

TEXTS RESULTING FROM THE EUROPEAN COUNCIL
IN LUXEMBOURG, 2 AND 3 DECEMBER 1985

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T H E I N T E R N A L M A R K E T

SN 4317/2/85

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Article 1

The Community shall adopt measures intended progressively to establish the internal market in the course of a period expiring on 31 December 1992, in accordance with the following provisions, without prejudice to the other provisions of the Treaty.

The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty.

Article 2

1. In Articles 28; 57(2), second sentence (¹); 59, second paragraph; 70(1) (¹) and 84 the terms "unanimously" or "unanimity" shall be replaced by "by a qualified majority" or "a qualified majority" respectively.

(¹) The Conference signified its agreement to retention of the unanimity rule for measures affecting the fundamental principles of professional organization ("Berufsordnung") and for measures constituting a step back with regard to liberalization of capital movements.

2. The provisions of Article 99 shall be replaced by the following:

The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt provisions on the harmonization of legislation concerning turnover taxes, excise duties, and other forms of indirect taxation to the extent that such harmonization is necessary to ensure the establishment and the operation of the internal market within the time-limits laid down in Article 1.

3. Article 100a shall be inserted after Article 100.

Article 100a

By way of derogation from Article 100 and save where otherwise provided in this Treaty, the following provisions shall apply for the attainment of the objectives of Article 1. The Council shall, acting by a qualified majority on a proposal from the Commission after consulting the European Parliament and the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and operation of the internal market.

The first paragraph shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.

The Commission's proposals for the approximation of laws on health, safety, environmental protection and consumer protection will be based on a high level of protection.

If, after the adoption of a harmonization measure or a Decision pursuant to Article 6 by the Council acting by a qualified majority, a Member State deems it necessary to apply national provisions on grounds of major needs as referred to in Article 36, or relating to protection of the working environment and the natural environment, it shall notify the Commission of these provisions.

The Commission shall confirm the provisions involved after having verified that they are not a means of arbitrary discrimination or disguised restriction in trade between Member States.

By way of derogation from the procedure laid down in Articles 169 and 170, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this Article.

The harmonization measures referred to above shall, in appropriate cases, include a safeguard clause authorizing the Member States to take, for one or more of the non-economic reasons referred to in Article 36 of the Treaty, provisional measures subject to a Community control procedure.

Article 3.

When drawing up its proposals with a view to achieving the objectives of Article 1, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market and it may propose appropriate provisions.

If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the common market.

Article 4

[Delegation of competence to the Commission to be regulated on the basis of the decision on the powers of execution of the Commission. The Commission has proposed an Advisory Committee.]_7

Article 5

The Commission shall deliver a report to the Council before 31 December 1988 and again before 31 December 1990 on the progress made towards achieving the internal market within the time limit fixed in Article 1.

The Council, acting by a qualified majority on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

Article 6

During 1992, the Commission shall, together with each Member State, draw up an enumeration of national laws, regulations and administrative provisions which fall under Article 100a and which have not been harmonized pursuant to that Article.

The Council, acting in accordance with the provisions of Article 100a, may decide that the provisions in force in a Member State must be recognized as being equivalent to those applied by another Member State.

The Commission shall draw up the enumeration referred to in the first paragraph and shall submit appropriate proposals in good time so as to allow the Council to act before the end of 1992.

Article 7 ⁽¹⁾

The preceding provisions shall not derogate from the stipulations of the Treaty of Accession of Spain and Portugal.

⁽¹⁾ This provision should be made to apply generally to all amendments made to the EEC Treaty.

INTERNAL MARKET

STATEMENTS FOR INCLUSION

IN THE RECORD OF THE CONFERENCE

Re Article 1

The Conference wishes by means of the provisions in Article 1 to firmly express its political will to take the decisions necessary before 1 January 1993 to complete the internal market defined in the provisions in question. This particularly concerns decisions necessary to implement the Commission's programme described in the White Paper on the Internal Market.

By setting the date of 31 December 1992, the Member States have not created a legal obligation.

- unilateral statement by Greece

Greece considers that the development of Community policies and actions, and the adoption of measures on the basis of Articles 70(1) and 84, must both take place in such a way as not to harm sensitive sectors of Member States' economies.

Re Article 2(3)

In its proposals pursuant to the first paragraph of Article 100a the Commission shall give precedence to the use of the instrument of a Directive if harmonization involves the amendment of legislative provisions in one or more Member States.

Re Article 6

The Conference considers that, since Article 3 is of general application, it also applies to the proposals which the Commission is required to make under Article 6.

Re general statement

Nothing in these provisions shall affect the right of Member States to take such measures as they consider necessary for the purpose of controlling immigration from third countries, and to combat terrorism, crime, the traffic in drugs and illicit trading in works of art and antiques.

POLITICAL DECLARATION BY THE GOVERNMENTS
OF THE
MEMBER STATES

In order to promote the free movement of persons the Member States shall co-operate, without prejudice to the powers of the Community, in particular as regards the entry, movement and residence of nationals of third countries. They shall also co-operate in the combating of terrorism, crime, the traffic in drugs and illicit trading in works of art and antiques.

MONETARY CAPACITY

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1. The reference to Economic and Monetary Union appears in the Preamble to the text amending the Treaty of Rome, which reads as follows:

- Whereas the Heads of State or Government, at their Conference in Paris from 19 to 21 October 1972, approved the objective of the progressive achievement of Economic and Monetary Union;
- Considering the Annex to the conclusions of the Presidency of the European Council meeting in Bremen on 6 and 7 July 1978 and the Resolution of the European Council meeting in Brussels on 6 December 1978, concerning the setting-up of the European Monetary System (EMS) and related questions;
- Whereas, on the basis of that Resolution, the Community and the Central Banks of the Member States have taken a number of measures designed to implement monetary co-operation;

2. In Title II "Economic Policy", the following should be added before the chapter on conjunctural policy:

Chapter I "Co-operation in economic and monetary policy"
(Economic and Monetary Union)

New Article to be added before Article 103

(1) In order to ensure the convergence of economic and monetary policies which is necessary for the further development of the Community, Member States shall co-operate in accordance with the objectives of Article 104. In doing so, they shall take account of the experience acquired in co-operation in the framework of the European Monetary System, and in developing the ECU, and shall respect existing powers in this field.

(2) Insofar as further development in the field of economic and monetary policy necessitates institutional changes, the procedure laid down in Article 236 shall be applicable. The Commission, the Monetary Committee and the Committee of Governors of the Central Banks shall be consulted regarding institutional changes in the area of monetary policy.

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Article 1

In order to promote its harmonious development overall, the Community shall develop and pursue its actions leading to strengthening its economic and social cohesion.

In particular the Community shall aim at reducing disparities between the various regions and mitigating the backwardness of the least-favoured regions.

Article 2

Member States shall conduct their economic policies, and shall co-ordinate them, in such a way as, in addition, to attain the objectives of Article 1. The implementation of the common policies and of the internal market shall take into account the objectives of Article 1 and of Article 3 and shall contribute to their achievement. The Community shall support the achievement of these objectives by the action it takes through the structural Funds (EAGGF (Guidance Section), Social Fund, ERDF), the EIB and other existing financial instruments.

Article 3

The ERDF is intended to help redress the principal regional imbalances in the Community through participating in the development and structural adjustment of regions whose development is lagging and in the reconversion of declining industrial regions.

Article 4

Once the Treaty enters into force the Commission shall submit a comprehensive proposal to the Council; the purpose of this proposal will be that the structure and operational rules of the existing structural funds which are adequately financed so far as budgetary resources permit (EAGGF (Guidance Section), European Social Fund, ERDF) are to be amended as necessary to clarify and rationalize the funds' tasks in order to contribute to the achievement of the objectives of Article 1 and Article 3 and to increase their efficiency and co-ordinate their activities between themselves and with the activities of the existing financial instruments. The Council shall act unanimously on this proposal within a period of one year, having beforehand consulted the European Parliament and the Economic and Social Committee.

Article 5

After adoption of the decision referred to in Article 4, implementing decisions relating to the ERDF shall be taken by the Council acting by a qualified majority on a proposal from the Commission, after consulting the European Parliament.

With regard to the EAGGF (Guidance Section) and the Social Fund, the provisions of Articles 43, 126 and 127 shall remain applicable respectively.

THE EUROPEAN PARLIAMENT

Article 1

A co-operation procedure shall be introduced which shall apply to acts based on Articles 7, 49, 54(2), 56, 57 and 100a of the Treaty establishing the European Economic Community. The co-operation procedure shall also apply to acts based on Article 11(2) of the text on research and technological development and on Article 5 of the text on cohesion and also on acts to be taken by a qualified majority pursuant to Article 118.

Article 2

The provisions of Article 149 of the Treaty establishing the European Economic Community shall be replaced by the following:

1. Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal.

2. Where, in pursuance of this Treaty, a Council act is adopted in co-operation with the European Parliament, the following procedure shall apply:

- (a) The Council, acting by a qualified majority under the conditions of paragraph 1 above, on a proposal from the Commission and after obtaining the Opinion of the European Parliament, shall adopt a common position.
- (b) The Council's common position shall be transmitted to the European Parliament. The Council and the Commission shall inform the Parliament fully of the reasons which led the Council to adopt its common position and also of the Commission's position.

If, within three months of such communication, the European Parliament approves this common position or has not taken a decision within that period, the Council shall definitively adopt the act in question in accordance with the common position.

- (c) Within the period of three months referred to in paragraph 2(b), the European Parliament may, by an absolute majority of its constituent members, propose amendments to the Council's common position. The European Parliament may also reject the Council's common position by the same majority. The result of the proceedings shall be transmitted to the Council and the Commission.

If the Parliament has rejected the Council's common position, unanimity shall be required for the Council to act on a second reading.

(d) The Commission shall, within the period of one month, re-examine the proposal, on the basis of which the Council adopted its common position, by taking into account the amendments proposed by the European Parliament.

(e) The Council, acting by a qualified majority, shall adopt the proposal re-examined by the Commission.

Unanimity shall be required for the Council to amend the Commission's re-examined proposal.

(f) The Council shall be required to act within a period of three months.

3. As long as the Council has not acted, the Commission may alter its original proposal at any time during the procedure.

Article 3

The provisions of the first paragraph of Article 237 shall be replaced by the following:

Any European State may apply to become a member of the Community. It shall address its application to the Council which, after consulting the Commission, shall act unanimously after receiving the assent of the European Parliament which shall act by a majority of its members.

Article 4

The provisions of the second paragraph of Article 238 shall be replaced by the following:

These agreements shall be concluded by the Council, acting unanimously and after receiving the assent of the European Parliament which shall act by a majority of its members.

In respect of the co-operation procedure, the European Council instructed the Conference of Representatives of the Member States to:

- clarify the procedure to be followed in the event of the European Parliament rejecting the Council's position at its second reading;
- spell out the procedure to be followed in order to avoid any legal vacuum, in the event of the Council not acting by the three month deadline laid down in point (f), it being agreed that the Council will take the final decision.

MANAGEMENT AND IMPLEMENTING POWERS OF THE COMMISSION

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Article 145

To ensure that the objectives set out in this Treaty are attained, the Council shall, in accordance with the provisions of this Treaty:

- ensure co-ordination of the general economic policies of the Member States;
- have power to take decisions;
- confer on the Commission, in the acts which it adopts, powers for the implementation of the rules it lays down. The Council may impose certain requirements in respect of the exercise of these powers. The Council may also reserve the right in specific cases to exercise implementing powers itself directly. The procedures referred to above must be consonant with principles and rules to be laid down in advance by the Council, acting unanimously on a proposal from the Commission and after obtaining the Opinion of the European Parliament.

RESEARCH AND TECHNOLOGICAL DEVELOPMENT

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Article 1

1. The Community's aim shall be to strengthen the scientific and technological basis of European industry, and to encourage it to become more competitive at international level.

2. In order to achieve this, it shall encourage undertakings including small and medium-sized undertakings, research centres and universities in their research and technological development activities; it shall support their efforts to co-operate with one another, aiming, in particular, to enable undertakings to exploit the Community's internal market potential to the full, inter alia through the opening up of national public contracts, the definition of common standards and the removal of legal and fiscal barriers to that co-operation.

3. In the achievement of these aims, particular account shall be taken of the connection between the joint research and technological development effort, the establishment of the internal market and the implementation of joint policies, particularly as regards competition and trade.

Article 2

In pursuing these objectives the Community shall carry out the following activities, complementing the activities carried out in the Member States:

- (a) implementation of research, demonstration and technological development (RTD) programmes, by promoting co-operation with undertakings, research centres and universities;
- (b) promotion of co-operation with third countries and international organizations in the field of Community RTD;
- (c) dissemination and optimization of the use of the results of Community RTD activities;
- (d) stimulation of the training and mobility of researchers in the Community.

Article 3

In liaison with the Commission, the Member States shall co-ordinate among themselves the policies and programmes carried out at national level. In close contact with the Member States, the Commission may take any useful initiative to promote such co-ordination.

Article 4

1. The Community shall adopt a multiannual framework programme setting out all its activities. The framework programme shall lay down the scientific and technical objectives, define their respective priorities, set out the main lines of the activities envisaged and fix the amount deemed necessary, the detailed rules for financial participation by the Community in the programme as a whole and the breakdown of this amount between the various activities envisaged.
2. The framework programme may be adapted or supplemented, as the situation changes.

Article 5

The framework programme shall be implemented through specific programmes developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary.

The Council shall define the detailed arrangements for the dissemination of knowledge resulting from the specific programmes.

Article 6

In implementing the multiannual framework programme, supplementary programmes may be decided involving the participation of certain Member States only, which shall finance them subject to possible Community participation.

The Council shall adopt the rules applicable to supplementary programmes, particularly as regards the dissemination of knowledge and the access of other Member States.

Article 7

In implementing the multiannual framework programme, the Community may make provision, with the agreement of the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

Article 8

In implementing the multiannual framework programme, the Community may make provision for RTD co-operation with third countries or international organizations.

The detailed arrangements for such co-operation may be the subject of international agreements between the Community and the third parties concerned which shall be negotiated and concluded in accordance with Article 223.

Article 9

The Community may set up joint undertakings or any other structure necessary for the efficient execution of Community RDTG programmes.

Article 10

1. The detailed arrangements for financing each programme, including any Community contribution, shall be established at the time of the adoption of the programme.
2. The amount of the Community's annual contribution shall be laid down under the budget procedure, without prejudice to other possible methods of Community financing. The estimated cost of the specific programmes must not in aggregate exceed the financial provision in the framework programme.

Article 11

1. The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament, adopt the provisions referred to in Articles 4 and 9.
2. The Council shall, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, adopt the provisions referred to in Articles 5, 6, 7 and 10. The adoption of the supplementary programmes shall also require the agreement of the Member States concerned. (*)

(*) Following the adoption of this provision it will be necessary to make technical adjustments to the last paragraph of Article 4 of the Decision on own resources.

THE ENVIRONMENT

Article 1

1. Action by the Community relating to the environment shall have the following objectives:
 - to preserve, protect and improve the quality of the environment;
 - to contribute towards protecting human health;
 - to ensure a prudent and rational utilization of natural resources.

2. Action by the Community relating to the environment shall be based on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source, and that the polluter should pay. Environmental protection requirements shall be a component of the Community's other policies.

3. In preparing its action relating to the environment, the Community shall take account of:
 - available scientific and technical data;
 - environmental conditions in the various regions of the Community;
 - the potential benefits and costs of action or of lack of action;
 - the economic and social development of the Community as a whole and the balanced development of its regions.

4. The Community shall take action relating to the environment to the extent to which the objectives referred to in paragraph 1 can be attained better at Community level than at the level of the individual Member States. Without prejudice to certain measures of a Community nature, the Member States shall finance and implement the other measures.
5. Within their respective spheres of competence, the Community and the Member States shall co-operate with third countries and with the competent international organizations. The arrangements for Community co-operation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 228.

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

Article 2

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall decide what action is to be taken by the Community.

Article 3

The protective measures adopted in common pursuant to Article 2 shall not prevent any Member State from maintaining and introducing more stringent protective measures compatible with the Treaty.

Declaration to be inserted in the record of the Conference

The Community's activities in the sphere of the environment must not interfere with national policies regarding the exploitation of energy resources.

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Draft texts supplementing Article 118

(a) Working environment

1. The Member States shall pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers, and shall set as their objective the harmonization of conditions in this area, while maintaining the improvements.
2. In order to help achieve the objective laid down in the first paragraph, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt, by means of Directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States.
3. The provisions adopted pursuant to this Article shall not prevent any Member State from retaining or introducing more stringent measures for the protection of working conditions compatible with the Treaty.

(b) Dialogue between both sides of industry

The Commission shall endeavour to develop the dialogue between management and labour at European level which could, if those two sides consider it desirable, lead to agreements.