

BRUXELLES 18 GIUGNO 2004. UNIONE EUROPEA. E' NATA LA NUOVA COSTITUZIONE EUROPEA

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CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES Brussels, 18 June 2004 CIG 85/04 PRESID 27

NOTE from: Presidency

dated: 18 June 2004

to: Delegations

Subject: IGC 2003

- Meeting of Heads of State or Government, Brussels, 17/18 June 2004 At their meeting on 18 June 2004 Heads of State or Government gave their agreement to the texts set out in document CIG 81/04, as amended and complemented by the texts annexed to the present document. These documents contain modifications to the text of the Constitution as contained in document CIG 50/03 together with its addendums and corrigendums. They constitute the outcome of the Intergovernmental Conference.

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PART I

INSTITUTIONS

ANNEX 1

THE EUROPEAN COMMISSION

Article I-25: The European Commission

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure that the Constitution and the measures adopted by the Institutions pursuant thereto are applied. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall implement the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Constitution. With the exception of the common foreign and security policy and other cases provided for in the Constitution, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.
2. Union legislative acts may be adopted only on the basis of a Commission proposal, except where the Constitution provides otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Constitution so provides.
3. The Commission's term of office shall be five years.
4. The Members of the Commission shall be chosen on the ground of their general competence and European commitment and their independence shall be beyond doubt.
5. The first Commission appointed under the provisions of the Constitution shall consist of one national of each Member State, including its President and the Union Minister for Foreign Affairs who shall be one of its Vice-Presidents.
6. As from the end of the term of office of the Commission referred to in paragraph 5, the Commission shall consist of a number of Members, including its President and the Union Minister for Foreign Affairs, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this figure.

They shall be selected among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established by a European decision adopted unanimously by the European Council on the basis of the following principles:

- (a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as Members of the Commission; consequently, the difference between the total number of terms of office held by nationals

of any given pair of Member States may never be more than one; (b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States of the Union.

7. In carrying out its responsibilities the Commission shall be completely independent. Without prejudice to Article I-27(2), the Members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or agency. They shall refrain from any action incompatible with their duties or the performance of their tasks.

8. The Commission, as a body, shall be responsible to the European Parliament. Under the procedures set out in Article III-243, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the Members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from the Commission.

Article I-26: The President of the European Commission

1. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

2. The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it intends to appoint as Members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in Article I-25(4) and (6) second subparagraph.

The President, the Union Minister for Foreign Affairs and the other Members of the Commission shall be subject as a body to a vote of approval by the European Parliament. On the basis of this approval the Commission shall be appointed by the European Council, acting by a qualified majority.

3. The President of the Commission shall:

(a) lay down guidelines within which the Commission shall carry out its tasks; (b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body; (c) appoint Vice-Presidents, other than the Union Minister for Foreign Affairs, from among the Members of the Commission.

A Member of the Commission shall resign if the President so requests. The Union Minister for Foreign Affairs shall resign, in accordance with the procedure set out in Article I-27(1), if the President so requests.

Declaration for incorporation in the Final Act re Article I-25

The Conference considers that when the Commission no longer includes nationals of all Member States, the Commission should pay particular attention to the need to ensure full transparency in relations with all Member States. Accordingly, the Commission should liaise closely with all Member States, whether or not they have a national serving as Member of the Commission, and in this context pay special attention to the need to share information and consult with all Member States.

The Conference also considers that the Commission should take all the necessary measures to ensure that political, social and economic realities in all Member States, including those which have no national serving as Member of the Commission, are fully taken into account. These measures should include ensuring that the position of those Member States is addressed by appropriate organisational arrangements.

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ANNEX 2

DEFINITION OF QUALIFIED MAJORITY

VOTING

Article I-24

1. A qualified majority shall be defined as at least 55% of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65% of the population of the Union.

A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

2. By derogation from paragraph 1, when the Council is not acting on a proposal from the Commission or from the Union Minister for Foreign Affairs, the qualified majority shall be defined as 72% of the members of the Council, representing Member States comprising at least 65% of the population of the Union [1].

Cases where only some Council members have the right to vote:

In cases where only some members of the Council have the right to vote (for example enhanced cooperation or Eurozone), the provisions of the Constitution which specifically define the qualified majority in such cases will be adapted. Such adaptation will consist in inserting in these provisions the percentages provided for in Article I-24 paragraph 1 and in paragraph 2, so as to be applicable only to Council members which have the right to vote and to the population of the Member States which they represent. As regards the adaptation of the figure in the second subparagraph of paragraph 1, the number of Council members will be the minimum number capable of constituting a blocking minority through the population criterion plus one.

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ANNEX 3

DRAFT DECISION RELATING TO THE

IMPLEMENTATION OF ARTICLE I-24 [2]

Draft Council Decision relating to the implementation of Article I-24

THE COUNCIL OF THE EUROPEAN UNION, Whereas:

1. It is considered appropriate to adopt provisions allowing for a smooth transition from the system for decision-making in the Council by qualified majority as defined in the Treaty of Nice and set out in Article 2, paragraph 2 of the Protocol on the transitional provisions relating to the institutions and bodies of the Union annexed to the Constitution, which will continue to apply until 31 October 2009 and the voting system foreseen under Article I-24 of the Constitution, which will apply with effect from 1 November 2009.

2. It is recalled that it is the practice of the Council to devote every effort to strengthening the democratic legitimacy of decisions taken by qualified majority.

3. It is judged appropriate to maintain the present Decision as long as is necessary to ensure smooth transition to the new voting system foreseen in the Constitution,

DECIDES:

Article

1 If members of the Council, representing:

(a) at least three-quarters of the level of population, or (b) at least three-quarters of the number of Member States necessary to constitute a blocking minority resulting from the application of Article I-24, first subparagraph, indicate their opposition to the Council adopting an act by a qualified majority, the Council shall discuss the issue.

Article 2

The Council shall, in the course of these discussions, do all in its power to reach, within a reasonable time and without prejudicing obligatory time limits laid down by Union law, a satisfactory solution to address concerns raised by the members of the Council referred to in Article 1.

Article 3

To this end, the President of the Council, with the assistance of the Commission and respecting the Rules of Procedure of the Council, shall undertake any initiative necessary to facilitate a wider basis of agreement in the Council. The members of the Council

shall lend him or her their assistance.

Article 4

The present Decision shall take effect on 1 November 2009. It shall remain in force at least until 2014. Thereafter the Council may adopt a European decision repealing it.

Declaration for incorporation in the Final Act

re Article I-24

The Conference declares that the European decision relating to the implementation of Article I-24 will be adopted by the Council on the day the Treaty establishing a Constitution for Europe enters into force.

ANNEX 4

EUROPEAN PARLIAMENT SEATS

Article I-19 (2)

2. The European Parliament shall be composed of representatives of the Union's citizens.

They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

Sufficiently in advance of the European Parliamentary elections in 2009, and, as necessary thereafter for further elections, the European Council shall adopt by unanimity, on the basis of a proposal from the European Parliament and with its consent, a European decision establishing the composition of the European Parliament, respecting the principles set out in the first paragraph above.

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PART II

NON-INSTITUTIONAL ISSUES

ANNEX 5

PROVISIONS SPECIFIC TO MEMBER

STATES WHOSE CURRENCY

IS THE EURO

Article III-92 (2)

2. After consulting the European Parliament and after discussion in the European Council, the Council, on a proposal from the Commission, shall adopt a European decision establishing which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in paragraph 1, and shall abrogate the derogations of the Member States concerned. The Council shall act having received a recommendation of a majority of those among its members representing Member States whose currency is the euro and comprising at least three fifths of the population of **those Member States [3]**; these members shall act within 6 months of the Council receiving the Commission's proposal.

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ANNEX 6

COORDINATION OF ECONOMIC POLICY

Article I-11 (3)

3. The Member States shall coordinate their economic and employment policies within arrangements as determined by Part III, which the Union shall have competence to provide.

Article I-14 (1)

1. The Member States shall coordinate their economic policies within the Union. To this end, the Council shall adopt measures, in particular broad guidelines for these policies.

* * *

ANNEX 7

DECLARATION ON THE STABILITY AND

GROWTH PACT

Declaration to be incorporated in the Final Act

re Article III-76

With regard to Article III-76, the Conference confirms that raising growth potential and securing sound budgetary positions are the two pillars of the economic and fiscal policy of the Union and the Member States. The Stability and Growth Pact is an important tool to achieve these goals.

The Conference reaffirms its commitment to the provisions concerning the Stability and Growth Pact as the framework for the coordination of budgetary policies in the Member States of the European Union.

The Conference confirms that a rules-based system is the best guarantee for commitments to be enforced and for all Member States to be treated equally.

Within this framework, the Conference also reaffirms its commitment to the goals of the Lisbon Strategy: job creation, structural reforms, and social cohesion.

The Union aims at achieving balanced economic growth and price stability. Economic and budgetary policies thus need to set the right priorities towards economic reforms, innovation, competitiveness and strengthening of private investment and consumption in phases of weak economic growth. This should be reflected in the orientations of budgetary decisions at the national and EU level in particular through restructuring of public revenue and expenditure while respecting budgetary discipline in accordance with the Constitution and the Stability and Growth Pact.

Budgetary and economic challenges facing the Member States underline the importance of sound budgetary policy throughout the economic cycle.

The Conference agrees that Member States should use periods of economic recovery actively to consolidate public finances and improve their budgetary positions. The objective is to gradually achieve a budgetary surplus in good times which creates the necessary room to accommodate economic downturns and thus contribute to the long-term sustainability of public finances.

The Member States look forward to possible proposals of the Commission as well as further contributions of Member States with regard to strengthening and clarifying the implementation of the Stability and Growth Pact. The Member States will take all necessary measures to raise the growth potential of their economies. Improved economic policy coordination could support this objective. This Declaration does not prejudice the future debate on the Stability and Growth Pact.

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ANNEX 8

MEASURES RELATING TO

EXCESSIVE DEFICITS

* Article III-76 (6)

6. The Council shall, on a proposal from the Commission, having considered any observations which the Member State concerned may wish to make and after an overall assessment, decide whether an excessive deficit exists. In that case it shall adopt without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to paragraph 8, those recommendations shall not be made public.

Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority shall be defined as the majority of the other members of the Council, representing Member States comprising at least three fifths of the population of **the participating Member States [4]** .

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ANNEX 9

MULTIANNUAL FINANCIAL FRAMEWORK

* Article I-54

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure in accordance with of Article III-308.

2. A European law of the Council shall lay down the multiannual financial framework.

The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

3. The annual budget of the Union shall comply with the multiannual financial framework.

4. The European Council may adopt, by unanimity, a European decision allowing for the Council to act by a qualified majority when adopting the European law of the Council referred to in paragraph 2.

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ANNEX 10

EXPLANATIONS RELATING TO THE

CHARTER OF FUNDAMENTAL RIGHTS

* 5th paragraph of the Preamble

This Charter reaffirms, with due regard for the powers and tasks of the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case law of the Court of Justice of the European Union and of the European Court of Human Rights. In this context the Charter will be interpreted by the courts of the Union and the Member States with due regard to the explanations prepared under the authority of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention.

Article II-52: Scope and interpretation of rights and principles

(New (7))

7. The explanations drawn up as a way of providing guidance in the interpretation of the Charter of Fundamental Rights shall be given due regard by the courts of the Union and of the Member States.

Declaration for incorporation in the Final Act concerning the explanations relating to the Charter of Fundamental Rights The

Conference takes note of the explanations relating to the Charter of Fundamental Rights prepared under the authority of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention, as set out below.

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ANNEX 11

(revised Annex 22 from CIG 81/04)

PROVISIONS SPECIFIC TO MEMBER STATES

WHOSE CURRENCY IS THE EURO

Article III-88

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Constitution, the Council shall, in accordance with the relevant procedure from among those referred to in Articles III-71 and III-76, with the exception of the procedure set out in paragraph 13 thereof, adopt measures specific to those Member States whose currency is the euro:

(a) to strengthen the coordination of their budgetary discipline and surveillance of it; (b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. [unchanged]

Article III-91 (2)

2. The following provisions of the Constitution shall not apply to Member States with a derogation:

(a) - (h) [unchanged]

(i) European decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article III-90(1));

(j) measures to ensure unified representation within the international financial institutions and conferences (Article III-90(2)).

In the Articles referred to above, "Member States" shall therefore mean Member States whose currency is the euro.

Article III-91 (4)

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

(a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings

(Article III-71(4));

(b) measures relating to excessive deficits concerning those Member States whose currency

is the euro (Article III-76(6), (7), (8) and (11)).

[remainder of paragraph unchanged]

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ANNEX 12

(revised Annex 26 from CIG 81/04)

EUROJUST

* Article III-174 (2)

2. In this context, European laws shall determine Eurojust's structure, operation, field of action and tasks. Those tasks may include:

(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions, conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;

(b) the coordination of investigations and prosecutions referred to in point (a);

(c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network. European laws shall also determine arrangements for involving the European Parliament and Member States' national Parliaments in the evaluation of Eurojust's activities.

Declaration for incorporation in the Final Act

re Article III-174 (2)

The Conference considers that the European laws referred to in Article III-174(2) should take into account national rules and practices relating to the initiation of criminal investigations.

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ANNEX 13

(revised Annex 55 from CIG 81/04)

ENHANCED COOPERATION

Article III-324 (1)

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the European authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to any such conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

Article III-325 (2)

2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the Union Minister for Foreign Affairs, who shall give an opinion on whether the enhanced cooperation contemplated is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a European decision of the Council acting unanimously.

Article III-326 (2)

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the Union Minister for Foreign Affairs and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the Union Minister for Foreign Affairs and after noting where necessary that the conditions of participation have been fulfilled. The Council, on a proposal from the Union Minister for Foreign Affairs, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining

the request for participation.

For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article I-43(3).

Article III-328

1. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article I-43(3), may decide to act by qualified majority.
2. Where a provision of the Constitution which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt European laws or framework laws under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article I-43(3), may decide to act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.
3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

Declaration for incorporation in the Final Act re Article III-325

The Conference declares that Member States may indicate, when they make a request to establish enhanced cooperation, if they intend already at that stage to make use of the provisions in Article III-328 providing for the extension of qualified majority voting or the ordinary legislative procedure.

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ANNEX 14

(revised Annex 36 from CIG 81/04)

ECONOMIC, SOCIAL AND TERRITORIAL COHESION

Article III-116

In order to promote its overall harmonious development, the Union shall develop and pursue its action leading to the strengthening of its economic, social and territorial cohesion.

In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.

Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and areas which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density, and island, cross-border and mountain areas.

Declaration for incorporation in the Final Act re Article III-116

The Conference considers that the reference in Article III-116 to island areas can include island states in their entirety, subject to the necessary criteria being met.

Article III-56 (2) (c)

2. The following shall be compatible with the internal market:

(a) [unchanged]

(b) [unchanged] (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, insofar as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing the present point.

Declaration for incorporation in the Final Act re

Article III-56 (2) (c)

The Conference notes that the provisions of Article III-56(2)(c) shall be interpreted in accordance with the existing case law of the Court of Justice regarding the applicability of the provisions to aid granted to certain areas of the Federal Republic of Germany affected by the former division of Germany.

Article III-56 (3) (a)

3. The following may be considered to be compatible with the internal market:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article III-330, in view of their structural, economic and social situation.

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ANNEX 15

(revised Annex 37 from CIG 81/04)

TRANSPORT

Article III-134

(new paragraph 3)

3. When the European law or framework laws referred to in paragraph 2 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.

Article III-141

The provisions of this Section shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division. Five years after the entry into force of the Treaty establishing a Constitution for Europe, the Council, acting on a proposal from the Commission, may adopt a European decision repealing the present Article.

Declaration for incorporation in the Final Act re Article III-141

The Conference notes that the provisions of Article III-141 shall be applied in accordance with the current practice. The term "the measures that are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division" shall be interpreted in accordance with the existing case law of the Court of Justice.

ANNEX 16

(revised Annex 39 from CIG 81/04)

ENERGY

Article I-13: Areas of shared competence

2. Shared competence applies in the following principal areas:

(a) internal market,

(b) social policy, for aspects defined in Part III,

- (c) economic, social and territorial cohesion,
- (d) agriculture and fisheries, excluding the conservation of marine biological resources,
- (e) environment,
- (f) consumer protection,
- (g) transport,
- (h) trans-European networks,
- (i) energy,
- (j) area of freedom, security and justice,
- (k) common safety concerns in public health matters, for aspects defined in Part III.

Article III-157

1. In establishing an internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim to:

- (a) ensure the functioning of the energy market,
- (b) ensure security of energy supply in the Union, and
- (c) promote energy efficiency and saving and the development of new and renewable forms of energy.

2. Without prejudice to the application of other provisions of the Constitution, the objectives of paragraph 1 shall be achieved by measures enacted in European laws or framework laws. Such laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee.

Such laws or framework laws shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article III-130(2)(c).

3. By derogation from paragraph 2, a European law or framework law of the Council shall establish the measures referred to therein when they are primarily of a fiscal nature. The Council shall act unanimously after consulting the European Parliament.

Declaration for incorporation in the Final Act re Article III-157

The Conference believes that Article III-157 does not affect the right of the Member States to take the necessary measures to ensure their energy supply under the conditions provided for in Article III-16.

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ANNEX 17

(revised Annex 52 from CIG 81/04)

AUTHENTIC TEXTS AND

TRANSLATIONS

* Article IV-10 new (2)

2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be

provided by the Member States concerned to be deposited in the archives of the Council.

Declaration for incorporation in the Final Act re Article IV-10 (2)

The Conference considers that the possibility of producing official translations of the Treaty in the languages mentioned in the second paragraph of Article IV-10 contributes to fulfilling the objective of respecting the Union's rich cultural and linguistic diversity as set forth in paragraph 3 of Article I-3 of the Treaty. In this context, the Conference confirms the attachment of the Union to the cultural diversity of Europe and the special attention it will continue to pay to these and other languages.

The Conference recommends that those Member States wishing to avail themselves of the possibility recognised in Article IV-10(2) communicate to the Council, within six months from the date of the signature of the Treaty, the language or languages into which translations of the Treaty will be made.

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ANNEX 18

THE POSITION OF THE UNITED KINGDOM AND

IRELAND ON POLICIES IN RESPECT OF BORDER

CONTROLS, ASYLUM AND IMMIGRATION,

JUDICIAL COOPERATION IN CIVIL MATTERS AND

ON POLICE COOPERATION

Protocol on the position of the United Kingdom and Ireland

on policies in respect of border controls , asylum and immigration,

judicial cooperation in civil matters and on police cooperation

Article 1 [5]

Subject to Article 3, the United Kingdom and Ireland shall not take part in the adoption by the Council of proposed measures pursuant to Section 2 or Section 3 of Chapter IV of Title III of Part III of the Constitution or to Article III-161 insofar as that Article relates to the areas covered by those Sections or to Article III-164 or Article III-176(2)a. The unanimity of the members of the Council, with the exception of the representatives of the governments of the United Kingdom and Ireland, shall be necessary for decisions of the Council which must be adopted unanimously.

[Second paragraph unchanged]

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ANNEX 19

DECLARATIONS BY MEMBER STATES

TO BE INCORPORATED IN THE FINAL ACT

1. Declaration by the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland

The Treaty establishing the Constitution applies to Gibraltar as a European territory for whose external relations a Member State is responsible. This shall not imply changes in the respective positions of the Member States concerned.

2. Declaration by the United Kingdom of Great Britain and Northern Ireland on the definition of the term "nationals"

In respect of the Treaty establishing a Constitution for Europe or the Treaty establishing the European Atomic Energy Community, or in any of the Acts deriving from those Treaties or continued in force by those Treaties, the United Kingdom reiterates the Declaration it made on 31 December 1982 on the definition of the term "nationals" with the exception that the reference to "British Dependant Territories Citizens" shall be read as meaning "British overseas territories citizens".

3. Declaration by the Kingdom of the Netherlands re Article IV-4

The Kingdom of the Netherlands declares that an initiative for a European decision, as referred to in Article IV-4(7), aimed at amending the status of the Netherlands Antilles and/or Aruba with regard to the European Union, will be submitted only on the basis of a decision taken in conformity with the Statute of the Kingdom of the Netherlands.

4. Declaration by the Kingdom of the Netherlands re Article I-54

The Kingdom of the Netherlands will agree with a European decision as referred to in Article I-54(4) once a revision of the European law referred to in Article I-53(3) has provided the Netherlands with a satisfactory solution for its excessive negative net payment position vis a vis the European Union budget.