied or in respect of which a total or partial drawback on such duties or taxes has not been granted.

When adopting such provisions, the Commission shall take account of the regulations laid down for the abolition of customs duties within the Community and for the progressive application of a common customs tariff.

ARTICLE 11

The Member States shall take all appropriate measures to enable their Governments to fulfil, within the prescribed time-limits, the obligations with regard to customs duties which are incumbent on them under the terms of the present Treaty.

SECTION 1—THE CUSTOMS UNION

SUB-SECTION 1: *The abolition of customs duties as between Member States*

ARTICLE 12

Member States shall refrain from introducing, as between themselves, any new customs duties or equivalent taxes on import or exports, and from raising the level of those they impose in their commercial relations with each other.

ARTICLE 13

1. Customs duties on imports applied between Member States shall be progressively abolished by them, during the transitional period, under the conditions provided for in Articles 14 and 15.

2. Taxes of equivalent effect to customs duties on imports applied between Member States shall be progressively abolished by them during the transitional period. The Commission shall issue directives as to the rate at which this abolition shall be effected. It shall take as a basis the rules contained in paragraphs 2 and 3 of Article 14 and also the directives issued by the Council in application of the said paragraph 2.

ARTICLE 14

1. In the case of each product, the basic duty to which the successive reductions shall apply shall be the duty applicable on 1 January 1957.

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

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

(b) during the second stage, a reduction shall be made eighteen months after the beginning of this stage; a second reduction, eighteen months after the preceding one; a third, one year later;

(c) the remaining reductions shall be carried out during the third stage; the Council, voting with the prescribed majority on a proposal by the Commission, shall issue directives fixing the timing of such reductions.

3. At the time of the first reduction, Member States shall, for each product, apply as between themselves a duty equal to the basic duty reduced by 10%.

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

Nevertheless, in the case of products on which there would still remain a duty of more than 30%, each reduction shall be equal to at least 10% of the basic duty.

4. The total customs receipts of each Member State, referred to in paragraph 3 above, shall be calculated by multiplying the value of its imports from other Member States during the year 1956 by the basic duties.

5. Any special problems raised by the application of the foregoing paragraphs shall be settled by directives issued by the Council and voted by the prescribed majority on a proposal by the Commission.

6. Member States shall report to the Commission on the method by which the foregoing regulations for the reduction of duties is applied. They shall endeavour to ensure that, in the case of each product, the reduction of duty shall amount to the following

—by the end of the first stage: at least 25% of the basic duty;

—by the end of the second stage: at least 50% of the basic duty.

If the Commission finds that there is a risk of the objectives laid down in Article 13 and the percentages fixed in the present paragraph proving impossible to achieve, it shall make any necessary recommendations to the Member States.

7. The provisions of the present Article may be amended by the Council, by a unanimous vote on a proposal of the Commission and after consulting the Assembly.

ARTICLE 15

1. Independently of the provisions of Article 14, any Member State may, during the transitional period, suspend in whole or in part the collection of the duties levied by it on products imported from other Member States. It shall inform the other Member States and the Commission thereof.

2. Member States declare their readiness to reduce their customs duties vis-a-vis other Member States more rapidly than is provided for in Article 14, should their general economic situation and the situation of the sector concerned so permit.

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

ARTICLE 16

Member States shall abolish as between themselves, not later than at the end of the first stage, customs duties on exports and taxes having an equivalent effect.

ARTICLE 17

1. The provisions contained in Articles 9 to 15, paragraph 1, inclusive shall apply to customs duties of a fiscal character. Nevertheless, such duties shall not be taken into consideration for purposes of calculating either total customs receipts or the reduction in total duties referred to in paragraphs 3 and 4 of Article 14.

At each stage of reduction such duties shall be lowered by at least 10% of the basic duty. Member States may reduce them more rapidly than is provided for in Article 14.

2. Member States shall inform the Commission, before the end of the first year from the entry into force of the present Treaty, of the customs duties of a fiscal character levied by them.

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

4. If the Commission should find that serious difficulties exist in a Member State in the way of such substitution, it shall authorise such State to retain the duty in question on condition that it be abolished within at latest six years of the entry into force of the present Treaty. Authorisation for such retention must be requested before the end of the first year following the entry into force of the present Treaty.

SUB-SECTION 2: *Establishment of a Common Customs Tariff*

ARTICLE 18

Member States declare their willingness to contribute towards the development of international commerce and the reduction of impediments to trade by concluding agreements which, on a basis of reciprocity and mutual advantage, aim at reducing customs duties below the general level that they might claim to enforce as a result of the establishment between themselves of a customs union.

ARTICLE 19

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

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

Nevertheless, in the case of the Italian tariff, the duty applied shall be understood as being that levied before the temporary 10% reduction. Furthermore, in the case of items in this tariff where the duty charged is fixed by a convention, this duty shall be substituted for the duty thus

defined, provided always that it does not exceed the latter by more than 10%. If the duty fixed by the convention is more than 10% higher than the duty thus defined which is applied, the latter, increased by 10%, 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 be substituted for the duties applied for the purpose of calculating the arithmetical average.

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

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

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

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

(d) 25% in the case of products coming under the tariff headings mentioned in List E; if under the tariff of the Benelux countries a duty of not more than 3% is levied on these products, such duty shall be raised to 12% for the purpose of calculating the arithmetical average.

4. The duties to be levied on products mentioned in List F shall be those laid down in that List.

5. The Lists of tariff headings referred to in the present Article and in Article 20 shall form Annex I to the present Treaty.*

ARTICLE 20

The duties to be levied on products in List G shall be settled by negotiation between Member States. Each Member State may add further products to this list up to 2% of the total value of its imports from outside countries during the year 1956.

The Commission shall do everything possible to ensure that such negotiations are undertaken before the end of the second year following the entry into force of the present Treaty and concluded before the end of the first stage.

If it proves impossible, in the case of certain products, to reach agreement within these time-limits, the Council, on the proposal of the Commission and by unanimous vote up to the end of the second stage, and subsequently by the prescribed majority, shall fix the duties to be applied 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 two years of the entry into force of the present Treaty, by directives issued by the Council, voting with the prescribed majority, on a proposal by the Commission.

2. Before the end of the first stage or at latest at the time when the duties are fixed, the Council, voting with the prescribed majority, shall

* Not printed here.

decide what adjustments are necessary to ensure the internal harmony of the common customs tariff following the application of the rules laid down in Articles 19 and 20, due regard being had, in particular, to the degree of processing undergone by the various goods to which the common tariff applies.

ARTICLE 22

Within the two years following the entry into force of the present Treaty, the Commission shall decide to what extent the customs duties of a fiscal character mentioned in paragraph 2 of Article 17 shall be taken into account for calculating the arithmetical average referred to in paragraph 1 of Article 19. The Commission shall take due account of the protective character such duties may possess.

Within a period of not more than six months after this decision, any Member State may request that the procedure provided for in Article 20 shall be adopted with respect to the product in question, notwithstanding the limit prescribed in that Article, which shall not be invoked in this case.

ARTICLE 23

1. For the purpose of the progressive establishment of the common customs tariff, Member States shall amend the tariffs they apply to outside countries, in the ways shown hereunder:

(a) in the case of tariff groups on which the duties effectively levied on 1 January 1957 do not differ by more than 15% in either direction from the duties applicable under the common customs tariff, the latter duties shall be applied at the end of the fourth year following the entry into force of the present Treaty;

(b) in the case of other tariff headings each Member State shall, from the same date, apply a duty by which the difference between the duty effectively levied on 1 January 1957 and that of the common customs tariff is reduced by 30%;

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

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

2. Any Member State which has been granted the authorisation provided for in paragraph 4 of Article 17 shall be exempted from applying the foregoing provisions with regard to the tariff headings covered by the authorisation so long as the latter remains valid. When such authorisation expires, the Member State in question shall levy such duty as shall result from the application of the rules contained in the preceding paragraph.

3. The common customs tariff shall be applied in its entirety by, at latest, the end of the transitional period.

ARTICLE 24

For the purpose of bringing their duties into line with the common customs tariff, Member States shall remain free to amend their customs duties more rapidly than is provided for in Article 23.

ARTICLE 25

1. If the Commission finds that certain products in List B, C or D are not being produced in the Member States in sufficient quantities to meet the needs of one of them, and that a substantial proportion of these needs is traditionally covered by imports from an outside country, the Council, voting with the prescribed majority, on a proposal of the Commission, shall grant to the Member States concerned tariff quotas at a reduced rate of duty, or duty free.

Such quotas may not exceed the limits beyond which there might be a danger of activities being transferred to the detriment of other Member States.

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

Such quotas may not exceed the limits beyond which there might be a danger of activities being transferred to the detriment of other Member States.

3. In respect of the products listed in Annex II to the present 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 always that no serious disturbance to the market in the products concerned can result thereby.

4. The Commission shall keep under periodical review any quotas granted in virtue of the present Article.

ARTICLE 26

The Commission may authorise any Member State faced by special difficulties to deter the reducing or the raising, in accordance with the provisions of Article 23, of duties under certain heads of its tariff.

Such authorisation may be granted only for a limited period and only for a group of tariff headings which together do not represent more than 5% by value of the total imports of the State in question from outside countries during the latest year for which statistics are available.

* Not printed here.

ARTICLE 27

Before the end of the first stage, Member States shall, so far as may be necessary, take steps to align their laws, regulations and administrative provisions in regard to customs matters. The Commission shall to this end make all appropriate recommendations to Member States.

ARTICLE 28

All autonomous alterations or suspensions of duties of the common customs tariff shall be decided on by the unanimous vote of the Council. Nevertheless, after the end of the transitional period, the Council, voting with the prescribed majority, on a proposal by the Commission, may decide on alterations or suspensions not exceeding 20% of the rate of any duty, for a maximum period of six months. Such alterations may not be maintained in force, under the same conditions, except for a second period of six months.

ARTICLE 29

In carrying out the tasks entrusted to it under the present Sub-section, the Commission shall have regard to:

(a) the need for promoting trade between the Member States and outside countries;

(b) the development of competitive conditions within the Community, to the extent to which such development will result in increasing the competitive power of firms;

(c) the Community's requirements in the matter of raw materials and semifinished products, whilst ensuring that competitive conditions between Member States with regard to finished products are not interfered with;

(d) the need for avoiding serious disturbances in the economic life of Member States and for ensuring the rational development of production and the expansion of consumption within the Community.

SECTION 2—THE ABOLITION OF QUANTITATIVE RESTRICTIONS BETWEEN MEMBER STATES

ARTICLE 30

Quantitative restrictions on imports and all measures having an equivalent effect shall be prohibited between Member States, without prejudice to the following provisions.

ARTICLE 31

Member States shall refrain from introducing as between themselves any new quantitative restrictions or measures having an equivalent effect.

Nevertheless, this obligation shall apply only 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

entry into force of the present Treaty, the lists of the products they have freed in application of these decisions. The lists thus communicated shall be consolidated between Member States.

ARTICLE 32

In their trade with each other, Member States shall refrain from increasing the restrictive effects of quotas or other measures having equivalent effect in existence at the date of the entry into force of the present Treaty.

Such quotas shall be abolished by, at latest, the end of the transitional period. During this period, they shall be progressively abolished under the conditions specified hereunder.

ARTICLE 33

1. One year after the entry into force of the present Treaty, each of the Member States shall 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 thus established so as to attain an increase of at least 20% in their total value, compared with the preceding year. Nevertheless, each global quota for each product shall be increased by at least 10% each year.

The quotas shall be increased each year in accordance with the same rules and in the same proportions, by comparison with the preceding year.

The fourth increase shall take place at the end of the fourth year as from the entry into force of the present Treaty; the fifth increase shall take place one year after the beginning of the second stage.

2. In the case of a product which has not been freed, if the global quota does not amount to 3% of the national output of the State concerned, a quota equal to at least 3% of such output shall be established within, at latest, one year from the entry into force of the present Treaty. After the second year, this quota shall be raised to 4% and after the third year to 5%. Thereafter, the Member State concerned shall increase the quota by at least 15% each year.

If there is no national output, the Commission shall fix an appropriate quota by way of decision.

3. By the end of the tenth year, each quota must be equal to at least 20% of the national output.

4. If the Commission finds, by decision, that during two successive years the imports of any product have been below the level of the quota opened, such 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 in question.

5. In the case of quotas representing more than 20% of the national output of the product in question, the Council, voting with the prescribed majority on a proposal by the Commission, may reduce the minimum figure of 10% laid down in paragraph 1 above. Nevertheless, such an alteration

shall not affect the obligation to increase the total value of global quotas by 20% each year.

6. Member States which have gone beyond the obligations imposed on them in respect of 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 have the right to take into account the amount of imports freed by autonomous measures when calculating the annual total of 20% provided for in paragraph 1 above. Such calculation shall be submitted for the prior approval of the Commission.

7. The Commission shall issue directives laying down the procedure and the rate according to which Member States shall abolish between themselves any measures with effects equivalent to those of quotas, in existence on the date of the entry into force of the present Treaty.

8. If the Commission finds that the application of the provisions of the present Article and, in particular, of the provisions concerning percentages, does not ensure the progressive abolition of quotas as provided for in the second paragraph of Article 32, the Council, on the proposal of the Commission and by a unanimous vote during the first stage, and subsequently with the prescribed majority, may amend the procedure referred to in the present Article and, in particular, may raise the percentages fixed.

ARTICLE 34

1. Quantitative restrictions on exports and any measures having equivalent effect shall be prohibited between Member States.

2. Member States shall abolish, not later than at the end of the first stage, all quantitative restrictions on exports and all measures having an equivalent effect in existence at the time of the entry into force of the present Treaty.

ARTICLE 35

Member States declare their readiness to abolish, vis-a-vis other Member States, their quantitative restrictions on imports and exports more rapidly than is provided for in the preceding Articles, should their general economic situation and the situation of the sector concerned so permit.

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

ARTICLE 36

The provisions of Articles 30 to 34 inclusive shall not debar prohibitions or restrictions in respect of imports, exports or transit when these are justified on grounds of public morality, public order or public security, the protection of the health or life of individuals or animals or the preservation of plant life, the protection of national possessions of artistic, historical or archeological value or the protection of industrial or commercial property. Nevertheless such prohibitions or restrictions must not 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 national monopolies of a commercial character in such a way as to ensure the disappearance, at the end of the transitional period, of all discrimination between the nationals of Member States in respect of conditions of supply or sale.

The provisions of the present 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 imports or exports between Member States. These provisions shall apply also to delegated State monopolies.

2. Member States shall refrain from any new measures that are contrary to the principles laid down in paragraph 1 above, or that may limit the scope of the Articles relating to the abolition of customs duties and quantitative restrictions between Member States.

3. The rate at which the measures provided for in paragraph 1 above shall be taken shall be adapted to the rate at which quantitative restrictions on the same products are abolished in accordance with the provisions of Articles 30 to 34 inclusive.

In cases where a product is the subject of a national monopoly of a commercial character only in one or certain of the Member States, the Commission may authorise the application by other Member States of measures of protection for so long as the adaptation provided for in paragraph 1 above has not taken place, the conditions and methods of application of such measures being determined by the Commission.

4. In the case of a monopoly of a commercial character accompanied by regulations designed to facilitate sales and to maintain price-levels for agriculture products, the regulations laid down in the present Article must be applied in such a way as to provide equivalent guarantees in respect of the employment and standard of living of the producers concerned, due account being taken of the rate at which adaptations can be made and of the degrees of specialisation involved.

5. The obligations incumbent on Member States shall, moreover, be binding only so far as they are compatible with existing international agreements.

6. As soon as the first stage has begun, the Commission shall make recommendations as to the methods and the rate according to which the adaptation provided for in the present Article shall be carried out.

CHAPTER II

Agriculture

ARTICLE 38

1. The common market shall extend to agriculture and trade in agricultural products. Agricultural products shall be taken to mean the products of the soil, of stock breeding and of fishing, and also semi-processed goods directly connected with such products.

2. Except where there are provisions to the contrary in Articles 39 to 46 inclusive, the rules 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 of the present Treaty.* However, within two years of the entry into force of the present Treaty the Council, voting with the prescribed majority, on a proposal by the Commission, shall decide what products are to be added to this list.

4. The operation and development of the common market for agricultural products must be accompanied by the establishment of a common agricultural policy among the Member States.

ARTICLE 39

1. The purpose of the common agricultural policy shall be:

(a) to increase agricultural production by developing technical progress, ensuring the rational development of agricultural output and maximum utilisation of the factors of production, especially manpower,

(b) to ensure in this way a fair standard of living for the agricultural population, in particular by increasing the individual earnings of agricultural workers,

(c) to stabilise markets,

(d) to guarantee supplies,

(e) to ensure reasonable prices for deliveries to the consumer.

2. In working out a common agricultural policy and the special methods which it may involve, due regard shall be paid to:

(a) the special nature of agricultural work, owing to the social structure of agriculture and to structural and natural disparities between the various agricultural regions,

(b) the need to make advisable changes gradually,

(c) the fact that in Member States agriculture is a sector closely linked with the rest of the economy.

ARTICLE 40

1. Member States shall gradually develop a common agricultural policy during the transitional period and shall establish it at latest by the end of that period.

2. In order to achieve the aims set out in Article 39 a common organisation for agricultural markets shall be established.

This organisation shall take one of the following forms, depending on the products concerned:

(a) a system of common rules to control competition,

(b) the compulsory co-ordination of the various national market organisations,

(c) a European Marketing Board.

3. The common organisation in one of the forms mentioned in paragraph 2 may comprise all measures necessary to achieve the aims specified in Ar-

* Not printed here.

ticle 39, in particular, price controls, subsidies on the production and sale of various products, arrangements for stock-piling and carry-forward, and common machinery for stabilising imports and exports.

The organisation must confine itself to pursuing the aims set out in Article 39 and avoid all discrimination between producers or consumers in the Community. Any common price policy must be based on common criteria and uniform methods of calculation.

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

ARTICLE 41

In order to achieve the aims set out in Article 39 the common agricultural policy may provide in particular for:

(a) the effective co-ordination of agricultural training schemes, research and the popularisation of agronomy, which may involve projects or institutions financed in common,

(b) common action to increase consumption of certain products.

ARTICLE 42

The provisions of the Section relating to the control of competition shall apply to the production and sale of agricultural products only in so far as 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, and with due regard to the aims stated in Article 39.

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

(a) to protect undertakings handicapped by structural or natural conditions,

(b) in connection with economic development programmes.

ARTICLE 43

1. In order to determine the main lines of a common agricultural policy, the Commission shall convene a conference of Member States on the entry into force of the Treaty, to enable them to compare their agricultural policies and, in particular, draw up a statement of their resources and needs.

2. Within two years of the entry into force of the present Treaty, the Commission, after consulting the Economic and Social Committee and with due regard to the work of the conference provided for in paragraph 1, shall submit proposals for working out and implementing a common agricultural policy, including the replacement of national organisations by one of the forms of common organisation provided for in Article 40, paragraph 2, and the implementation of the measures specifically mentioned in the present Part of the Treaty.

These proposals must pay due regard to the interdependence of the agricultural questions raised in this Part of the Treaty.

On the proposal of the Commission and after consulting the Assembly, the Council, voting unanimously during the first two stages and thereafter

with the prescribed majority, shall issue regulations or directives, or take decisions without prejudice to the recommendations it may make.

3. The Council, voting with the prescribed majority, may, on the conditions provided for in the preceding paragraph, replace national market organisations by the common organisation provided for in Article 40, paragraph 2:

(a) if the common organisation offers to Member States opposed to this measure, and themselves possessing a national organisation for the products in question, equivalent guarantees concerning the employment and standard of living of the producers in question, due regard being paid to the rate of the adaptations that are possible and to the degrees of specialisation required, and

(b) if such organisation can ensure for trade within the Community conditions similar to those prevailing in national markets.

4. If a common organisation is set up for certain raw materials, while none yet exists for the corresponding processed products, the raw materials in question used for processed products intended for export to outside countries may be imported from outside the Community.

ARTICLE 44

1. During the transitional period, so far as the progressive abolition of customs duties and quantitative restrictions between Member States may result in prices likely to jeopardise the aims set out in Article 39, each Member State shall be allowed to apply to certain products, without discrimination and in place of quotas, and only to such an extent as not to 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:

(a) temporarily suspended or reduced, or

(b) made conditional on the price at which they take place being above the minimum fixed for the product in question.

In the second case, the minimum prices shall be fixed exclusive of customs duties.

2. The minimum prices must not result in a reduction of the trade existing between Member States at the time when the present Treaty enters into force, nor impede a progressive expansion of such trade, and they must not be applied in such a way as to impede the development of natural preference between the Member States.

3. As soon as the present Treaty enters into force, the Council, on a proposal of the Commission, shall determine objective criteria for establishing minimum price systems and for fixing such prices.

These criteria shall, in particular, take into consideration average national costs of production in the Member State enforcing the minimum price, and the situation of the various undertakings in relation to such costs, and also the need to promote a progressive improvement in farming, and the adaptations and specialisation necessary within the common market.

The Commission shall also propose a procedure for revising these criteria in order to allow for and accelerate technical progress and to bring prices within the common market increasingly into line with one another.

These criteria and the procedure for revision shall be determined by a unanimous vote of the Council during the first three years after the entry into force of the present Treaty.

4. Until the Council's decision takes effect Member States may fix minimum prices on condition that they first communicate them to the Commission and to other Member States so as 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 foregoing conditions.

The Council, voting with the prescribed majority on a proposal of the Commission, may amend the decisions taken if they do not conform to the criteria thus determined.

5. From the beginning of the third stage, and if for certain products it shall not yet have been possible to establish the aforementioned objective criteria, the Council, voting with the prescribed majority on a proposal of the Commission, may change the minimum prices applied to these products.

6. At the expiry of the transitional period, a list of minimum prices still in force shall be drawn up. The Council, voting on a proposal by the Commission with a majority of nine votes, with the weighting provided for in Article 148, paragraph 2 (1), shall determine the system to be applied within the framework of the common agricultural policy.

ARTICLE 45

1. Until one of the forms of common organisation provided for in Article 40, paragraph 2, replaces the national organisations, the expansion of trade in respect of products for which certain Member States

(a) have provisions for guaranteeing a market to their national producers, and

(b) have an import demand, shall be pursued by the conclusion of agreements or long-term contracts between Member States and exporting countries.

These agreements or contracts must be directed towards the progressive abolition of all discrimination in the application of these provisions to the various producers in the Community.

The said agreements or contracts shall be concluded during the first stage and with due regard to the principle of reciprocity.

2. With regard to quantities, these agreements or contracts shall take as their basis the average volume of trade between Member States in the products in question during the three years preceding the entry into force of the present Treaty, and shall provide for an increase in that volume within the limit of existing needs, with due regard to traditional trade currents.

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

This alignment of prices must be timed as evenly as possible and must be completed by the end of the transitional period at latest.

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 paragraphs.

Should the first stage be extended, the implementation of the agreements or contracts shall continue under the conditions applicable at the end of the fourth year after the entry into force of the present Treaty, and the obligation to increase quantities and to align prices shall be suspended until entry on the second stage.

Member States shall take every opportunity provided by their laws, particularly as regards import policy, to effect the conclusion and implementation of these agreements or contracts.

3. So far as Member States require raw materials for the manufacture of products intended for export outside the Community in competition with producers in outside countries, these agreements or contracts shall not interfere with imports of raw materials for this purpose from outside countries. Nevertheless, this provision shall not apply if the Council unanimously decides to grant the payments necessary to compensate the excess price paid for imports for this purpose on the basis of these agreements or contracts, by comparison with the prices paid for the same supplies obtained on the world market.

ARTICLE 46

In a Member State where a marketing organisation exists for a product, or where there are internal regulations having an equivalent result, affecting the competition of a similar product in another Member State, a compensatory entry due shall be charged by Member States on this product when it comes from the Member State where the marketing organisation or regulations exist, unless that State charges a compensatory exit due.

The Commission shall fix the amount of these dues so far as is necessary to restore the balance; it may also authorise resort to other measures, defining their conditions and methods of implementation.

ARTICLE 47

With regard to the functions of the Economic and Social Committee in the implementation of this part of the Treaty, its agricultural section shall place itself at the disposal of the Commission for the purpose of preparing for the Committee's discussions in accordance with the provisions of Articles 197 and 198.

CHAPTER III

The Free Movement of Persons, Services and Capital

SECTION 1—THE WORKERS

ARTICLE 48

1. There shall be free movement of workers within the Community at latest on the expiry of the transitional period.

2. This shall involve the abolition of all discrimination based on nationality among workers of the Member States as regards employment, pay 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 genuine offers of employment,

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

(c) to sojourn in any Member State in order to carry on an employment in conformity with the laws, regulations and administrative rules governing the employment of that State's workers,

(d) to live in the territory of a Member State after working there, on conditions which shall be specified in regulations to be laid down by the Commission.

4. The provisions of the present Article shall not apply to employment with the public authorities.

ARTICLE 49

As soon as the present Treaty enters into force, the Council, on a proposal of the Commission and after consulting the Economic and Social Committee, shall, by means of directives or regulation decree the necessary measures to enable the free movement of workers to be progressively realised, as defined in the preceding Article, in particular

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

(b) by progressively abolishing administrative procedures and practices and time-limits in respect of taking of available employment prescribed either under internal law or under agreements previously concluded between Member States, the maintenance of which would impede the freeing of the movement of workers,

(c) by progressively abolishing all time-limits and other restrictions prescribed either under internal law or under agreements previously concluded between Member States, which impose on workers of other Member States conditions for the free choice of employment different from those imposed on nationals,

(d) by setting up suitable machinery for bringing together offers of employment and requests for employment, and for balancing 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 encourage the exchange of young workers under a common programme.

ARTICLE 51

The Council, voting unanimously on a proposal by the Commission, shall adopt the social security measures necessary to ensure the free movement

of workers, more particularly by introducing a system under which migrant workers and their legal representatives will be guaranteed:

(a) that all periods taken into consideration by the national laws of the different countries for the granting of benefits and for computing them will be totalled up,

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

SECTION 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 one Member State in the territory of another Member State shall be progressively abolished during the transitional period. Such progressive abolition shall extend also to restrictions on the setting-up of branches or subsidiaries by nationals of one Member State established in the territory of another Member State.

Freedom of establishment shall include the right to engage in and carry on non-wage-earning activities, and also the setting-up and management of commercial undertakings, in particular of companies within the meaning of Article 58, paragraph 2, under the conditions laid down by the laws of the Member State in question for its own nationals, subject to the provisions of the Section relating to capital.

ARTICLE 53

Member States shall not introduce any new restrictions on the establishment of nationals of other Member States in their territories, subject only to the provisions of the present Treaty.

ARTICLE 54

1. Before the expiry of the first stage, the Council, voting unanimously on a proposal by the Commission and after consulting the Economic and Social Committee and the Assembly, shall lay down a general programme for the abolition of restrictions on freedom of establishment existing within the Community. The Commission shall submit its proposal to the Council during the first two years of the first stage.

For each category of activity the programme shall 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, voting unanimously until the end of the first stage and thereafter with the prescribed majority, shall issue directives on a proposal by the Commission and after consulting the Economic and Social Committee and the Assembly.

3. The Council and the Commission shall exercise the functions devolving upon them under the above provisions, in particular :

(a) by granting priority, in general, 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 services with a view to ascertaining the special situation of the various activities concerned within the Community,

(c) by abolishing administrative procedures and practices, whether operated under national laws or under agreements previously concluded between Member States, the maintenance of which would impede freedom of establishment,

(d) by ensuring that wage-earners of one Member State employed in the territory of another Member State may remain in that territory for the purpose of undertaking non-wage-earning activities, if they satisfy the conditions which they would have been required to satisfy, had they come to that State at the time when they wished to engage in such activities,

(e) by enabling a national of one Member State to acquire and exploit landed property in the territory of another Member State, so far as there is no infringement of the principles laid down in Article 39, paragraph 2,

(f) by applying the progressive abolition of restrictions on freedom of establishment, in each branch of activity under consideration, both to the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State, and also to the conditions governing admissions of employees of the principal establishment to the managerial and supervisory organs of such agencies, branches and subsidiaries,

(g) by co-ordinating, so far as is necessary and with a view to ensuring their equivalence, the guarantees demanded in Member States from companies within the meaning of Article 58, paragraph 2, for the purpose of protecting the interests both of those associated with the company and of third parties,

(h) by ensuring that conditions of establishment shall not be rendered nugatory by any form of aid granted by Member States.

ARTICLE 55

Activities which, in any State, come, even incidentally, within the sphere of the exercise of public authority shall be exempted from the application of the provisions of the present Section so far as that State is concerned.

The Council, voting with the prescribed majority on a proposal by the Commission, may exempt certain activities from the application of the provisions of the present Section.

ARTICLE 56

1. The provisions of the present Section, and the measures enacted in virtue thereof, shall not prejudice the implementation of laws, regulations and administrative rules providing for special treatment for foreign na-

tionals which are justified by reason of public order, public safety and public health.

2. Before the expiry of the transitional period, the Council, voting unanimously on a proposal by the Commission and after consulting the Assembly, shall issue directives for the co-ordination of the aforementioned laws, regulations and administrative rules. However, after the end of the second stage, the Council, voting with the prescribed majority on a proposal by the Commission, shall issue directives for co-ordinating provisions which, in each Member State, fall within the sphere of regulations or administrative rules.

ARTICLE 57

1. In order to facilitate admittance to non-wage-earning activities and the exercise thereof, the Council, voting unanimously during the first stage and thereafter with the prescribed majority, on a proposal by the Commission and after consulting the Assembly, shall issue directives for the reciprocal recognition of diplomas, certificates and other titular qualifications.

2. For the same purpose, the Council, voting on a proposal by the Commission and after consulting the Assembly, shall, before the expiry of the transitional period, issue directives for co-ordinating the laws, regulations and administrative rule of Member States concerning admission to non-wage-earning activities and the exercise thereof. A unanimous vote shall be required on matters which, in at least one Member State, are the subject of legislation, and on measures relating to the protection of savings, in particular to banking and the issue of credit, and to the conditions governing the exercise of the medical, para-medical and pharmaceutical professions in the various Member States. In all other cases the Council shall vote unanimously during the first stage and thereafter with the prescribed majority.

3. In the case of the medical and 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 established in conformity with the laws of a Member State and having their registered offices, central management or main establishment within the Community, shall for the purposes of the present Section be assimilated to individuals who are nationals of Member States.

By companies shall be meant companies under civil or commercial law, including co-operative societies and other legal persons under public or private law, with the exception of non-profit-making associations.

SECTION 3—SERVICES

ARTICLE 59

Within the framework of the provisions hereunder, restrictions on the free rendering of services within the Community shall be progressively

abolished during the transitional period in respect of nationals of Member States who are established in a country of the Community other than that of the person to whom the services are rendered.

The Council may, by a unanimous vote on a proposal by the Commission, extend the application of the provisions of the present Section to cover services rendered by nationals of any outside state who are established within the Community.

ARTICLE 60

Services within the meaning of the present Treaty shall be deemed to include services normally rendered for payment, so far as 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) craft activities,
- (d) the activities of the liberal professions.

Without prejudice to the provisions of the Section relating to the right of establishment, a person rendering a service may, in order to render the service, temporarily exercise his activity in the country where the service is rendered, under the same conditions as those imposed by that country on its own nationals.

ARTICLE 61

1. The free movement of services in the matter of transport shall be governed by the provisions of the Chapter relating to transport.

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

ARTICLE 62

Member States shall not introduce any new restrictions on the freedom which has been effectively achieved, in regard to the rendering of services, at the time when the present Treaty comes into force, subject only to the provisions contained in the Treaty.

ARTICLE 63

1. Before the end of the first stage, the Council, voting unanimously on a proposal by the Commission and after consulting the Economic and Social Committee and the Assembly, shall lay down a general programme for the abolition of restrictions existing within the Community on the free rendering of services. The Commission shall submit this proposal to the Council during the first two years of the first stage.

The programme shall, for each type of service, determine the general conditions under which and the stages by which the liberalisation shall be effected.

2. For the purpose of implementing the general programme or, if no programme exists, for the purpose of completing one stage in the liberalisation of a specific service, the Council, voting unanimously before the end of the first stage and thereafter with the prescribed majority, on a proposal by the Commission and after consulting the Economic and Social Committee and the Assembly, shall issue directives.

3. The proposals and decisions referred to in paragraphs 1 and 2 relate, in general, by priority to services which directly affect production costs, or of which the liberalisation will contribute towards facilitating the exchange of goods.

ARTICLE 64

Member States declare their readiness to liberalise services beyond the extent made obligatory by the directives issued in implementation of Article 63, paragraph 2, if their general economic situation, and the situation of the sector concerned, so permits.

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

ARTICLE 65

Until the abolition of restrictions on the free rendering of services is effected, each Member State shall apply them without distinction of nationality or residence to all those rendering services who are referred to in Article 59, paragraph 1.

ARTICLE 66

The provisions of Articles 55 to 58 inclusive shall be applicable to the matters governed by the present Section.

SECTION 4—CAPITAL

ARTICLE 67

1. During the transitional period and to the extent necessary to the effective operation of the common market, Member States shall progressively abolish as between themselves restrictions on the movement of capital belonging to persons resident in Member States, and also all discriminatory treatment on the grounds of the nationality or the place of residence of the parties, or of the place in which the capital is invested.

2. Current payments connected with the movement of capital between Member States shall be freed from all restrictions at latest at the end of the first stage.

ARTICLE 68

1. Member States shall authorise exchange transactions on the most liberal scale possible, in connection with the matters referred to in the present Section, so far as such authorisations are still necessary after the entry into force of the Treaty.

2. When a Member State applies its internal regulations governing the capital market and credit to the movement of capital freed in accordance with the provisions of the present Section, it shall do so without discrimination.

3. Loans intended for the direct or indirect financing of a Member State or of municipal authorities within its territory may not be issued or placed in other Member States except when the States concerned have agreed thereto. This provision shall not obstruct the implementation of Article 22 of the Protocol relating to the Statutes of the European Investment Bank.

ARTICLE 69

The Council, voting unanimously during the first two stages and thereafter with the prescribed majority, on a proposal by the Commission, which for this purpose shall consult the Monetary Committee provided for in Article 105, shall issue the necessary directives for the progressive implementation of the provisions of Article 67.

ARTICLE 70

1. The Commission shall propose to the Council suitable measures for the progressive co-ordination of the exchange policies of Member States in regard to the movement of capital between those States and outside countries. The Council, voting unanimously, shall issue directives on this subject, and shall endeavour to achieve the maximum degree of liberalisation possible.

2. If the action taken to implement the foregoing paragraph should not permit of the abolition of discrepancies between the exchange regulations of Member States, and if these 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 regulations of one of the Member States vis-a-vis third countries, that State may, after consulting the other Member States and the Commission, take appropriate measures to overcome these difficulties.

If the Council establishes that such measures restrict the free movement of capital within the Community beyond what is necessary for the purposes of the preceding sub-paragraph, it may decide, voting with the prescribed majority on a proposal by the Commission, that the State concerned must modify or abolish these measures.

ARTICLE 71

Member States shall endeavour to avoid introducing within the Community any new exchange restrictions affecting the movement of capital and current payments connected with such movement, or increasing the severity of existing regulations.

They declare their readiness to go beyond the degree of liberalisation of capital provided for in the preceding Articles so far as their economic situation, and in particular the state of their balance of payments, permits.

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

ARTICLE 72

Member States shall keep the Commission informed of all capital movements of which they are aware to and from outside countries. The Commission may address to Member States any comments it deems appropriate on this subject.

ARTICLE 73

1. Should movements of capital lead to disturbance of the operations of the capital market in any Member State, the Commission, after consulting the Monetary Committee, shall authorise such State to take protective measures with regard to the movement of capital, and shall determine the conditions and methods of their implementation.

The Council, voting with the prescribed majority, may withdraw this authorisation, or modify the aforementioned conditions and methods of implementation.

2. Nevertheless, the Member State which is in difficulties may itself take the above-mentioned measures, on the ground of their secret or urgent character, should they be necessary. The Commission and the other Member States must be informed of these measures at latest at the time when they enter into force. In such case, the Commission, after consulting the Monetary Committee, may decide that the State concerned must modify or abolish the measures in question.

CHAPTER IV

Transport

ARTICLE 74

With regard to matters covered by the present Chapter, Member States shall pursue the aims of the Treaty within the framework of a common transport policy.

ARTICLE 75

1. For the purpose of implementing Article 74 and with due regard to special transport considerations, the Council, voting unanimously until the end of the second stage and thereafter with the prescribed majority shall, on the proposal of the Commission and after consulting the Economic and Social Committee and the Assembly, lay down

(a) common rules applicable to international transport effected from or to the territory of a Member State or in transit through 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,

(c) any other appropriate provisions.

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

3. In derogation of the procedure provided for in paragraph 1, provisions relating to the principles of the transport regime, the application of which might seriously affect the standard of living and level of employment in certain regions, and also the use made of transport equipment shall, with due regard to the need for adaptation to economic expansion resulting from the establishment of the common market, be drawn up by a unanimous vote of the Council.

ARTICLE 76

Until the provisions referred to in Article 75, paragraph 1 are drawn up, and unless the Council gives its unanimous consent, no Member State shall apply the various transport provisions governing the matter at the time when the present Treaty enters into force 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

Measures of aid to meet the needs of transport coordination, or corresponding to repayments in respect of certain burdens inherent in the notion of a public service, shall be compatible with the present Treaty.

ARTICLE 78

Any measures relating to transport rates and conditions, adopted within the framework of the present Treaty, shall pay due regard to the economic situation of carriers.

ARTICLE 79

1. All discriminations which consist in the application by a carrier in respect of the same goods conveyed by the same routes, of transport charges and conditions that differ on the ground of the country of origin or destination of the goods carried, shall be abolished in traffic within the Community at latest before the end of the second stage.

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

3. The Council, voting with the prescribed majority on a proposal of the Commission and after consulting the Economic and Social Committee, shall, within two years of the entry into force of the present Treaty, draw up regulations for the implementation of the provisions of paragraph 1.

The Council may, in particular, take the measures necessary to enable the institutions of the Community to ensure that the rule laid down 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 para-

graph 1 and, after consulting the Member States concerned, shall take the necessary decisions under the regulations drawn up in accordance with the provisions of paragraph 3.

ARTICLE 80

1. In respect of transport effected within the Community, the imposed application of rates and conditions involving any element of support or protection for the benefit of one or more particular undertakings 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, with particular regard, on the one hand, to the demands of a suitable regional economic policy, the needs of under-developed regions, and the problems of regions seriously affected by political conditions and, on the other hand, to the effects of such rates and conditions on competition between the different forms of transport.

After consulting any Member State concerned, 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 carriage across frontiers, must not exceed a reasonable level, due regard being had to the real costs of such carriage.

Member States shall endeavour progressively to reduce these costs.

The Commission may make recommendations to Member States for the implementation of the present Article.

ARTICLE 82

The provisions of the present Chapter shall not debar the measures adopted in the German Federal Republic, so far as these are necessary to compensate for the economic disadvantages entailed, by the division of Germany, for the economy of certain regions of the Federal Republic affected by that division.

ARTICLE 83

A Committee of a consultative character, composed of experts appointed by the Governments of Member States, shall be set up and attached to the Commission, which shall consult it on transport questions whenever it deems it advisable, without prejudice to the competence of the transport section of the Economic and Social Committee.

ARTICLE 84

1. The provisions of the present Chapter shall apply to transport by rail, road and navigable waterway.

2. The Council, voting unanimously, may decide whether, to what extent and by what procedure, appropriate provisions can be adopted for sea and air traffic.

PART THREE. POLICY OF THE COMMUNITY

CHAPTER I

Common Rules

SECTION 1—RULES GOVERNING COMPETITION

SUB-SECTION 1: *Rules applying to firms*

ARTICLE 85

1. The following shall be considered as incompatible with the common market and shall be prohibited: all agreements between firms, all decisions for mergers between firms and all concerted practices, likely to affect trade between Member States and having as their object or result the prevention, restriction or distortion of the free play of competition within the common market, in particular those entailing:

(a) the direct or indirect establishment of cost prices or sale prices, or of any other terms of business;

(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 different terms in respect of similar supplies, thereby placing them at a disadvantage in regard to competition;

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

2. Any agreements or decisions prohibited under the provisions of the present Article shall be automatically null and void.

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

agreements or categories of agreements between firms;

decisions for mergers or categories of decisions for mergers;

concerted practices or categories of concerted practices

which contribute to improve the production or distribution of goods, or to promote technical or economic progress whilst, at the same time, ensuring that consumers have a fair share in the benefits resulting therefrom, but which do not

(a) impose on the firms concerned any restrictions that are not essential to the attainment of the above objectives; or

(b) enable such firms to eliminate competition in respect of a substantial proportion of the goods in question.

ARTICLE 86

To the extent to which trade between Member States may be affected thereby, action by one or more firms to take unfair advantage of their dominant position within the common market, or within a substantial part of it, shall be incompatible with the common market and shall be prohibited.

Examples of such unfair action are:

(a) the direct or indirect fixing of unfair cost prices or sale prices or any other unfair terms of business;

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

(c) the application to parties to transactions of different terms in respect of similar supplies, thereby placing them at a disadvantage in regard to competition;

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

ARTICLE 87

1. Within three years as from the entry into force of the present Treaty, the Council, after consulting the Assembly and voting unanimously on a proposal by the Commission, shall issue any appropriate regulations or directives for the application of the principles set out in Articles 85 and 86.

If such provisions have not been adopted within the above-mentioned time-limits, they shall be laid down by the Council, voting with the prescribed majority on a proposal by the Commission and after consulting the Assembly.

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

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

(b) to determine ways and means of applying paragraph 3 of Article 85, with due regard to the need for ensuring adequate supervision combined with the maximum possible simplification of administrative control;

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

(d) to specify the respective responsibilities of the Commission and the Court of Justice in the application of the arrangements provided for in the present paragraph;

(e) to specify the relationship of the national laws to the provisions of the present sub-section and those adopted in application of the present Article.

ARTICLE 88

Until the entry into force of the measures taken in application of Article 87, the authorities of Member States shall decide upon the admissibility

of agreements and upon questions regarding any unfair advantage that may be taken of a dominant position in the common market, according to the laws of their own countries and the provisions of Article 85, especially paragraph 3, and of Article 86.

ARTICLE 89

1. Without prejudice to the provisions of Article 88, the Commission shall, from the moment of taking up its duties, supervise the application of the principles laid down in Articles 85 and 86. At the request of a Member State, or on its own responsibility, it shall investigate, in conjunction with the competent authorities of the Member States who lend it their assistance, any presumed infringement of the aforementioned principles. If it finds that such infringement has taken place, it shall propose appropriate means for putting an end to it.

2. If such infringement continues, the Commission shall issue a reasoned decision recording the infringement of the principles. The Commission may publish its decision and may authorise Member States to take the necessary measures under conditions and in forms to be laid down by the Commission.

ARTICLE 90

1. In respect of public enterprises and undertakings to which they grant special or exclusive rights, Member States shall neither decree nor retain in force any measures contrary to the rules embodied in the present Treaty, more particularly, those laid down in Article 7 and in Articles 85 to 94 inclusive.

2. Any enterprise responsible for operating services of general economic importance or having the character of a fiscal monopoly shall be subject to the rules embodied in the present Treaty, more particularly those relating to competition, to the extent to which 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 shall not be allowed to be affected to a degree contrary to the interests of the Community.

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

SUB-SECTION 2: *Dumping practices*

ARTICLE 91

1. If, during the transitional period, the Commission, at the request of a Member State or of any other interested party, finds that dumping practices are being carried on within the common market, it shall issue recommendations to the party or parties responsible, with a view to putting an end to such practices.

Should such dumping practices continue, the Commission shall authorise the Member State injured thereby to take measures for its protection, the

conditions and methods of application of such measures being laid down by the Commission.

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

SUB-SECTION 3: *State aid*

ARTICLE 92

1. Subject to any exceptions provided for in the present Treaty, any aid, in whatever form, granted by a Member State or by means of State resources, that distorts or threatens to distort competition by favouring certain firms or certain producers shall, to the extent to which it affects trade between Member States, be incompatible with the common market.

2. The following types of aid shall be compatible with the common market:

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

(b) any aid granted to remedy damage caused by natural calamities or other extraordinary events;

(c) the aid granted to the economies of certain regions of the Federal Republic of Germany affected by the partition of Germany, to the extent to which such aid is necessary in order to compensate for the economic disadvantages caused by such partition.

3. The following types of aid may be considered as compatible with the common market:

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

(b) aid intended to promote the execution of large-scale projects of common European interest, or to remedy a serious disturbance in the economy of a Member State;

(c) aid intended to facilitate the development of certain activities or of certain economic regions, provided such aid does not disturb trading conditions to a degree contrary to the common interest. Nevertheless, any aid being granted to shipbuilding on 1 January 1957, to the extent to which such aid corresponds only to the absence of customs protection, shall be progressively reduced under the same conditions as apply to the abolition of customs duties, subject always to the provisions of the present Treaty relating to common commercial policy vis-a-vis outside countries;

(d) such other types of aid as may be specified by decision of the Council voting with the prescribed majority on a proposal by the Commission.

ARTICLE 93

1. The Commission shall undertake constant review with Member States of all systems of aid existing in those States. It shall propose to the latter any appropriate measures required for the progressive development or for the operation of the common market.

2. If, after having called upon the parties concerned to submit their comments the Commission finds that a measure of aid granted by a State or by means of the resources of a State is not compatible with the common market under Article 92, or that such aid is applied in an unfair manner, it shall take a decision requiring the State concerned to abolish such aid or to modify it, within the time-limit prescribed by the Commission.

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

At the request of any Member State, the Council may decide, by a unanimous vote, that a measure of aid granted or about to be granted by that State shall be considered as compatible with the common market, notwithstanding the provisions of Article 92 or the regulations provided for in Article 94, if such a decision is justified by exceptional circumstances. If the Commission has already initiated the procedure provided for in the first sub-paragraph of the present paragraph, with regard to the aid in question, the request made to the Council by the State concerned shall entail the suspension of such procedure until the Council shall have determined its attitude.

Nevertheless, if the Council has not made its attitude known within three months of such request, a decision shall be taken by the Commission.

3. The Commission shall be informed, in time to submit its observations, of any plans to grant or to modify aid. If it considers that any such plan is not compatible with the common market under the terms 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 plans into operation before such procedure shall have resulted in a final decision.

ARTICLE 94

The Council, voting with the prescribed majority on a proposal by the Commission, may make any appropriate regulations for the application of Articles 92 and 93 and may, in particular, determine the conditions of application of paragraph 3 of Article 93 and the types of aid which are exempted from this procedure.

SECTION 2—FISCAL PROVISIONS

ARTICLE 95

No Member State shall levy, directly or indirectly on the products of other Member States any internal taxes, of any description, higher than those levied directly or indirectly on similar national products.

Furthermore, no Member State shall levy on the products of other Member States any internal taxes of such a nature as to give indirect protection to the production of other goods.

By, at latest, the beginning of the second stage, Member States shall abolish or amend any provisions existing at the time of the entry into force of the present Treaty which are contrary to the above rules.

ARTICLE 96

Products exported to the territory of any Member State may not benefit from any refund of internal taxes higher than the taxes that have been 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 taxes that they levy on imported products and of tax refunds that they grant on exported products, establish average rates for specific products or groups of products, provided they do not infringe the principles laid down in Articles 95 and 96.

Should the average rates established by a Member State not conform to the aforementioned principles, the Commission shall issue to the State concerned such directives or decisions as are appropriate.

ARTICLE 98

With regard to taxes other than turnover taxes, excise duties and other measures of indirect taxation, exemptions and refunds in respect of exports to other Member States may not be granted, and compensatory taxes on imports from other Member States may not be imposed, except in so far as the measures contemplated have been previously approved for a limited period by the Council, voting with the prescribed majority on a proposal by the Commission.

ARTICLE 99

The Commission shall consider in what way the laws of the various Member States concerning turnover taxes, excise duties and other indirect taxes, including compensatory measures applied in respect of trade between Member States, can be harmonised in the interests of the common market.

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

SECTION 3—HARMONISATION OF LAWS

ARTICLE 100

The Council, voting unanimously on a proposal by the Commission, shall issue directives for the harmonisation of such laws, regulations and administrative rules of the Member States as directly affect the establishment or operation of the common market.

The Assembly and the Economic and Social Committee shall be consulted in the case of any directives the implementation of which would involve amendment of the laws in one or more of the Member States.

ARTICLE 101

Should the Commission find that differences existing between the laws, regulations or administrative rules of the Member States interfere with the conditions of competition on the common market, and thereby bring about a lack of balance that calls for correction, it shall enter into consultations with the Member States concerned.

If such consultations do not result in an agreement by which the said lack of balance is corrected, the Council, on the proposal of the Commission and by a unanimous vote during the first stage and thereafter with the prescribed majority, shall issue the requisite directives to this end. The Commission and the Council may take any other appropriate measures provided for in the present Treaty.

ARTICLE 102

1. Should there be reason to fear that the adoption or amendment of a law, regulation or administrative rule will result in a lack of balance 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 obviate the said lack of balance.

2. If the State desiring to adopt or amend national provisions does not comply with the recommendation made to it by the Commission, other Member States shall not be requested, under the terms of Article 101, to amend their own national provisions in order to correct such lack of balance. If the Member State which has ignored the Commission's recommendation brings about a lack of balance to its own detriment only, the provisions of Article 101 shall not apply.

CHAPTER II

Economic Policy

SECTION 1—CONJUNCTURE POLICY

ARTICLE 103

1. Member States shall consider their conjuncture or "day-to-day" policy as a question of common interest. They shall consult with each other and with the Commission on measures to be taken in the light of current circumstances.

2. Without prejudice to any other procedures for which provision is made in the present Treaty, the Council, on the proposal of the Commission, may decide unanimously on measures appropriate to the situation.

3. The Council, voting with the prescribed majority on a proposal by the Commission, shall, if necessary, issue such directives as may be re-

quired regarding ways and means of applying any measures decided upon under the terms of paragraph 2 above.

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

SECTION 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, whilst at the same time ensuring a high level of employment and the stability of price levels.

ARTICLE 105

1. In order to facilitate achievement of the objectives set out in Article 104, Member States shall co-ordinate their economic policies. They shall accordingly establish co-operation between the competent services of their administrative departments and between their central banks.

The Commission shall submit to the Council recommendations for the establishment of such co-operation.

2. In order to promote the co-ordination of the policies of Member States in monetary matters, to the full extent necessary to the operation of the common market, a Monetary Committee with consultative status shall be set up, with the following objects:

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,

of its own initiative, or at the request of the Council or the Commission, to formulate opinions for submission to these institutions.

The Member States and the Commission shall 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 concerned with the exchange of goods, services or capital, and also transfers of capital and wages, to the extent to which the movement of goods, services, capital and persons is freed as between Member States under the present Treaty.

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

2. In so far as the exchange of goods and services and the movement of capital are limited only by restrictions on payments connected therewith, and for the purposes of the progressive abolition of such restric-

tions, the provisions of the Sections relating to the abolition of quantitative restrictions, the freeing of services and the free movement of capital shall apply by analogy.

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

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

4. Should it prove necessary, Member States shall concert together concerning the measures to be taken to enable the payments and transfers mentioned in the present Article to be effected. These measures must not be incompatible with the objectives laid down in the present Section.

ARTICLE 107

1. Each Member State shall treat its policy with regard to exchange rates as a problem of common interest.

2. Should a Member State make any alteration in its exchange rate which is incompatible with the objectives laid down in Article 104 and which seriously interferes with conditions of competition, the Commission, after consulting the Monetary Committee, may authorise other Member States to take, for a strictly limited period, the measures necessary to deal with the consequences of such alteration, the conditions and methods of application of such measures being laid down by the Commission.

ARTICLE 108

1. Should a Member State be faced with difficulties or with a serious threat of difficulties in the matter of its balance of payments, as a result either of overall disequilibrium of the balance of payments or of the character of the currencies at its disposal, and if such difficulties are likely, in particular, to jeopardise the operation of the common market or the progressive establishment of common commercial policy, the Commission shall without delay proceed to examine the situation of the State concerned and the action that it has taken or may take in accordance with the provisions of Article 104, with resort to all the means at its disposal. The Commission shall state the measures of which it recommends the adoption by the State concerned.

If the action undertaken by a Member State and the measures suggested by the Commission do not appear sufficient to overcome the difficulties encountered or threatened, the Commission, after consulting the Monetary Committee, shall recommend to the Council the grant of mutual aid and the appropriate methods therefor.

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

* Printed below, p. 937.

2. The Council, voting with the prescribed majority, shall grant mutual aid and shall issue directives or decisions laying down the conditions and methods of application thereof. Mutual aid may take the form in particular, of:

(a) concerted action directed towards other international organisations to which Member States can resort;

(b) any measures necessary to prevent diversions in the current of trade if the State in difficulties maintains or reestablishes quantitative restrictions with regard to outside countries;

(c) the granting, subject to their agreement, of limited credits by other Member States.

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

3. If the mutual aid recommended by the Commission is not granted by the Council, or if the mutual aid granted and the measures taken prove insufficient, the Commission shall authorise the State in difficulties to take measures of protection, of which the Commission shall lay down the conditions and methods of application.

Such authorisation may be withdrawn or the conditions and methods of application amended by the Council, voting with the prescribed majority.

ARTICLE 109

1. In the event of a sudden crisis in the balance of payments and if a decision, as provided for in paragraph 2 of Article 108, is not taken immediately, the Member State concerned may take, as conservatory measures, the measures necessary for its protection. Such measures shall involve the least possible disturbance to the operation of the common market and shall not go beyond what is strictly indispensable in order to remedy the sudden difficulties that have arisen.

2. The Commission and the other Member States shall be informed of such measures of protection, at latest at the moment of their entry into force. The Commission may recommend to the Council mutual aid under the terms of Article 108.

3. On being advised by the Commission and after consulting the Monetary Committee, the Council, voting with the prescribed majority, may decide that the State concerned must amend, suspend or abolish the measures of protection referred to above.

SECTION 3—COMMERCIAL POLICY

ARTICLE 110

By establishing a customs union between themselves, Member States intend to contribute in conformity with the common interest to the harmoni-

ous development of world trade, the progressive abolition of restrictions on international trade and the lowering of tariff barriers.

The common commercial policy shall take into account the favourable effect that the abolition of customs duties as between Member States may have on the development of the competitive strength of the enterprises of those States.

ARTICLE 111

During the transitional period, and without prejudice to the provisions of Articles 115 and 116, the following provisions shall apply:

1. Member States shall take steps to co-ordinate their trade relations with outside countries in such a way as to bring about, by the end of the transitional period, the conditions necessary to the implementation of a common policy in the matter of external trade.

The Commission shall submit proposals to the Council regarding the procedure to be followed during the transitional period, for the pursuit of common action and the achievement of a uniform commercial policy.

2. The Commission shall submit to the Council recommendations with a view to tariff negotiations with outside 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 it in this task within the limits of such directives as the Council may issue to it.

3. When exercising the powers conferred on it under the present Article, the Council shall take its decisions by unanimous vote during the first two stages and thereafter by the prescribed majority.

4. Member States, in consultation with the Commission, shall take all necessary measures with the object, more especially, of adjusting all tariff agreements in force with outside countries so 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 in their lists concerning freedom of trade with outside countries or groups of outside countries. The Commission shall make any appropriate recommendations to Member States for this purpose.

If Member States take steps to abolish or reduce quantitative restrictions vis-a-vis outside countries, they shall inform the Commission beforehand and shall accord identical treatment to other Member States.

ARTICLE 112

1. Without prejudice to obligations assumed by Member States as members of other international organisations, any measures that they take to assist exports to outside countries shall be progressively harmonised before the end of the transitional period, to the extent necessary to ensure that competition between enterprises in the Community shall not be adversely affected.

On the proposal of the Commission, the Council, voting unanimously until the end of the second stage and thereafter with the prescribed majority, shall issue the directives necessary to this end.

2. The foregoing provisions shall not apply to drawbacks on customs duties or taxes with equivalent effect, nor to refunds of indirect taxes including turnover taxes, excise duties and other indirect taxes, accorded in connection with exports of goods from a Member State to an outside country, in so far as such drawbacks or refunds do not exceed the taxes or duties that have been levied, directly or indirectly, on the products exported.

ARTICLE 113

1. After the end of the transitional period, the common commercial policy shall be based on uniform principles, especially with regard to tariff amendments, the conclusion of tariff or trade agreements, the standardisation of measures of liberalisation, export policy and measures for the defense of trade including those 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. Should agreements with outside countries require to be negotiated, the Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations.

Such negotiations shall be conducted by the Commission in consultation with a special committee appointed by the Council to assist it in this task, and within the limits of such directives as the Council may issue to it.

4. When exercising the powers conferred upon it by the present Article, the Council shall take its decision by the prescribed majority.

ARTICLE 114

The agreements referred to in paragraph 2 of Article 111 and in Article 113 shall be concluded on behalf of the Community by the Council, acting unanimously during the first two stages and thereafter with the prescribed majority.

ARTICLE 115

In order to ensure that the execution of measures of commercial policy taken by any Member State in accordance with the present Treaty shall not be hindered by diversions of the current of trade or in the event of disparities between such measures leading 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 measures of protection, the conditions and methods of application thereof being laid down by the Commission.

In urgent cases and during the transitional period, Member States may themselves take such measures as are necessary and notify them to the other Member States, and also to the Commission, which may decide that they must amend or withdraw them.

In choosing such measures, priority must be given to those which cause the least disturbance to the operation of the common market and which take due account of the necessity for hastening, so far as possible, the establishment of the common customs tariff.

ARTICLE 116

With regard to all questions of special importance to the common market, Member States shall not, as from the end of the transitional period, take any but common action within the framework of any international organisations of an economic character. The Commission shall submit proposals concerning the scope and implementation of such common action of the Council, which shall take its decision by the prescribed majority.

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

CHAPTER III

Social Policy

SECTION 1—SOCIAL PROVISIONS

ARTICLE 117

Member States are agreed upon the need to foster the improvement of the living and working conditions of the labour force so as to make it possible to equalise those conditions at increasingly high levels.

They consider that such a development will follow alike from the operation of the common market, which will favour the harmonisation of social systems, and from the procedure provided for under the present Treaty and the assimilation of laws, regulations and administrative rules.

ARTICLE 118

Without prejudice to the other provisions of the present Treaty, and in conformity with its general aims, the task of the Commission shall be to foster close collaboration between Member States in the social field, particularly in matters relating to

- (a) employment,
- (b) labour laws and working conditions,
- (c) preliminary and advanced vocational training,
- (d) social welfare,
- (e) safety measures against occupational accidents and diseases,
- (f) industrial hygiene,
- (g) trade-union laws and collective bargaining between employers and workers.

For this purpose, the Commission shall act in close contact with Member States through investigations, the giving of opinions, and the organising of consultations both on problems arising at the national level and on those of concern to international organisations.

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

ARTICLE 119

Each Member State shall ensure that the principle of equal pay for equal work as between male and female workers is applied during the first stage and is maintained thereafter.

For the purposes of the present Article, pay shall be understood as the ordinary basic or minimum wage or salary and any other benefits paid directly or indirectly, in money or in kind, by the employer to the worker in return for his services.

Equal pay without discrimination between the sexes means that:

(a) pay for the same work at piece-rates shall be calculated on the basis of the same unit of measurement,

(b) pay 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, voting unanimously after consulting the Economic and Social Committee, may entrust the Commission with functions relating to the implementation of common measures, particularly as regards the social welfare of the migrant workers referred to in Articles 48 to 51 inclusive.

ARTICLE 122

In its annual report to the Assembly, the Commission shall devote a special chapter to the evolution of the social situation in the Community.

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

SECTION 2—THE EUROPEAN SOCIAL FUND

ARTICLE 123

In order to increase opportunities for the employment of workers in the common market and thus contribute to raising the standard of living, a European Social Fund shall be created within the framework of the provisions set out below, for the purpose of promoting employment facilities and the geographical and occupational mobility of workers within the Community.

ARTICLE 124

The Commission shall be responsible for the administration of the Fund.

The Commission shall be assisted in this task by a Committee presided over by a member of the Commission and consisting 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 regulations provided for under Article 127, cover 50% of expenditure by that State or by a public body as from the date of the entry into force of the present Treaty :

(a) on ensuring productive re-employment of workers by means of occupational rehabilitation, resettlement allowances.

(b) on granting assistance to workers who are temporarily working on short-time or wholly or partly suspended as a result of the conversion of their firm to different work, so that they may continue to receive the same rate of pay pending their full-time re-employment.

2. The assistance granted by the Fund to the cost of occupational rehabilitation shall be conditional upon the impossibility of employing the workers rendered idle except in a new occupation, and upon their having found productive employment for at least six months in the occupation for which they have been rehabilitated.

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

The assistance given in favour of workers in cases where a firm is converted shall be subject to the following conditions :

(a) the workers in question must have been re-engaged on full-time work in that firm for at least six months,

(b) the Government concerned must have previously submitted a plan, drawn up by the firm in question, for its conversion and for the financing thereof, and

(c) the Commission must have given its prior approval to the conversion plan.

ARTICLE 126

At the expiry of the transitional period, the Council, on being advised by the Commission and after consulting the Economic and Social Committee and the Assembly, may

(a) voting with the prescribed majority, decide that all or part of the assistance referred to in Article 125 shall no longer be granted ;

(b) voting unanimously, determine the new tasks that may be entrusted to the Fund within the terms of its mandate as defined in Article 123.

ARTICLE 127

On the proposal of the Commission and after consulting the Economic and Social Committee and the Assembly, the Council, voting with the prescribed majority, shall lay down the regulations necessary for the implementation of Articles 124 to 126 inclusive ; in particular, it shall fix details concerning the conditions under which the Fund shall grant assistance

under Article 125, and also the categories of firms whose workers shall receive the assistance provided for in Article 125, paragraph 1(b).

ARTICLE 128

On the proposal of the Commission and after consulting the Economic and Social Committee, the Council shall establish general principles for the implementation of a common policy of vocational training capable of contributing to the harmonious development both of national economies and of the common market.

CHAPTER IV

The European Investment Bank

ARTICLE 129

There shall be set up a European Investment Bank having legal personality.

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 the present Treaty.*

ARTICLE 130

The task of the European Investment Bank shall be to contribute to the balance and smooth development of the common market in the interests of the Community through recourse to the capital markets and its own resources. For this purpose, it shall, by means of 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 under-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 and which by their size or nature cannot be entirely covered by the various methods of financing in existence in each of the Member States,
- (c) projects of common interest to several Member States which by their size or nature cannot be entirely covered by the various methods of financing in existence in each of the Member States.

PART IV. THE ASSOCIATION OF OVERSEAS COUNTRIES AND TERRITORIES

ARTICLE 131

The Member States agree to associate 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 called "the countries and territories" are listed in Annex IV* to the present Treaty.

The purpose of this association shall be to promote the economic and so-

* Printed below, p. 939.

cial 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 enunciated in the Preamble to the present Treaty, this association must in the first place permit of furthering the interests and prosperity of the inhabitants of these countries and territories so as to bring them to the economic, cultural and social development they expect.

ARTICLE 132

The objectives of the association shall be as follows:

1. In their trade with the countries and territories Member States shall apply the same conditions as they accord each other by virtue of the present Treaty.

2. Each country or territory shall apply to its trade with Member States and with the other countries and territories, the conditions which it applies to the European State with which it has special relations.

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

4. As regards investment financed by the Community, participation in tenders and supplies shall be open, on equal terms, to all individuals and legal persons, 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 laid down in the Section relating to the right of establishment, and on a non-discriminatory basis, subject to the special measures taken under Article 136.

ARTICLE 133

1. Goods originating in the countries and territories shall on importation into Member States benefit by the total abolition of customs duties, which is progressively to take place between Member States in conformity with the provisions of the present Treaty.

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

3. Nevertheless, countries and territories may collect customs duties to meet the needs of their development and the requirements of their industrialisation, or duties of a fiscal nature the purpose of which is to contribute to their budget.

The customs duties referred to in the foregoing sub-paragraph shall, however, be progressively reduced to the level of those imposed on importation 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 the present Treaty shall apply to the gap 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 special international obligations by which they are bound, are already applying a non-discriminatory customs tariff at the time when the present Treaty comes into force.

5. The establishment or amendment of duties levied on goods imported into the countries and territories must not result, *de jure* or *de facto*, in 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 an outside country on entry into a country or territory is likely, having regard to the application of the provisions of Article 133, paragraph 1, to result in the diversion of trade to the detriment of any Member State, the latter may ask the Commission to propose to 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 free movement of workers from the countries and territories in Member States, and of workers from Member States in the countries and territories, shall be governed by subsequent conventions which shall require unanimity among Member States.

ARTICLE 136

For a first period of five years as from the entry into force of the present Treaty an application Convention annexed to this Treaty* shall determine details of method and procedure concerning the association of the countries and territories with the Community.

Before the expiry of the Convention provided for in the foregoing subparagraph, the Council, voting unanimously, shall, in the light of the results achieved, and on the basis of the principles embodied in the present Treaty, determine the arrangements to be made for a further period.

PART V. ORGANS OF THE COMMUNITY

CHAPTER I

Provisions Governing Institutions

SECTION 1—ORGANS

SUB-SECTION I: *The Assembly*

ARTICLE 137

The Assembly shall be composed of representatives of the peoples of the States forming the Community and shall enjoy the powers of decision and supervision conferred upon it by the present Treaty.

* Printed below, p. 950.

ARTICLE 138

1. The Assembly shall be composed of delegates whom the parliaments shall be called upon to appoint from among their own 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
France	36
Germany	36
Italy	36
Luxembourg	6
Netherlands	14

3. The Assembly shall draw up proposals for election by direct universal suffrage according to an identical procedure in all Member States.

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

ARTICLE 139

The Assembly shall hold annual sessions. It shall meet as of right on the third Tuesday in October.

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

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 be heard, at their own request, on behalf of the Commission.

The Commission shall reply verbally 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 former lays down in its Rules of Procedure.

ARTICLE 141

Except where otherwise provided in the present Treaty, the Assembly shall take its decisions by an absolute majority of the votes cast.

The size of the quorum shall be laid down in the Rules of Procedure.

ARTICLE 142

The Assembly shall adopt its own Rules of Procedure by the vote of a majority of its members.

The decisions of the Assembly shall be published in accordance with the provisions of the Rules of Procedure.

ARTICLE 143

The Assembly shall discuss in public meeting the Annual General Report which shall be submitted to it by the Commission.

ARTICLE 144

If a motion of censure concerning the operations of the Commission is tabled in the Assembly, the latter may decide thereon, by an open vote, only after not less than three days have elapsed from the tabling of the motion.

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 deal with current business until they shall have been replaced in accordance with the provisions of Article 158.

SUB-SECTION II: *The Council*

ARTICLE 145

With a view to ensuring achievement of the objectives laid down in the present Treaty, and under the conditions provided for therein, the Council shall

be responsible for co-ordinating the general economic policies of Member States;
exercise powers of decision.

ARTICLE 146

The Council shall be composed of representatives of Member States, each Government appointing to it one of its Members.

Each of the members of the Council shall act as Chairman for a period of six months in rotation, following the alphabetical order of the Member States.

ARTICLE 147

Meetings of the Council shall be called by the Chairman, on his own initiative, or at the request of one of its members or of the Commission.

ARTICLE 148

1. Except where otherwise provided in the present Treaty, decisions of the Council shall be taken by a majority of its members.

2. In the case of Council decisions requiring a prescribed majority the votes of its members shall be weighted as follows:

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

Decisions receiving at least the following number of votes shall be regarded as adopted:

in the case of decisions which the present Treaty requires to be taken on a proposal by the Commission: twelve votes;

in other cases: twelve votes representing a favourable vote by at least four members.

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

ARTICLE 149

When the present Treaty requires that a Council decision be taken on a proposal by the Commission, the Council may amend such proposal only by a unanimous vote.

So long as the Council has not taken its decision, the Commission may amend its original proposal, in particular, in cases where the Assembly has been consulted on the proposal in question.

ARTICLE 150

When a vote is taken, each member of the Council may act as proxy for not more than one other member.

ARTICLE 151

The Council shall draw up its own Rules of Procedure.

The Rules of Procedure may provide for the establishment of a Committee composed of representatives of Member States. The terms of reference and powers of such Committee shall be determined by the Council.

ARTICLE 152

The Council may request the Commission to undertake any studies which it considers desirable with a view to achieving the common objectives, and to submit to it any suitable proposals.

ARTICLE 153

After taking the opinion of the Commission, the Council shall lay down the Statutes of the Committees provided for in the present Treaty.

ARTICLE 154

The Council, voting with the prescribed majority, shall determine the salaries, allowances and pensions to be paid to the Chairman and members of the Commission, and to the President, judges, advocates-general and Registrar of the Court of Justice. It shall also determine, by a similar majority, the amount of any allowances to be granted in lieu of remuneration.

SUB-SECTION III: *The Commission*

ARTICLE 155

With a view to ensuring the operation and development of the common market, the Commission shall

supervise the application of the provisions of the present Treaty and of measures adopted by the organs of the Community in virtue thereof; formulate recommendations or opinions in regard to matters covered by the present Treaty, in cases where this is explicitly provided therein or where the Commission considers it necessary;

enjoy independent powers of decision and take part in the preparation of decisions by the Council and Assembly, under the conditions laid down in the present Treaty;

exercise the powers conferred on it by the Council with a view to the execution of the rules laid down by the latter.

ARTICLE 156

The Commission shall each year, at least one month before the opening of the Assembly Session, issue a General Report on the work of the Community.

ARTICLE 157

1. The Commission shall be composed of nine members, selected for their general competence and of unquestioned integrity.

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

Members of the Commission must be nationals of Member States.

The Commission may not include more than two members who are nationals of the same State.

2. The members of the Commission shall carry out their functions in complete independence, in the general interest of the Community.

In the discharge of their duties they shall neither ask for nor accept instructions from any Government or other body and shall refrain from all action incompatible with the character of their functions. Each Member State shall undertake to respect this character and not to seek to influence the members of the Commission in the performance of their task.

During their term of office the members of the Commission may not engage in any other professional activity, whether paid or unpaid. 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, decree that the member in question either be removed from office under 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 agreement between the Governments of Member States.

They shall be appointed for a term of four years and shall be re-eligible.

ARTICLE 159

Apart from retirements in regular rotation and the case of death, the appointment of any member of the Commission shall be terminable by voluntary resignation or removal from office.

Vacancies thus caused shall be filled for the term of office remaining. The Council may however decide by a unanimous vote that it is unnecessary to fill such vacancies.

Except in the case of removal from office referred to in Article 160, members of the Commission shall remain in office until a successor has been appointed.

ARTICLE 160

If any member of the Commission no longer fulfils the conditions required for the exercise of his functions, or if he commits a serious offense, he may be removed from office by decision of the Court of Justice, on petition by the Council or the Commission.

In such a case the Council may, by a unanimous vote, temporarily suspend the member from his functions and replace him, pending the decision of the Court of Justice.

The Court of Justice may temporarily suspend the member from his functions, on petition of the Council or the Commission.

ARTICLE 161

The Chairman and the two Vice-Chairmen of the Commission shall be appointed from among the members of the latter for two years, following the same procedure as that laid down for the appointment of members of the Commission. They shall be re-eligible.

Except in the case of a complete change of membership, the appointment shall be made after consultation with the Commission.

In the event of the resignation or death of the Chairman or Vice-Chairmen, they shall be replaced for the remainder of their term of office, according to the procedure laid down in the first sub-paragraph.

ARTICLE 162

The Council and the Commission shall consult with each other and reach agreement concerning the ways and means by which they shall co-operate.

The Commission shall draw up its own Rules of Procedure for the purpose of ensuring its own operation and that of its services in accordance with the provisions of the present Treaty. It shall be responsible for publishing its Rules of Procedure.

ARTICLE 163

Decisions of the Commission shall be taken by a majority of the members provided for in Article 157.

No session of the Commission shall be valid in the absence of the quorum laid down in its Rules of Procedure.

SUB-SECTION IV: *The Court of Justice*

ARTICLE 164

The Court of Justice shall ensure observance of the rules of law in the interpretation and application of the present Treaty.

ARTICLE 165

The Court of Justice shall be composed of seven judges.

The Court of Justice shall sit in plenary session. Nevertheless, it may set up within itself divisions, each composed of three or five judges, either for the purpose of conducting certain enquiries or for the purpose of judging certain types of cases, under conditions to be laid down in special regulations.

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

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

ARTICLE 166

The Court of Justice shall have the assistance of 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 discharge of its mission as laid down in Article 164.

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

ARTICLE 167

The judges and the advocates-general shall be chosen from among persons of unquestioned impartiality who fulfil the conditions required in their respective countries for the holding of the highest legal offices or who are legal experts of wide repute. They shall be appointed for a term of six years by agreement between the Governments of Member States.

A proportion of the judges shall retire every three years, three and four judges respectively retiring alternately. The three judges whose terms of office expire at the end of the first three-year period shall be chosen by lot.

A proportion of the advocates-general shall retire every three years. The advocate-general whose term of office expires at the end of the first three-year period shall be chosen by lot.

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

The judges shall elect the President of the Court of Justice from among their own number for a period of three years. The President shall be eligible for re-election.

ARTICLE 168

The Court of Justice shall appoint its Registrar and determine his rules of office.

ARTICLE 169

Should the Commission consider that a Member State has failed to fulfil any of its obligations under the present Treaty, it shall issue a reasoned pronouncement on the matter after giving the State concerned an opportunity to submit its observations.

If the State in question does not comply with such pronouncement within the period prescribed by the Commission, the latter may bring the matter before the Court of Justice.

ARTICLE 170

Any Member State that considers that another Member State has failed to comply with any of its obligations under the present Treaty may bring the matter before the Court of Justice.

Before a Member State initiates, against another Member State, proceedings relating to an alleged violation of the obligations incumbent upon such other Member State in virtue of the present Treaty, it must bring the matter before the Commission.

After the States concerned have been given the opportunity to present observations and replies thereto, both orally and in writing, the Commission shall issue a reasoned pronouncement.

If, within a period of three months from the time when the matter was brought before it, the Commission has not given an opinion, this shall not debar the initiation of proceedings before the Court of Justice.

ARTICLE 171

If the Court of Justice finds that a Member State has failed to fulfil any of its obligations under the present Treaty, such State shall be bound to take the necessary measures to comply with the judgment of the Court.

ARTICLE 172

The regulations laid down by the Council in virtue of the provisions of the present Treaty may confer powers of full jurisdiction on the Court of Justice in respect of any penalties provided for by such regulations.

ARTICLE 173

The Court of Justice shall review the legality of decisions of the Council and Commission, but not of recommendations or opinions. To this end, it shall be competent to give judgment on appeals, lodged by a Member State, the Council or the Commission, on grounds of incompetence, procedural er-

rors, infringement of the present Treaty or of any rule of law relating to its application, or abuse of powers.

Individuals or legal entities may, under the same conditions, submit an appeal against decisions of which they are the object and against decisions which, although in the form of regulations or decisions addressed to another individual or legal entity, are nevertheless of direct personal concern to themselves.

The appeals provided for in the present Article shall be lodged within two months dating, according to circumstances, either from the promulgation of the decision in question, or from its notification to the appellant or, failing that, from the day on which the latter had knowledge thereof.

ARTICLE 174

If the appeal is allowed, the Court of Justice shall declare the decision in question to be null and void.

Nevertheless, in the case of regulations, the Court of Justice shall, if it considers it necessary, state which of the effects of the regulations annulled shall be deemed to remain in force.

ARTICLE 175

Should the Council or the Commission fail to take a decision in cases where such decision is provided for under the present Treaty, the Member States and other organs of the Community may bring the matter before the Court of Justice with a view to establishing that such violation of the Treaty has taken place.

Such an appeal shall be heard only if the organ in question has previously been invited to take action. If the aforesaid organ has not made its attitude known within two months of such invitation, an appeal may be lodged within a further period of two months.

In the case of a decision, but not in that of a recommendation or opinion, any individual or legal entity may bring before the Court of Justice, under the conditions laid down in the preceding sub-paragraphs, a complaint against any of the organs of the Community for having failed to notify the said individual or legal entity.

ARTICLE 176

The organ responsible for a decision declared null and void, and any organ whose failure to act has been declared contrary to the provisions of the present Treaty, shall be bound to take the necessary measures to comply with the judgment of the Court of Justice.

This obligation shall in no way affect any obligation arising from the application of the second sub-paragraph of Article 215.

ARTICLE 177

The Court of Justice shall be competent to give interlocutory judgments on issues concerning :

(a) the interpretation of the present Treaty ;
(b) the validity and interpretation of decisions taken by organs of the Community ;

(c) the interpretation of the statutes of any bodies set up by a decision of the Council, when such statutes so provide.

If any such issue is brought before a judicial tribunal of one of the Member States, such tribunal, if it considers that the issue requires decisions before it can give its own judgment, may ask for a pronouncement from the Court of Justice.

If any such issue is raised in a case being heard by a national tribunal from whose decisions no appeal lies under the national law, the tribunal in question shall bring the matter before the Court of Justice.

ARTICLE 178

The Court of Justice shall be competent to hear cases relating to compensation for damage as provided for in the second sub-paragraph of Article 215.

ARTICLE 179

The Court of Justice shall be competent to give judgment in any dispute between the Community and its agents, within the limits and under the conditions laid down in the rules or regulations applicable to the latter.

ARTICLE 180

The Court of Justice shall be competent, within the limits laid down hereunder, to hear cases concerning :

(a) the fulfilment by Member States of the obligations arising under the Statutes of the European Investment Bank. The Board of Directors of the Bank shall, in this matter, exercise the powers conferred upon the Commission by Article 169 ;

(b) decisions taken by the Board of Governors of the Bank. Any Member State, the Commission and the Board of Directors of the Bank may lodge an appeal against such decisions under the conditions laid down in Article 173 ;

(c) decisions taken by the Board of Directors of the Bank. In the case of these decisions, appeals may be lodged, under the conditions laid down in Article 173, only by a Member State or by the Commission, and only on the grounds of non-observance of the procedure laid down in paragraph 2 and paragraphs 5 to 7 inclusive of Article 21 of the Statutes of the Investment Bank.

ARTICLE 181

The Court of Justice shall be competent to give judgment in virtue of 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 give judgment in all disputes between Member States connected with the objects of the present Treaty, if such disputes are submitted to it under the terms of a special agreement.

ARTICLE 183

Subject to the powers conferred on the Court of Justice by the present Treaty, disputes to which the Community is a party shall not on that ground be withdrawn from the competence of national jurisdictions.

ARTICLE 184

In the case of a dispute concerning a regulation adopted by the Council or the Commission, any of the parties concerned may, notwithstanding the expiry of the period prescribed in the third sub-paragraph of Article 173, have recourse to the means provided under the first sub-paragraph of Article 173 in order to plead before the Court of Justice that the regulation in question does not apply.

ARTICLE 185

Appeals lodged with the Court of Justice shall not have any staying effect. Nevertheless, if it considers that circumstances so require, the Court of Justice may order the suspension of the execution of the decision impugned.

ARTICLE 186

In cases submitted to it, the Court of Justice may order any necessary provisional measures.

ARTICLE 187

The judgments of the Court of Justice shall have executory force under the conditions laid down in Article 192.

ARTICLE 188

The Statutes of the Court of Justice shall be contained in a separate Protocol.

The Court of Justice shall adopt its own Rules of Procedure, which shall be submitted for the unanimous approval of the Council.

SECTION 2—PROVISIONS COMMON TO SEVERAL INSTITUTIONS

ARTICLE 189

For the achievement of their purposes and under the conditions laid down in the present Treaty, the Council and the Commission shall frame regulations and directives, take decisions and formulate recommendations or opinions.

Regulations shall be general in their scope, obligatory in all their parts and directly applicable in each Member State.

Directives shall bind every Member State to which they are addressed, so far as concerns the result to be achieved, but shall leave to the competence of national authorities questions of form and means.

Decisions shall be obligatory in all their parts for the addressees named therein.

Recommendations and opinions shall have no binding force.

ARTICLE 190

The regulations, directives and decisions of the Council and the Commission shall be supported by reasons and shall cover the proposals or opinions which must be called for under the terms of the present Treaty.

ARTICLE 191

The regulations shall be published in the Official Journal of the Community. They shall enter into force on the date given in them or, in default of this, on the twentieth day following their publication.

Directives and decisions shall be notified to their addressees and shall take effect thereupon.

ARTICLE 192

Decisions of the Council or of the Commission which impose a pecuniary obligation upon persons other than the States shall have executory force.

Forced execution shall be governed by the rules of civil procedure in effect in the State in whose territory it takes place. The writ of execution shall be appended, without other formality than the verification of the authenticity of the document, by the national authority which the Government of each of the Member States shall designate for this purpose and notify to the Commission and the Court of Justice.

After completion of these formalities at the request of the party concerned, the latter may proceed with the forced execution by direct application to the organ which is competent under the national law.

Forced execution can be suspended only in virtue of a decision of the Court of Justice. Nevertheless, verification of the regularity of the measures of execution shall be within the competence of the national judicial authorities.

SECTION 3—THE ECONOMIC AND SOCIAL COMMITTEE

ARTICLE 193

An Economic and Social Committee shall be set up with advisory functions.

The Committee shall consist of representatives of the various branches of economic and social life, more particularly, representatives of producers, farmers, transport and general workers, business men and artisans, of the liberal professions and of general interests.

ARTICLE 194

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

Belgium	12
France	24
Germany	24
Italy	24
Luxembourg	5
Netherlands	12

The members of the Committee shall be appointed for four years by the Council, voting unanimously. They shall be eligible for reappointment.

The members of the Committee shall be chosen in their personal capacity, and shall not be bound by any overriding mandate.

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 must be so composed as to secure adequate representation of the different branches of economic and social life.

2. The Council shall consult the Commission. It may seek the opinion of European organisations representing the various economic and social groups concerned in the work of the Community.

ARTICLE 196

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

It shall draw up its own rules of procedure and shall submit them for the Council's approval, which must be unanimous.

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

ARTICLE 197

The Committee shall comprise specialised sections for the main fields covered by the present Treaty.

In particular, it shall contain an agriculture section and a transport section, for both of which separate provisions are included in the Chapters relating to agriculture and transport.

The specialised sections shall operate within the framework of the general powers conferred upon the Committee. They may not be consulted independently of the Committee.

There may also be set up within the Committee sub-committees for the purpose of drawing up draft opinions on specific matters or in specific fields for submission to the Committee.

The rules of procedure shall determine the methods of appointing spec-

ialised sections and sub-committees and the competence conferred upon them.

ARTICLE 198

The Committee must of necessity be consulted by the Council or by the Commission in the cases for which provision is made in the present Treaty. It may also be consulted by these bodies in all cases in which they deem it appropriate to do so.

The Council or the Commission shall, if it considers it necessary, give the Committee a time-limit for the submission of its opinion, which may not be less than ten days following the request therefor addressed to the Chairman. If no opinion has been submitted on the expiry of the time-limit, 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 discussions, shall be forwarded to the Council and to the Commission.

CHAPTER II

Financial Dispositions

ARTICLE 199

Estimates must be drawn up for each financial year for all receipts and expenditures of the Community, including those relating to the European Social Fund, and must be shown in the budget.

The receipts and expenditures of the budget must balance.

ARTICLE 200

1. The budget receipts, apart from revenue from other sources, shall comprise the financial contributions of Member States, fixed on the following proportionate scale:

Belgium	7.9
France	28
Germany	28
Italy	28
Luxembourg	0.2
Netherlands	7.9

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

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

3. The proportionate scales may be changed by the Council, voting unanimously.

ARTICLE 201

The Commission shall study the conditions under which the financial contributions of Member States as laid down in Article 200 might be replaced by other appropriate resources, more particularly by revenue accruing from the common customs tariff when this shall have been finally established.

The Commission shall submit proposals in this connection to the Council.

The Council, voting unanimously, may, after consulting the Assembly on these proposals, draw up provisions which it would recommend Member States to adopt 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 under Article 209.

Subject to the conditions to be laid down in application of Article 209, any funds, other than those earmarked for staff costs, which 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 heads, according to type or purpose, and sub-divided, as far as necessary, in accordance with the regulations adopted under Article 209.

There shall be separate sections of the budget for expenditure in connection with the Assembly, the Council, the Commission and the Court of Justice, apart from the entry of certain common expenses under a special head.

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 expenditure. The Commission shall combine these estimates in a preliminary draft budget; to this it shall attach its comments, which may include divergent estimates.

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

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

3. The Council, voting with the prescribed majority, shall establish the draft budget and shall then forward it to the Assembly.

The Assembly must have the draft budget laid before it 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, one month after receiving the draft budget, the Assembly has either stated its approval or has failed to forward its comments 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, thus amended, shall be forwarded to the Council. The Council shall then discuss it with the Commission and, when appropriate, with the other institutions concerned, and shall finally approve the budget by the prescribed majority.

5. For the approval 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
France	32
Germany	32
Italy	20
Luxembourg	1
Netherlands	7

Decisions shall be valid if supported by at least 67 votes.

ARTICLE 204

If, at the beginning of the financial year, the budget has not yet been approved, expenditure may be made on a monthly basis per section or other division, according to the provisions of the regulations adopted under Article 209, up to one-twelfth of the budget appropriations for the preceding financial year; but the amount thus 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 voting, with the prescribed majority, may, subject to observance of the other conditions stipulated in paragraph 1, authorise expenditure over and above one-twelfth of the appropriations.

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

ARTICLE 205

The Commission shall implement the budget, in accordance with the provisions of the regulations adopted under Article 209, on its own responsibility and within the limits of the funds allocated.

The regulations shall define the particular ways and means whereby each institution shall share in expending its own funds.

Within the budget, the Commission may, subject to the restrictions and the conditions stipulated in the regulations adopted under Article 209, transfer funds among the various heads and sub-heads.

ARTICLE 206

The accounts of all the receipts and expenditures of the budget shall be examined by a supervisory commission composed of auditors of unques-

tionable integrity, one of whom shall be the chairman. The Council, voting unanimously, shall fix the number of auditors. The auditors and the chairman of the supervisory commission shall be appointed by the Council, voting unanimously, for a period of five years. Their remuneration shall be determined by the Council, voting with the prescribed majority.

The auditing of the accounts, which shall be based on vouchers and take place, if necessary, on the premises, is designed to ascertain that all receipts and expenditures are legal and regular and to make certain that financial management is sound. After the close of each financial year, the supervisory commission shall prepare a report which it shall adopt by a majority of its members.

Every year the Commission shall submit to the Council and the Assembly the accounts of the past financial year pertaining to budget operations, together with the report of the supervisory commission. It shall also submit to them a balance sheet showing the assets and liabilities of the Community.

The Council, voting with the prescribed majority, shall give the Commission a discharge in respect of the implementation of the budget. The Council shall notify the Assembly of its decision.

ARTICLE 207

The budget shall be drawn up in the unit of account fixed in accordance with the provisions of the regulations adopted under Article 209.

The financial contributions mentioned in Article 200, paragraph 1, shall be made available to the Community by Member States in their own currency.

The available balances of these contributions shall be deposited with the Treasuries of Member States or organs designated by them. The value of the funds, whilst on deposit, shall remain at the parity rate in force at the time of deposit in relation to the unit of account mentioned in paragraph 1.

These funds may be invested under conditions to be decided by agreements concluded between the Commission and the Member State concerned.

The regulations adopted under Article 209 shall determine the technical conditions for carrying out the financial operations of the European Social Fund.

ARTICLE 208

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

The Commission shall communicate with each Member State through the authority designated by the State. For financial operations, it shall use the services of the bank of issue of the Member State concerned, or of some other financial institution approved by that State.

ARTICLE 209

On the proposal of the Commission, the Council, voting unanimously, shall:

(a) draw up the financial regulations specifying *inter alia* the methods to be adopted for drafting and implementing the budget and the procedure for rendering and auditing accounts;

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

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

PART VI. GENERAL AND FINAL PROVISIONS

ARTICLE 210

The Community shall enjoy legal personality.

ARTICLE 211

In each of the Member States, the Community shall possess the fullest legal capacity accorded to legal persons by the national laws; in particular it may acquire or dispose of movable and immovable property and be a party to legal proceedings. For this purpose, it shall be represented by the Commission.

ARTICLE 212

The Council, voting unanimously, shall, in collaboration with the Commission and after consulting the other institutions concerned, determine the staff rules and the regime to be applied to other agents of the Community.

After the expiry of the fourth year following the entry into force of the present Treaty, these rules and this regime may be amended by the Council, voting with the prescribed majority, on a proposal of the Commission and after consulting the other institutions concerned.

ARTICLE 213

For the performance of the tasks entrusted to it, the Commission may assemble all information and make any necessary verifications, within the limits and under the conditions fixed by the Council in accordance with the provisions of the present Treaty.

ARTICLE 214

The members of the Community's institutions, members of committees, and officials and agents of the Community, shall be required, even after the termination of their functions, not to divulge information which by its nature is trade secret and, in particular, information relating to firms and concerning their commercial relations or the factors entering into their production costs.

ARTICLE 215

The contractual responsibility of the Community shall be governed by the law applying to the contract in question.

As regards non-contractual responsibility, the Community must, in conformity with the general principles common to the laws of Member States, make good any damage caused by its institutions or by its agents in the discharge of their duties.

The personal responsibility of agents towards the Community shall be determined in the provisions establishing the rules or the regime applicable to them.

ARTICLE 216

The headquarters of the Community's institutions shall be fixed by agreement between the Governments of the Member States.

ARTICLE 217

The official language of the Community's institutions shall be determined by the unanimous vote of the Council, without prejudice to the provisions laid down in the rules of the Court of Justice.

ARTICLE 218

The Community shall enjoy, in the territories of the Member States, the privileges and immunities necessary for the fulfilment of its mission, under conditions specified in a separate Protocol.*

ARTICLE 219

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

ARTICLE 220

Member States shall, so far as necessary, engage in negotiations with each other with a view to ensuring for their nationals

the protection of persons and the enjoyment and protection of rights under the conditions granted by each State to its own nationals, the abolition of double taxation within the Community,

mutual recognition of companies within the meaning of Article 58, paragraph 2, the retention 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 laws of different Member States to form mergers,

the simplification of the formalities governing the reciprocal recognition and execution of judicial decisions and arbitral awards.

* Not printed here.

ARTICLE 221

Within three years of the entry into force of the present Treaty, Member States shall accord to nationals of other Member States the same facilities as regards financial participation in the capital of companies within the meaning of Article 58 as they accord to their own nationals, without prejudice to application of the other provisions of the present Treaty.

ARTICLE 222

The present Treaty shall be entirely without prejudice to the system of ownership in Member States.

ARTICLE 223

1. The provisions of the present Treaty shall not be incompatible with the following rules:

(a) no State shall be obliged to supply information the disclosure of which it considers contrary to the vital interests of its security.

(b) each Member State may take the measures which it considers necessary to protect the vital interests of its security, and which are connected with the manufacture or sale of arms, munitions and war materials; these measures must not interfere with conditions of competition in the common market in respect of products not intended for specifically military purposes.

2. During the first year after the entry into force of the present Treaty, the Council, voting unanimously, shall establish the list of products to which the provisions of paragraph 1 shall apply.

3. The Council, voting unanimously on a proposal by the Commission, may amend the said list.

ARTICLE 224

Member States shall consult one another for the purpose of taking in common the necessary measures to prevent the operation of the common market from being affected by measures which a Member State may be led to take in case of serious internal disturbances affecting public order, in case of war or serious international tension constituting a threat of war, or in order to fulfil undertakings into which it has entered for the purpose of maintaining peace and international security.

ARTICLE 225

If the measures taken in the cases mentioned in Articles 223 and 224 in fact disturb conditions of competition in the common market, the Commission, acting in conjunction with the State concerned, shall examine how these measures may be adapted to the rules established by the present Treaty.

By derogation from the procedure provided for in Articles 169 and 170, the Commission or any Member State may apply direct to the Court of Justice if it considers that another Member State is abusing the powers

provided for under Articles 223 and 224. The Court of Justice shall hear the case *in camera*.

ARTICLE 226

1. During the transitional period, in case of 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 safeguard measures to restore the situation and adapt the sector in question to the common market economy.

2. At the request of the State concerned, the Commission shall immediately take emergency action to decide upon the safeguard measures it considers necessary, specifying the conditions and ways and means of applying them.

3. The measures authorised under paragraph 2 may include derogations from the rules established by the present Treaty, to the extent and for the periods strictly necessary for the achievement of the aims referred to in paragraph 1.

In the selection of suitable measures, priority must be given to those which will least disturb the operation of the common market.

ARTICLE 227

1. The present Treaty shall apply to the Kingdom of Belgium, the French Republic, the German Federal Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands.

2. With regard to Algeria and the French Departments overseas, the provisions of the present 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 safeguard measures provided for in Articles 108, 109 and 226,
- the institutions,

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

The conditions for the implementation of the other provisions of the present Treaty shall be determined, not later than two years after its entry into force, by decisions of the Council, voted unanimously on a proposal of the Commission.

Within the framework of the procedures provided for in the present Treaty and, in particular, in Article 226, the institutions of the Community shall take care to ensure the economic and social development of the regions in question.

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

4. The provisions of the present Treaty shall apply to European territories for whose foreign relations a Member State is responsible.

ARTICLE 228

1. In cases where the provisions of the present Treaty provide 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 respect, they shall be concluded by the Council, after consulting the Assembly in cases provided for by the present Treaty.

The Council, the Commission or a Member State may, as a preliminary, obtain the opinion of the Court of Justice on the compatibility of the contemplated agreement with the provisions of the present Treaty. An agreement which is the subject of a negative opinion by the Court of Justice may not enter into force except on conditions determined, according to circumstances, under 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 assuring all useful contacts with the organs of the United Nations, of their Specialised Agencies and of the General Agreement on Tariffs and Trade.

It shall further assure appropriate contacts with all international organisations.

ARTICLE 230

The Community shall co-operate in every useful way with the Council of Europe.

ARTICLE 231

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

ARTICLE 232

1. The provisions of the present Treaty shall not affect those of the Treaty establishing the European Coal and Steel Community, particularly as regards 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 operation of the common market for coal and steel.

2. The provisions of the present Treaty shall not derogate from the stipulations of the Treaty establishing the European Atomic Energy Community.

ARTICLE 233

The provisions of the present Treaty shall not be incompatible with the existence or establishment of the regional unions between Belgium and Luxembourg, and between Belgium, Luxembourg and the Netherlands, so far as the objects of these regional unions are not achieved by application of the present Treaty.

ARTICLE 234

The rights and obligations resulting from conventions concluded prior to the entry into force of the present Treaty, between one or more Member States and one or more outside States, shall not be affected by the provisions of the present Treaty.

In so far as such conventions are not compatible with the present Treaty, the Member State or States in question shall take all suitable steps to remove such incompatibility as is found to exist. If necessary, Member States shall lend each other assistance in order to achieve this purpose and, when appropriate, shall adopt a common attitude.

In the implementation of the conventions referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under the present Treaty by each Member State form an integral part of the establishment of the Community and are therefore inseparably linked to the creation of common institutions, the conferment upon them of their powers and the concession of the same advantages by all the other Member States.

ARTICLE 235

If action by the Community appears necessary to achieve one of the aims of the Community, in the operation of the common market, and if the present Treaty has not provided the powers of action required for this purpose, the Council, voting unanimously on a proposal by the Commission, and after consulting the Assembly, shall take the appropriate steps.

ARTICLE 236

The Government of any Member State or the Commission may submit to the Council proposals for the revision of the present Treaty.

If the Council, after consulting the Assembly and, when appropriate, the Commission declares itself 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 agreeing upon the amendments to be made to the present Treaty.

Amendments shall enter into force after being ratified by all Member States in conformity with their respective constitutional rules.

ARTICLE 237

Any European State may ask to join the Community. It shall address its request to the Council which, after taking the opinion of the Commission, shall decide by a unanimous vote.

The conditions of admission and the adaptations to the present Treaty entailed thereby shall be the subject of an agreement between the Member States and the applicant State. The said agreement shall be submitted for ratification by all the contracting States, in conformity with their respective constitutional rules.

ARTICLE 238

The Community may conclude with an outside State, a union of States or an international organisation agreements creating an association characterised by reciprocal rights and obligations, joint action and special procedures.

Such agreements shall be concluded by the Council voting unanimously after consulting the Assembly.

Whenever such agreements involve amendments to the present Treaty, such amendments must first be adopted according to the procedure laid down in Article 236.

ARTICLE 239

The Protocols, which are to be annexed to the present Treaty by agreement between the Member States, shall form an integral part thereof.

ARTICLE 240

The present Treaty shall be concluded for an indefinite period.

ESTABLISHMENT OF THE INSTITUTIONS

ARTICLE 241

The Council shall meet within one month from the entry into force of the Treaty.

ARTICLE 242

The Council shall take all necessary measures to set up the Economic and Social Committee within three months of the Council's first meeting.

ARTICLE 243

The Assembly shall meet, at the summons of the President of the Council, within two months of the Council's first meeting, to elect its officers and draw up its rules of procedure. Until its officers are elected, the Assembly shall be presided over by its oldest member.

ARTICLE 244

The Court of Justice shall enter upon its duties immediately on the appointment of its members. Its first President shall be chosen for three years under the same conditions as its members.

The Court of Justice shall draw up its rules of procedure within three months of assuming its duties.

Cases may not be brought before the Court of Justice until after the date of publication of these rules of procedure, and the time-limits for the lodging of appeals shall run only from that same date.

From the date of his appointment, the President of the Court of Justice shall exercise the powers conferred upon him by the present Treaty.

ARTICLE 245

The Commission shall enter upon its duties and assume the responsibilities entrusted to it by the present Treaty as soon as its members are appointed.

Immediately on entering upon its duties, the Commission shall undertake the studies and establish the contacts which are necessary for obtaining an overall view of the economic situation of the Community.

ARTICLE 246

1. The first financial period shall extend from the date of the entry into force of the Treaty until 31 December following. However, this period shall continue until 31 December of the year following that of the entry into force of the Treaty, if this occurs in the second half of the year.

2. Until the budget for the first financial period is drawn up, Member States shall make advances to the Community. These advances, which shall not bear interest, shall be deductible from the financial contributions payable under the said budget.

3. Until the staff rules and the regime to be applied to the other agents of the Community, 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 questions concerning the number, remuneration and allocation of posts.

FINAL PROVISIONS

ARTICLE 247

The present Treaty shall be ratified by the High Contracting Parties according to their respective constitutional rules. The instruments of ratification shall be deposited with the Government of the Italian Republic.

The present Treaty shall enter into force on the first day of the month following the deposit of the instrument of ratification by the signatory State which is the last to accomplish this formality. However, if this deposit is made less than fifteen days before the beginning of the following month, the 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 copy, in German, French, Italian and Dutch, all four texts being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which shall transmit a certified true 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, the twenty-fifth day of March, one thousand nine hundred and fifty-seven.

[Signed] P. H. SPAAK.	[Signed] J. CH. SNOY ET D'OPPUERS.
[Signed] ADENAUER.	[Signed] HALLSTEIN.
[Signed] PINEAU.	[Signed] M. FAURE.
[Signed] ANTONIO SEGNI.	[Signed] GAETANO MARTINO.
[Signed] BECH.	[Signed] LAMBERT SCHAUS.
[Signed] J. LUNS.	[Signed] J. LINTHORST HOMAN.

[Annexes I and II omitted here.]

ANNEX III

LIST OF INVISIBLE TRANSACTIONS PROVIDED IN ARTICLE 106 OF THE TREATY

Maritime freights, including chartering, harbour expenses, disbursements for fishing vessels, etc.

Inland waterway freights, including chartering.

Road transport: passengers and freights, including chartering.

Air transport: passengers and freights, including chartering.

Payment by passengers of international air tickets and excess luggage charges; payment of international air freight charges and chartered flights.

Receipts from the sale of international air tickets, excess luggage charges, international air freight charges, and chartered flights.

For all means of maritime transport: harbour services (bunkering and provisioning, maintenance, repairs, expenses for crews, etc.).

For all means of inland waterway transport: harbour services (bunkering and provisioning, maintenance and minor repairs of equipment, expenses for crews, etc.).

For all means of commercial road transport: fuel, oil, minor repairs, garaging, expenses for drivers and crews, etc.

For all means of air transport: operating costs and general overheads, including repairs to aircraft and to air transport equipment.

Warehousing and storage charges, customs clearance.

Customs duties and fees.

Transit charges.

Repair and assembly charges.

Processing, finishing, processing of work under contract, and other services of the same nature.

Repair of ships.

Repair of means of transport other than ships and aircraft.

Technical assistance (assistance relating to the production and distribution of goods and services at all stages, given over a period limited according to the specific purpose of such assistance, and including e.g. advice or visits by experts, preparation of plans and blueprints, supervision of manufacture, market research, training of personnel).

Commission and brokerage.

Profits arising out of transit operations or sales of trans-shipment.

Banking commissions and charges.

Representation expenses.

Advertising by all media.

Business travel.

Participation by subsidiary companies and branches in overhead expenses of parent companies situated abroad and vice-versa.

Contracting (construction and maintenance of buildings, roads, bridges, ports etc. carried out by specialised firms and, generally, at fixed prices after open tender).

Differences, margins and deposits due in respect of operations on commodity terminal markets in conformity with normal *bona fide* commercial practice.

Tourism.

Travel for private reasons (education).

Travel for private reasons (health).

Travel for private reasons (family).

Subscriptions to newspapers, periodicals, books, musical publications.

Newspapers, periodicals, books, musical publications and records.

Printed films, commercial, documentary, educational, etc. (rentals, dues, subscriptions, reproduction and synchronisation fees, etc.).

Membership fees.

Current maintenance and repair of private property abroad.

Government expenditure (official representation abroad, contributions to international organisations).

Taxes, court expenses, registration fees for patents and trade marks.

Claims for damages.

Refunds in the case of cancellation of contracts and refunds of uncalled-for payments.

Fines.

Periodical settlements in connection with public transport and postal, telegraphic and telephone services.

Exchange authorisations granted to own or foreign nationals emigrating.

Exchange authorisations granted to foreign nationals returning to their country of origin.

Salaries and wages (of frontier or seasonal workers and of other nonresidents, without prejudice to the right of a country to regulate terms of employment of foreign nationals).

Emigrants' remittances (without prejudice to the right of a country to regulate immigration).

Fees.

Dividends and shares in profits.

Interests on debentures, mortgages etc.

Rent.

Contractual amortisation (with the exception of transfers in connection with amortisation having the character either of anticipated repayments or

of the discharge of accumulated arrears).

Profits from business activity.

Authors' royalties.

Patents, designs, trade marks, and inventions (the assignment and licensing of patent rights, designs, trade marks and inventions, whether or not legally protected, and transfers arising out of such assignment or licensing).

Consular receipts.

Pensions and other income of a similar nature.

Maintenance payments resulting from a legal obligation or from a decision of a Court and financial assistance in cases of hardship.

Transfers by installments of assets deposited in one Member country by persons residing in another Member country whose personal income in that country is not sufficient to cover their living expenses.

Transactions and transfers in connection with direct insurance.

Transactions and transfers in connection with reinsurance retrocession.

Opening and reimbursement of commercial or industrial credits.

Transfer of minor amounts abroad.

Charges for documentation of all kinds incurred on their own account by authorised dealers in foreign exchange.

Sports prizes and racing earnings.

Inheritances.

Dowries.

ANNEX IV

OVERSEAS COUNTRIES AND TERRITORIES TO WHICH THE PROVISIONS OF PART IV OF THE TREATY APPLY

French West Africa including: Senegal, the Sudan, Guinea, the Ivory Coast, Dahomey, Mauritania, the Niger, the Upper Volta.

French Equatorial Africa including: the Middle Congo, Ubangi-Shari, Chad, Gaboon.

St. Pierre and Miquelon, the Comoro Archipelago, Madagascar and dependencies, the French Somali Coast, New Caledonia and dependencies, the French Settlements in Oceania, the Southern and Antarctic Territories.

The Autonomous Republic of Togoland.

The French Trusteeship Territory in the Cameroons.

The Belgian Congo and Ruanda-Urundi.

The Italian Trusteeship Territory in Somaliland.

Dutch New Guinea.

ANNEX V

PROTOCOL ON THE STATUTE OF THE EUROPEAN INVESTMENT BANK

THE HIGH CONTRACTING PARTIES

DESIROUS of establishing the Statutes of the European Investment Bank, provided for in Article 129 of the Treaty,

HAVE AGREED on the following provisions, which shall be annexed to the present Treaty:

ARTICLE 1

The European Investment Bank set up by Article 129 of the Treaty, hereinafter called "The Bank," shall be constituted, and shall carry out its functions and activities, in conformity with the provisions of the Treaty and of the present Statutes.

The seat of the Bank shall be decided upon by agreement between the Governments of the Member States.

ARTICLE 2

The objects of the Bank shall be those laid down in Article 130 of the Treaty.

ARTICLE 3

In accordance with Article 129 of the Treaty, the following shall be members of the Bank:

the Kingdom of Belgium
 the French Republic
 the German Federal Republic
 the Italian Republic
 the Grand Duchy of Luxembourg
 the Kingdom of the Netherlands.

ARTICLE 4

1. The capital of the Bank shall consist of one thousand million units of account subscribed by the Member States in the following amounts:

Belgium	86.5 million
France	300 million
Germany	300 million
Italy	240 million
Luxembourg	2 million
Netherlands	71.5 million

The value of one unit of account shall be 0.88867088 grammes of fine gold.

The Member States shall be responsible only up to the amount of their share of capital subscribed and not paid up.

2. The admission of a new member shall entail an increase in the subscribed capital corresponding to the additional capital brought in by the new member.

3. The Board of Governors, by a unanimous vote, may decide to increase the subscribed capital.

4. The share of the subscribed capital may not be ceded, or given as collateral security, and shall not be attachable.

ARTICLE 5

1. The Member States shall pay up 25% of the subscribed capital, by five equal payments to be made not later than two months, nine months, sixteen months, twenty-three months and thirty months, respectively, from the date of entry into force of the Treaty.

Each payment shall be made, as to one-quarter in gold or a freely convertible currency, and as to three-quarters in national currency.

2. The Board of Directors may demand that the remaining 75% of the subscribed capital be paid up, should such payment become necessary in order to meet the obligations of the Bank towards those who have provided its funds.

Each Member State shall pay an amount proportionate to its share of the subscribed capital, in the currencies needed by the Bank in order to meet the aforesaid obligations.

ARTICLE 6

1. On the proposal of the Board of Directors, the Board of Governors may decide, by the prescribed majority, that Member States shall grant the Bank special interest-bearing loans if and so far as the Bank requires such loans in order to finance specific projects, provided that the Board of Directors furnishes proof that it is unable to obtain the necessary resources itself, on suitable conditions, on the capital markets, due regard being had to the nature and object of the projects to be financed.

2. Special loans may not be asked for before the beginning of the fourth year following the entry into force of the Treaty. They must not exceed a total of 400 million units of account, or of 100 million units of account a year.

3. The term of special loans shall be decided in the light of the term of the credits or guarantees which the Bank proposes to grant by means of such loans; it shall not exceed twenty years. The Board of Governors, voting with the prescribed majority on a proposal by the Board of Directors, may decide upon anticipated repayment of a special loan.

4. Special loans shall bear interest at 4% per annum, unless the Board of Governors, having regard to the trend and level of rates of interest on the capital markets, shall decide to fix a different rate.

5. Special loans shall be granted by the Member States in proportion to their subscription to the capital; they shall be paid in national currency within six months of their being asked for.

6. In the event of the liquidation of the Bank, special loans made by Member States shall be repaid only after settlement of the other debts of the Bank.

ARTICLE 7

1. Should the par value of the currency of a Member State fall in relation to the unit of account as defined in Article 4, the amount of that State's share of the capital paid up by it in its national currency shall be adjusted,

proportionately to the change occurring in the par value, by an additional payment made by the State in question to the Bank. Nevertheless, the amount subject to adjustment may not exceed the total amount of loans granted by the Bank in the currency concerned and the Bank's resources in that currency. The additional payment shall be made within a period of two months or, so far as it corresponds to loans, on the dates on which such loans fall due.

2. Should the par value of the currency of a Member State rise in relation to the unit of account as defined in Article 4, the amount of that State's share of the capital paid up by it in its national currency shall be adjusted proportionately to the change occurring in the par value, by a repayment made by the Bank to the State in question. Nevertheless, the amount subject to adjustment may not exceed the total amount of loans granted by the Bank in the currency concerned and the Bank's resources in that currency. The repayment shall be made within a period of two months or, so far as it corresponds to loans, on the dates on which such loans fall due.

3. The par value of the currency of a Member State in relation to the unit of account as defined in Article 4 shall be the relation between the weight of fine gold contained in the unit of account and the weight of fine gold corresponding to the par value of such currency as declared to the International Monetary Fund. Failing this, the par value shall be given by the rate of exchange against a currency either quoted in or convertible into gold, applied by the Member State for current payments.

4. The Board of Governors may decide not to apply the rules laid down in paragraphs 1 and 2 above, should there be a uniformly proportionate adjustment in the par value of all the currencies of the countries members of the International Monetary Fund or of the members of the Bank.

ARTICLE 8

The Bank shall be administered and managed by a Board of Governors, a Board of Directors and a Management Committee.

ARTICLE 9

1. The Board of Governors shall consist of Ministers appointed by the Member States.

2. The Board of Governors shall lay down general directives concerning the credit policy of the Bank, particularly with regard to the various objectives which will require to be pursued as the common market gradually comes into being.

The Board of Governors shall supervise the implementation of these directives.

3. In addition, the Board of Governors shall:

(a) decide on any increase in the subscribed capital, in accordance with paragraph 3 of Article 4;

(b) exercise the powers provided for in Article 6 with regard to special loans;

(c) exercise the powers provided for in Articles 11 and 13 with regard to the appointment and removal from office of members of the Board of Directors and the Management Committee;

(d) authorise the derogation provided for in paragraph 1 of Article 18;

(e) approve the Annual Report drawn up by the Board of Directors;

(f) approve the annual balance sheet and also the profit and loss account;

(g) exercise the powers and functions provided for in Articles 7, 14, 17, 26 and 27;

(h) approve the Rules of Procedure of the Bank.

4. Within the framework of the Treaty and the present Statutes, the Board of Governors, voting unanimously, is empowered to take any decisions with regard to suspension of the Bank's activities and, should the case arise, its liquidation.

ARTICLE 10

Except where otherwise provided in the present Statutes, the Board of Governors shall take its decisions by a majority vote of its members. Votes of the Board of Governors shall be governed by the provisions of Article 148 of the Treaty.

ARTICLE 11

1. The Board of Directors shall have exclusive powers of decision in respect of the granting of credits and guarantees and of the raising of loans; it shall fix the rates of interest for loans and also the rates of commission on guarantees; it shall supervise the sound administration of the Bank; it shall ensure that the management of the Bank conforms to the provisions of the Treaty and of the Statutes, and to the general directives laid down by the Board of Governors.

At the end of the financial year, the Board of Directors shall submit a report to the Board of Governors and shall publish it after approval.

2. The Board of Directors shall consist of twelve directors and twelve deputies.

The directors shall be appointed by the Board of Governors for a period of five years, on nomination by the Member States and the Commission respectively, as follows:

2 directors nominated by common agreement by the Benelux countries;

3 directors nominated by the French Republic;

3 directors nominated by the German Federal Republic;

3 directors nominated by the Italian Republic;

1 director nominated by the Commission.

They shall be re-eligible.

Each director shall have a deputy, appointed under the same conditions and according to the same procedure as the directors.

The deputies may take part in the meetings of the Board of Directors but

without the right to vote unless replacing a director if the latter is unable to be present.

The Chairman or, in his absence, one of the Vice-Chairmen of the Management Committee shall preside over meetings of the Board of Directors, but shall not vote.

The members of the Board of Directors shall be chosen from amongst persons of note, selected for their ability and integrity. They shall be responsible only to the Bank.

3. A director may, by decision of the Board of Governors, voting with the prescribed majority, be removed from office only if he no longer fulfils the conditions necessary for the exercise of his functions.

If the annual report is not approved, this shall entail the resignation of the Board of Directors.

4. In the event of a vacancy or vacancies arising as a result of death, or of individual or collective resignation or removal from office, such vacancy or vacancies shall be filled according to the rules laid down in the preceding paragraph. Apart from cases of complete change of membership, members shall be replaced for the remainder of their term of office.

5. The Board of Governors shall fix the remuneration of members of the Board of Directors. Any question of incompatibility with regard to the functions of a Director or a deputy, shall be decided by the Board of Governors, voting unanimously.

ARTICLE 12

1. Each Director shall have one vote on the Board of Directors.

2. Unless otherwise provided in the present Statutes, the Board of Directors shall take its decisions by simple majority of the members of the Board entitled to vote. The prescribed majority shall require at least eight votes. The Rules of Procedure of the Bank shall fix the quorum in the absence of which decisions of the Board of Directors shall not be valid.

ARTICLE 13

1. The Management Committee shall consist of a chairman and two vice-chairmen, appointed for a period of six years by the Board of Governors on the proposal of the Board of Directors. They shall be re-eligible.

2. On the proposal of the Board of Directors, adopted by the prescribed majority, the Board of Governors, also voting with the prescribed majority, may remove from office members of the Management Committee.

3. The Management Committee shall be responsible for the day-to-day operations of the Bank, under the authority of the Chairman and under the supervision of the Board of Directors.

It shall prepare the decisions of the Board of Directors with regard, in particular, to the raising of loans and the granting of credits and guarantees. It shall be responsible for the implementation of such decisions.

4. The Management Committee, voting by a majority, shall formulate its opinions concerning means for the granting of loans and guarantees and concerning plans for the raising of loans.

5. The Board of Governors shall fix the remuneration of members of the Management Committee and decide on cases of incompatibility with their functions.

6. The Chairman or, if he is prevented, one of the Vice-Chairmen shall represent the Bank in judiciary or extra-judiciary matters.

7. The officials and employees of the Bank shall be under the authority of the Chairman and shall be engaged and dismissed by him. In the choice of staff, account must be taken not only of personal skills and professional qualifications, but also of a fair representation of the nationals of Member States.

8. The Management Committee and the staff of the Bank shall be responsible to the Bank only, and shall be completely independent in the exercise of their functions.

ARTICLE 14

1. A Committee of three members, appointed on grounds of their competence by the Board of Governors, shall each year verify that the operations of the Bank are properly conducted and the books properly kept.

2. It shall confirm that the balance sheet and profit and loss account are in conformity with the accounts and vouchers and faithfully reflect the situation of the Bank in regard to assets and liabilities.

ARTICLE 15

The Bank shall communicate with each Member State through the authority designated by the latter. In the conduct of financial operations, the Bank shall have recourse to the bank of issue of the Member State concerned, or to other financial institutions approved by the latter.

ARTICLE 16

1. The Bank shall co-operate with all international organisations whose fields of activity are similar to its own.

2. The Bank shall seek all suitable contacts facilitating co-operation with the banking and financial institutions of the countries to which it extends its operations.

ARTICLE 17

At the request of a Member State or of the Commission, or at its own initiative, the Board of Governors shall interpret or supplement, under the same conditions as those under which they were adopted, the directives laid down by it under the terms of Article 9 of the present Statutes.

ARTICLE 18

1. Within the framework of the mandate defined in Article 130 of the Treaty, the Bank shall grant credits to its members or to public or private enterprises for investment projects to be carried out within the European

territories of Member States, so far as means from other sources are not available on reasonable terms.

Nevertheless, by derogation authorised unanimously by the Board of Governors on the proposal of the Board of Directors, the Bank may grant credits for investment projects to be carried out, in whole or in part, outside the European territories of Member States.

2. The granting of loans shall, as far as possible, be made dependent on the employment of other means of financing.

3. Upon agreeing to grant a loan to an enterprise or authority other than a Member State, the Bank shall make the granting of such loans dependent on either a guarantee from the Member State within whose territory the project is to be carried out or on other adequate guarantees.

4. The Bank may guarantee loans raised by public or private enterprises or by local authorities for the purpose of carrying out operations provided for in Article 130 of the Treaty.

5. The total sum of loans and guarantees granted by the Bank shall not exceed 250% of the amount of the subscribed capital.

6. The Bank shall protect itself against exchange risks by including in contracts for loans or guarantees such clauses as it considers appropriate.

ARTICLE 19

1. The rates of interest on loans to be granted by the Bank and the rates of commission on guarantees must be adapted to prevailing conditions on the capital market and must be calculated so that the receipts therefrom shall enable the Bank to meet its obligations to cover its expenses and to constitute a reserve fund as provided for in Article 24.

2. The Bank shall not grant any reduction in rates of interest. Should a reduction in the rate of interest appear desirable, having regard to the particular nature of the project to be financed, the Member State concerned or a third party may grant a bonus on the interest in so far as the grant of such bonus is compatible with the rules laid down in Article 92 of the Treaty.

ARTICLE 20

In its operations relating to loans and guarantees, the Bank shall observe the following principles:

1. It shall ensure that its funds are employed in the most rational manner in the interests of the Community.

It may issue loans or provide guarantees for raising loans only:

(a) when the service of interest and amortisation is guaranteed by working profits in the case of projects carried out by enterprises in the sector of production or by an undertaking subscribed by the State in which the project is carried out, or given in some other way, in the case of other projects;

(b) and when the execution of the project contributes to the increase of economic productivity in general and promotes the development of the common market.

2. It shall not acquire any share in any enterprise or undertake any responsibility in the management thereof unless this is necessary for the protection of its own rights, in order to guarantee recovery of its debt.

3. It may dispose of its claims on the capital market and may, for this purpose, require its debtors to issue bonds or other securities.

4. Neither the Bank nor the Member States shall impose any conditions according to which the sums lent must be expended within any specific Member State.

5. It may make the granting of loans dependent on the organisation of international tenders.

6. It shall not finance, either in whole or in part, any project which is opposed by the Member State within whose territory it is to be executed.

ARTICLE 21

1. Requests for loans or guarantees may be addressed to the Bank either through the Commission or through the Member State in whose territory the project is to be carried out. An enterprise also may apply direct to the Bank for a loan or a guarantee.

2. Requests made through the Commission shall be submitted to the Member State in whose territory the project is to be carried out, for its opinion. Requests made through the State shall be submitted to the Commission for its opinion. Requests made direct by an enterprise shall be submitted to the Member State concerned and to the Commission.

The Member States concerned and the Commission shall give their opinions within at latest two months. Failing a reply by the end of this period, the Bank may assume that the project in question gives rise to no objections.

3. The Board of Directors shall decide upon requests for loans or guarantees which are submitted to it by the Management Committee.

4. The Management Committee shall examine whether requests for loans or guarantees submitted to it are in conformity with the provisions of the present Statutes, in particular, with those of Article 20. If the Management Committee decides in favour of granting the loan or guarantee, it shall submit the draft contract to the Board of Directors. It may make its favourable opinion dependent on such conditions as it thinks essential. If the Management Committee decides against granting the loan or guarantee, it shall submit the relevant documents to the Board of Directors together with its opinion.

5. If the Management Committee gives an unfavourable opinion, a unanimous vote by the Board of Directors shall be required for the granting of the loan or guarantee.

6. If the Commission gives an unfavourable opinion, a unanimous vote by the Board of Directors shall be required for the granting of the loan or guarantee, the director nominated by the Commission abstaining from voting on this occasion.

7. If both the Management Committee and the Commission give an unfavourable opinion, the Board of Directors shall not grant the loan or guarantee in question.

ARTICLE 22

1. The Bank shall raise loans, on the international capital markets, in order to procure the resources necessary to the accomplishment of its tasks.

2. The Bank may raise a loan on the capital market of a Member State, within the framework of the legal provisions applying to internal issues or, if there are no such provisions in a Member State, when the Member State in question and the Bank have concerted together and reached an agreement concerning the loan contemplated by the latter.

The competent authorities in the Member State may not refuse their assent unless serious disturbances on the capital market of that State are to be feared.

ARTICLE 23

1. The Bank may employ any available funds which it does not immediately need in order to meet its obligations, under the following conditions:

- (a) it may make investments in the money markets,
- (b) subject to the provisions of paragraph 2 of Article 20 it may buy and sell securities issued by itself or by its debtors;
- (c) it may transact any other financial operation consistent with its objective.

2. Without prejudice to the provisions of Article 25, the Bank, in managing its investments, shall not engage in any arbitrage of exchange that is not directly necessitated by the realisation of its credits or by the fulfilment of obligations it has contracted through the loans it has floated or guarantees it has granted.

3. In all activities covered by the present Article, the Bank shall act in agreement with the competent authorities of the Member States or with their respective banks of issue.

ARTICLE 24

1. A reserve fund, amounting to 10% of the subscribed capital, shall be built up progressively. Should the position of the Bank's obligations justify such action, the Board of Directors may decide to constitute additional reserves. Until this reserve fund has been completely built up, the following shall be put towards it:

(a) receipts from interest on loans granted by the Bank out of the amounts to be paid up by Member States under Article 5;

(b) receipts from interest on loans granted by the Bank out of the funds derived from repayment of the loans referred to in paragraph (a) above,

in so far as these receipts from interest are not required to meet the obligations of the Bank or to cover its expenses.

2. The amounts in the reserve fund shall be invested so as to be at all times available to meet the purpose of that fund.

ARTICLE 25

1. The Bank shall at all times have full authority to transfer its holdings in the currency of one of the Member States into the currency of another Member State, in order to carry out financial operations in conformity with its object as laid down in Article 130 of the Treaty, due regard being had to the provisions of Article 23 of the present Statutes. The Bank shall, so far as possible, avoid making such transfers if it possesses holdings readily available, or that can be mobilised, in the currency it needs.

2. The Bank may not convert its holdings in the currency of one of the Member States into the currency of an outside country without the agreement of the Member State concerned.

3. The Bank may dispose freely both of that part of its capital which is paid up in gold or convertible currencies, and also of foreign currency borrowed on an outside market.

4. The Member States undertake to make available to the Bank's debtors the foreign currency necessary for the repayment of capital and interest in respect of loans granted or guaranteed by the Bank in connection with projects to be carried out in their territories.

ARTICLE 26

Should a Member State fail to fulfil the obligations devolving on it as a member under the present Statutes and, in particular, that of paying up its share of the subscribed capital or its special loans, or of ensuring the service of its borrowings, the granting of loans or guarantees to that Member State or to its nationals may be suspended by a decision of the Board of Governors, voting with the prescribed majority.

Such a decision shall not free either the State itself or its nationals from their obligations towards the Bank.

ARTICLE 27

1. Should the Board of Governors decide to suspend the activities of the Bank, all the latter's activities shall immediately be brought to a standstill, with the exception of operations necessary to ensure the due utilisation, protection and conservation of its property and the fulfilment of its undertakings.

2. In the event of liquidation, the Board of Governors shall appoint the liquidators and give them instructions for carrying out the liquidation.

ARTICLE 28

1. The Bank shall, in each of the Member States, enjoy the widest legal capacity accorded to corporate bodies under the respective internal laws of those States, including, in particular, the right to acquire and dispose of movable and immovable property and to be a party to legal proceedings.

The privileges and immunities to be granted to the Bank shall be laid down in the Protocol provided for in Article 218 of the Treaty.

2. The property of the Bank shall be exempt from all forms of requisitioning and expropriation.

ARTICLE 29

Subject to the powers granted to the Court of Justice, the appropriate national tribunals shall be competent in respect of any litigation between the Bank and its creditors or debtors or between the Bank and third parties.

The Bank shall elect domicile in each of the Member States. Nevertheless, it may, in any contract, specify a special domicile or provide for arbitration procedure.

The property and assets of the Bank shall not be subject to seizure or to forced execution, except by decision of the courts.

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

[Here follow signatures as given above.]

APPLICATORY CONVENTION RELATING TO THE ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES WITH THE COMMUNITY

THE HIGH CONTRACTING PARTIES,

DESIROUS of establishing the Applicatory Convention provided for in Article 136 of the Treaty,

HAVE AGREED upon the following provisions, which shall be annexed to the present Treaty:

ARTICLE 1

The Member States shall participate under the conditions laid down hereunder, in any measures likely to promote the social and economic development of the countries and territories listed in Annex IV to the Treaty, their action in this matter being complementary to that taken by the authorities responsible for those countries or territories.

With this object, there shall be set up a Development Fund for the overseas countries and territories, into which the Member States shall, during a period of five years, pay the annual contributions provided for in Annex A to the present Convention.

The Fund shall be administered by the Commission.

ARTICLE 2

The authorities responsible for the countries and territories shall, in agreement with the local authorities or representatives of the people of the countries or territories concerned, submit to the Commission any social or economic projects for which financing by the Community is requested.

ARTICLE 3

The Commission shall each year draw up general programmes showing how the resources available in virtue of Annex B to the present Convention shall be allocated between different categories of projects.

Such general programmes shall comprise projects for financing:

(a) certain social institutions, in particular hospitals, teaching or technical research establishments and institutions for vocational training and the promotion of professional activities among the populations;

(b) economic investments of general interest directly connected with the implementation of a programme including specific schemes for productive development.

ARTICLE 4

At the beginning of each financial year, the Council, after consulting the Commission, shall decide by the prescribed majority the amounts to be devoted to the financing of:

(a) the social institutions referred to in Article 3 (a);

(b) the economic investments of general interest referred to in Article 3 (b).

In taking its decision, the Council shall endeavour to distribute the amounts available on a rational geographical basis.

ARTICLE 5

1. The Commission shall determine the allocation of the amount available in virtue of Article 4 (a) between the various requests received for the financing of social institutions.

2. The Commission shall draw up proposals for financing such economic investment schemes as it approves in virtue of Article 4 (b).

It shall transmit these proposals to the Council.

If, within a period of one month, no Member State requests that such proposals be considered by the Council they shall be regarded as approved.

If such proposals are considered by the Council, the latter's decision shall be taken by the prescribed majority within a period of two months.

3. Any amounts not allocated during one year shall be carried forward to future years.

4. The amounts allocated shall be made available to the authorities responsible for carrying out the work in question. The Commission shall ensure that they are utilised in conformity with the allocations decided upon and to the best economic advantage.

ARTICLE 6

The Council, voting with the prescribed majority, on a proposal by the Commission, shall, within six months from the entry into force of the Treaty, establish the conditions governing calls for and transfers of financial contributions, budgeting and administration of the resources of the Development Fund.

ARTICLE 7

The prescribed majority referred to in Articles 4, 5 and 6 above shall be 67 votes. The Member States shall have the following number of votes, respectively:

Belgium	11 votes
France	33 votes
Germany	33 votes
Italy	11 votes
Luxembourg	1 vote
Netherlands	11 votes

ARTICLE 8

In each of the countries or territories, the right of establishment shall be extended progressively to nationals and companies of Member States other than the one having special relations with the country or territory in question. During the first year of application of the present Convention, the Council, voting with the prescribed majority on a proposal by the Commission, shall decide upon the means by which this shall be done, so as to achieve the gradual disappearance of all discrimination during the transitional period.

ARTICLE 9

The customs treatment applied to trade between Member States and the countries and territories shall be that provided for in Articles 133 and 134.

ARTICLE 10

While the present Convention remains in force, Member States shall apply to their trade with the countries and territories the provisions of the Section of the Treaty relating to the abolition of quantitative restrictions between Member States that they apply during the same period in their mutual relations.

ARTICLE 11

1. In each of the countries or territories where import quotas exist and one year after the entry into force of the present Convention, quotas open to States other than the one with which such country or territory has special relations, shall be converted into global quotas open without discrimination to other Member States. From the same date, these quotas shall be increased each year by the application of the provisions of Article 32 and of paragraphs 1, 2, 4, 5, 6 and 7 of Article 33 of the Treaty.

2. When the global quota for a product not on the free list represents less than 7% of the total imports into a country or territory, a quota equal to 7% of such imports shall be established, not later than one year after the entry into force of the present Convention, and shall be increased annually in accordance with the provisions referred to in paragraph 1 above.

3. In the case of certain products for which no quota exists for imports into a country or territory, the Commission shall, by way of decision, de-

termine the methods by which the quotas offered to other Member States shall be opened and increased.

ARTICLE 12

Whenever import quotas established by Member States cover both imports coming from a State having special relations with a country or territory and imports coming from that country or territory, the proportion of imports coming from countries and territories shall be the subject of a global quota based on import statistics. The said quotas shall be fixed during the first year of application of the present Convention and shall be increased in accordance with the rules referred to in Article 10.

ARTICLE 13

The provisions of Article 10 shall not debar prohibitions or restrictions on imports, exports or transit when these are justified on grounds of public morality, public order or public security, the protection of the health or life of persons or animals or the preservation of plant life, the protection of national possessions of artistic, historical or archeological value or the protection of industrial or commercial property. Nevertheless, such prohibitions or restrictions must not constitute either a means of arbitrary discrimination, or a disguised restriction on trade.

ARTICLE 14

After the date of expiration of the present Convention, and until provision has been made for association during a further period, import quotas in the countries and territories and in the Member States in respect of products originating in the countries and territories, shall remain at the level fixed for the fifth year. Arrangements regarding the right of establishment in force at the end of the fifth year shall also be maintained.

ARTICLE 15

1. Imports of unroasted coffee into Italy and the Benelux countries, and of bananas into the Federal Republic of Germany, coming from an outside country, shall have the benefit of tariff quotas under the conditions laid down in Protocols annexed to the present Convention.

2. If the Convention expires before the conclusion of a new agreement, and pending such new agreement, Member States shall have the benefit, in respect of bananas, cocoa-beans and unroasted coffee, of tariff quotas which shall be allowed entry at the rates of duty applying at the beginning of the second stage, and which shall be equal to the volume of imports coming from outside countries during the last year for which statistics are available.

Such quotas shall, if the case arises, be increased in proportion to the increase in consumption in the importing countries.

3. Member States benefiting from tariff quotas allowed entry at the rates of duty applying on the date of the entry into force of the Treaty, in virtue of the Protocols relating to imports of unroasted coffee and bananas coming

from outside countries, shall be entitled, in respect of these products, to obtain the maintenance of tariff quotas at the level reached on the date of expiration of the Convention, in place of the arrangements provided for in the preceding paragraph.

Such quotas shall, if the case arises, be increased under the conditions laid down in paragraph 2 above.

4. At the request of the States concerned, the Commission shall fix the volume of the tariff quotas referred to in the foregoing paragraphs.

ARTICLE 16

The provisions contained in Articles 1 to 8 inclusive of the present Convention shall apply to Algeria and the French overseas Departments.

ARTICLE 17

Without prejudice to the application of the provisions of Articles 14 and 15, the present Convention shall be concluded for a period of five years.

Done at Rome, March 25, 1957.

[Here follow signatures as above.]

ANNEX A

AS PROVIDED FOR IN ARTICLE 1 OF THE CONVENTION

	1st year	2nd year	3rd year	4th year	5th year	Total
Percentages	10%	12.5%	16.5%	22.5%	38.5%	100%
Countries	In millions of E.P.U. units of account					
Belgium	7	8.75	11.55	15.75	26.95	70
France	20	25	33	45	77	200
Germany	20	25	33	45	77	200
Italy	4	5	6.60	9	15.40	40
Luxembourg	0.125	0.15625	0.20625	0.28125	0.48125	1.25
Netherlands	7	8.75	11.55	15.75	26.95	70

ANNEX B

AS PROVIDED FOR IN ARTICLE 3 OF THE CONVENTION

	1st year	2nd year	3rd year	4th year	5th year	Total
Percentages	10%	12.5%	16.5%	22.5%	38.5%	100%
Overseas countries and territories of:	In millions of E.P.U. units of account					
Belgium	3	3.75	4.95	6.75	11.55	30
France	51.125	63.906	84.356	115.031	196.832	511.25
Italy	0.5	0.625	0.825	1.125	1.925	5
Netherlands	3.5	4.375	5.775	7.875	13.475	35