



European Communities No. 2 (2003)

Treaty

between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland
(Member States of the European Union)

and

the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union

including

the Protocols and Final Act with Declarations

Athens, 16 April 2003

Volume 1 – The Treaty and Act of Accession

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 2003*

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TREATY BETWEEN THE KINGDOM OF BELGIUM, THE KINGDOM OF DENMARK, THE FEDERAL REPUBLIC OF GERMANY, THE HELLENIC REPUBLIC, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, IRELAND, THE ITALIAN REPUBLIC, THE GRAND DUCHY OF LUXEMBOURG, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE PORTUGUESE REPUBLIC, THE REPUBLIC OF FINLAND, THE KINGDOM OF SWEDEN, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (MEMBER STATES OF THE EUROPEAN UNION)

AND

THE CZECH REPUBLIC, THE REPUBLIC OF ESTONIA, THE REPUBLIC OF CYPRUS, THE REPUBLIC OF LATVIA, THE REPUBLIC OF LITHUANIA, THE REPUBLIC OF HUNGARY, THE REPUBLIC OF MALTA, THE REPUBLIC OF POLAND, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC

CONCERNING

THE ACCESSION OF THE CZECH REPUBLIC, THE REPUBLIC OF ESTONIA, THE REPUBLIC OF CYPRUS, THE REPUBLIC OF LATVIA, THE REPUBLIC OF LITHUANIA, THE REPUBLIC OF HUNGARY, THE REPUBLIC OF MALTA, THE REPUBLIC OF POLAND, THE REPUBLIC OF SLOVENIA AND THE SLOVAK REPUBLIC TO THE EUROPEAN UNION

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,
THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,
HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,
THE PARLIAMENT OF THE REPUBLIC OF HUNGARY,
THE PRESIDENT OF MALTA,
HER MAJESTY THE QUEEN OF THE NETHERLANDS,
THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,
THE PRESIDENT OF THE REPUBLIC OF POLAND,
THE PRESIDENT OF THE PORTUGUESE REPUBLIC,
THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,
THE PRESIDENT OF THE SLOVAK REPUBLIC,
THE PRESIDENT OF THE REPUBLIC OF FINLAND,
THE GOVERNMENT OF THE KINGDOM OF SWEDEN,
HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND,

UNITED in their desire to pursue the attainment of the objectives of the Treaties on which the European Union is founded,

DETERMINED in the spirit of those Treaties to continue the process of creating an ever closer union among the peoples of Europe on the foundations already laid,

CONSIDERING that Article 49 of the Treaty on European Union¹ affords European States the opportunity of becoming members of the Union,

CONSIDERING that the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic have applied to become members of the Union,

¹ Treaty Series No.12 (1994) Cm 2485 and a consolidated version in Treaty Series No.52 (1999) Cm 4434

CONSIDERING that the Council of the European Union, after having obtained the opinion of the Commission and the assent of the European Parliament, has declared itself in favour of the admission of these States,

HAVE DECIDED to establish by common agreement the conditions of admission and the adjustments to be made to the Treaties on which the European Union is founded, and to this end have designated as their Plenipotentiaries:

HIS MAJESTY THE KING OF THE BELGIANS,

THE PRESIDENT OF THE CZECH REPUBLIC,

HER MAJESTY THE QUEEN OF DENMARK,

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY,

THE PRESIDENT OF THE REPUBLIC OF ESTONIA,

THE PRESIDENT OF THE HELLENIC REPUBLIC,

HIS MAJESTY THE KING OF SPAIN,

THE PRESIDENT OF THE FRENCH REPUBLIC,

THE PRESIDENT OF IRELAND,

THE PRESIDENT OF THE ITALIAN REPUBLIC,

THE PRESIDENT OF THE REPUBLIC OF CYPRUS,

THE PRESIDENT OF THE REPUBLIC OF LATVIA,

THE PRESIDENT OF THE REPUBLIC OF LITHUANIA,

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG,

THE PARLIAMENT OF THE REPUBLIC OF HUNGARY,

THE PRESIDENT OF MALTA,

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

THE FEDERAL PRESIDENT OF THE REPUBLIC OF AUSTRIA,

THE PRESIDENT OF THE REPUBLIC OF POLAND,

THE PRESIDENT OF THE PORTUGUESE REPUBLIC,
THE PRESIDENT OF THE REPUBLIC OF SLOVENIA,
THE PRESIDENT OF THE SLOVAK REPUBLIC,
THE PRESIDENT OF THE REPUBLIC OF FINLAND,
THE GOVERNMENT OF THE KINGDOM OF SWEDEN,
HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND,

WHO, having exchanged their full powers found in good and due form,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

1. The Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic hereby become members of the European Union and Parties to the Treaties on which the Union is founded as amended or supplemented.
2. The conditions of admission and the adjustments to the Treaties on which the Union is founded, entailed by such admission, are set out in the Act annexed to this Treaty. The provisions of that Act shall form an integral part of this Treaty.
3. The provisions concerning the rights and obligations of the Member States and the powers and jurisdiction of the institutions of the Union as set out in the Treaties referred to in paragraph 1 shall apply in respect of this Treaty.

ARTICLE 2

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic by 30 April 2004 at the latest.
2. This Treaty shall enter into force on 1 May 2004 provided that all the instruments of ratification have been deposited before that date.

If, however, the States referred to in Article 1(1) have not all deposited their instruments of ratification in due time, the Treaty shall enter into force for those States which have deposited their instruments. In this case, the Council of the European Union, acting unanimously, shall decide immediately upon such adjustments as have become indispensable to Article 3 of this Treaty, to Articles 1, 6(6), 11 to 15, 18, 19, 25, 26, 29 to 31, 33 to 35, 46 to 49, 58 and 61 of the Act of Accession, to Annexes II to XV and their Appendices to that Act and to Protocols 1 to 10 annexed thereto; acting unanimously, it may also declare that those provisions of the aforementioned Act, including its Annexes, Appendices and Protocols, which refer expressly to a State which has not deposited its instrument of ratification have lapsed, or it may adjust them.

3. Notwithstanding paragraph 2, the institutions of the Union may adopt before accession the measures referred to in Articles 6(2) second subparagraph, 6(6) second subparagraph, 6(7) second and third subparagraphs, 6(8) second and third

subparagraphs, 6(9) third subparagraph, 21, 23, 28(1), 32(5), 33(1), 33(4), 33(5), 38, 39, 41, 42 and 55 to 57 of the Act of Accession, Annexes III to XIV to that Act, and Protocol 2, Article 6 of Protocol 3, Article 2(2) of Protocol 4, Protocol 8 and Articles 1, 2 and 4 of Protocol 10 annexed thereto. These measures shall enter into force only subject to and on the date of the entry into force of this Treaty.

ARTICLE 3

This Treaty, drawn up in a single original in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will remit a certified copy to each of the Governments of the other Signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

Done at Athens on the sixteenth day of April in the year two thousand and three.

ACT
CONCERNING THE CONDITIONS OF ACCESSION
OF THE CZECH REPUBLIC, THE REPUBLIC OF ESTONIA,
THE REPUBLIC OF CYPRUS, THE REPUBLIC OF LATVIA,
THE REPUBLIC OF LITHUANIA, THE REPUBLIC OF HUNGARY,
THE REPUBLIC OF MALTA, THE REPUBLIC OF POLAND,
THE REPUBLIC OF SLOVENIA AND THE SLOVAK REPUBLIC
AND THE ADJUSTMENTS TO THE TREATIES
ON WHICH THE EUROPEAN UNION IS FOUNDED

PART ONE

Principles

ARTICLE 1

For the purposes of this Act:

the expression "original Treaties" means:

- (a) the Treaty establishing the European Community ("EC Treaty")¹ and the Treaty establishing the European Atomic Energy Community ("Euratom Treaty")², as supplemented or amended by treaties or other acts which entered into force before this accession,
- (b) the Treaty on European Union ("EU Treaty"),³ as supplemented or amended by treaties or other acts which entered into force before this accession;

the expression "present Member States" means the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland;

¹ Consolidated versions in Treaty Series No. 52 (1999) Cm 4434 and Treaty Series No. 47 (1988) Cm 455

² Treaty Series No. 1 (1973) Cmnd 5179

³ Treaty Series No. 12 (1994) Cm 2485 and a consolidated version in Treaty Series No. 52 (1999) Cm 4434

the expression "the Union" means the European Union as established by the EU Treaty;

the expression "the Community" means one or both of the Communities referred to in the first indent, as the case may be;

the expression "new Member States" means the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;

the expression "the institutions" means the institutions established by the original Treaties.

ARTICLE 2

From the date of accession, the provisions of the original Treaties and the acts adopted by the institutions and the European Central Bank before accession shall be binding on the new Member States and shall apply in those States under the conditions laid down in those Treaties and in this Act.

ARTICLE 3

1. The provisions of the Schengen acquis as integrated into the framework of the European Union by the Protocol annexed to the Treaty on European Union and to the Treaty establishing the European Community (hereinafter referred to as the "Schengen Protocol"), and the acts building upon it or otherwise related to it, listed in Annex I to this Act, as well as any further such acts which may be adopted before the date of accession, shall be binding on and applicable in the new Member States from the date of accession.

2. Those provisions of the Schengen acquis as integrated into the framework of the European Union and the acts building upon it or otherwise related to it not referred to in paragraph 1, while binding on the new Member States from the date of accession, shall only apply in a new Member State pursuant to a Council decision to that effect after verification in accordance with the applicable Schengen evaluation procedures that the necessary conditions for the application of all parts of the acquis concerned have been met in that new Member State and after consulting the European Parliament.

The Council shall take its decision acting with the unanimity of its members representing the Governments of the Member States in respect of which the provisions referred to in the present paragraph have already been put into effect and of the representative of the Government of the Member State in respect of

which those provisions are to be put into effect. The members of the Council representing the Governments of Ireland and of the United Kingdom of Great Britain and Northern Ireland shall take part in such a decision insofar as it relates to the provisions of the Schengen acquis and the acts building upon it or otherwise related to it in which these Member States participate.

3. The Agreements concluded by the Council under Article 6 of the Schengen Protocol shall be binding on the new Member States from the date of accession.

4. The new Member States undertake in respect of those conventions or instruments in the field of justice and home affairs which are inseparable from the attainment of the objectives of the EU Treaty:

to accede to those which, by the date of accession, have been opened for signature by the present Member States, and to those which have been drawn up by the Council in accordance with Title VI of the EU Treaty and recommended to the Member States for adoption;

to introduce administrative and other arrangements, such as those adopted by the date of accession by the present Member States or by the Council, to facilitate practical cooperation between the Member States' institutions and organisations working in the field of justice and home affairs.

ARTICLE 4

Each of the new Member States shall participate in Economic and Monetary Union from the date of accession as a Member State with a derogation within the meaning of Article 122 of the EC Treaty.

ARTICLE 5

1. The new Member States accede by this Act to the decisions and agreements adopted by the Representatives of the Governments of the Member States meeting within the Council. They undertake to accede from the date of accession to all other agreements concluded by the present Member States relating to the functioning of the Union or connected with the activities thereof.

2. The new Member States undertake to accede to the conventions provided for in Article 293 of the EC Treaty and to those that are inseparable from the attainment of the objectives of the EC Treaty, and also to the protocols on the interpretation of those conventions by the Court of Justice, signed by the present Member States and to this end they undertake to enter into negotiations with the present Member States in order to make the necessary adjustments thereto.

3. The new Member States are in the same situation as the present Member States in respect of declarations or resolutions of, or other positions taken up by, the European Council or the Council and in respect of those concerning the Community or the Union adopted by common agreement of the Member States; they will accordingly observe the principles and guidelines deriving from those declarations, resolutions or other positions and will take such measures as may be necessary to ensure their implementation.

ARTICLE 6

1. The agreements or conventions concluded or provisionally applied by the Community or in accordance with Article 24 or Article 38 of the EU Treaty, with one or more third States, with an international organisation or with a national of a third State, shall, under the conditions laid down in the original Treaties and in this Act, be binding on the new Member States.

2. The new Member States undertake to accede, under the conditions laid down in this Act, to the agreements or conventions concluded or provisionally applied by the present Member States and the Community, acting jointly, and to the agreements concluded by those States which are related to those agreements or conventions.

The accession of the new Member States to the agreements or conventions mentioned in paragraph 6 below, as well as the agreements with Belarus, China, Chile, Mercosur and Switzerland which have been concluded or signed by the Community and its Member States jointly shall be agreed by the conclusion of a protocol to such agreements or conventions between the Council, acting unanimously on behalf of the Member States, and the third country or countries or international organisation concerned. This procedure is without prejudice to the Community's own competences and does not affect the allocation of powers between the Community and the Member States as regards the conclusion of such agreements in the future or any other amendments not related to accession. The Commission shall negotiate these protocols on behalf of the Member States on the basis of negotiating directives approved by the Council, acting by unanimity, and in consultation with a committee comprised of the representatives of the Member States. It shall submit a draft of the protocols for conclusion to the Council.

3. Upon acceding to the agreements and conventions referred to in paragraph 2 the new Member States shall acquire the same rights and obligations under those agreements and conventions as the present Member States.

4. The new Member States accede by this Act to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the

one part, and the European Community and its Member States, of the other part¹, signed in Cotonou on 23 June 2000.

5. The new Member States undertake to accede, under the conditions laid down in this Act, to the Agreement on the European Economic Area², in accordance with Article 128 of that Agreement.

6. As from the date of accession, and pending the conclusion of the necessary protocols referred to in paragraph 2, the new Member States shall apply the provisions of the Agreements concluded by the present Member States and, jointly, the Community with Algeria, Armenia, Azerbaijan, Bulgaria, Croatia, Egypt, FYROM, Georgia, Israel, Jordan, Kazakhstan, Kyrgyzstan, Lebanon, Mexico, Moldova, Morocco, Romania, the Russian Federation, San Marino, South Africa, South Korea, Syria, Tunisia, Turkey, Turkmenistan, Ukraine and Uzbekistan as well as the provisions of other agreements concluded jointly by the present Member States and the Community before accession.

Any adjustments to these Agreements shall be the subject of protocols concluded with the co-contracting countries in conformity with the provisions of the second subparagraph of paragraph 2. Should the protocols not have been concluded by the date of accession, the Community and the Member States shall take, in the framework of their respective competences, the necessary measures to deal with that situation upon accession.

7. As from the date of accession, the new Member States shall apply the bilateral textile agreements and arrangements concluded by the Community with third countries.

The quantitative restrictions applied by the Community on imports of textile and clothing products shall be adjusted to take account of the accession of the new Member States to the Community. To that effect, amendments to the bilateral agreements and arrangements referred to above may be negotiated by the Community with the third countries concerned prior to the date of accession.

Should the amendments to the bilateral textile agreements and arrangements not have entered into force by the date of accession, the Community shall make the necessary adjustments to its rules for the import of textile and clothing products from third countries to take into account the accession of the new Member States to the Community.

8. The quantitative restrictions applied by the Community on imports of steel and steel products shall be adjusted on the basis of imports of new Member States over recent years of steel products originating in the supplier countries concerned.

¹ OJ L 317, 15.12.2000, p. 3. and EC Series No. 3 (2001) Cm 5192

² OJ L 1, 3.1.1994, p. 3. and Treaty Series No. 26 (1995) Cm 2847

To that effect, the necessary amendments to the bilateral steel agreements and arrangements concluded by the Community with third countries shall be negotiated prior to the date of accession.

Should the amendments to the bilateral agreements and arrangements not have entered into force by the date of accession, the provisions of the first subparagraph shall apply.

9. As from the date of accession, fisheries agreements concluded by the new Member States with third countries shall be managed by the Community.

The rights and obligations resulting for the new Member States from those agreements shall not be affected during the period in which the provisions of those agreements are provisionally maintained.

As soon as possible, and in any event before the expiry of the agreements referred to in the first subparagraph, appropriate decisions for the continuation of fishing activities resulting from those agreements shall be adopted in each case by the Council acting by qualified majority on a proposal from the Commission, including the possibility of extending certain agreements for periods not exceeding one year.

10. With effect from the date of accession, the new Member States shall withdraw from any free trade agreements with third countries, including the Central European Free Trade Agreement.

To the extent that agreements between one or more of the new Member States on the one hand, and one or more third countries on the other, are not compatible with the obligations arising from this Act, the new Member State shall take all appropriate steps to eliminate the incompatibilities established. If a new Member State encounters difficulties in adjusting an agreement concluded with one or more third countries before accession, it shall, according to the terms of the agreement, withdraw from that agreement.

11. The new Member States accede by this Act and under the conditions laid down therein to the internal agreements concluded by the present Member States for the purpose of implementing the agreements or conventions referred to in paragraphs 2 and 4 to 6.

12. The new Member States shall take appropriate measures, where necessary, to adjust their position in relation to international organisations, and to those international agreements to which the Community or to which other Member States are also parties, to the rights and obligations arising from their accession to the Union.

They shall in particular withdraw at the date of accession or the earliest possible date thereafter from international fisheries agreements and organisations to which the Community is also a party, unless their membership relates to matters other than fisheries.

ARTICLE 7

The provisions of this Act may not, unless otherwise provided herein, be suspended, amended or repealed other than by means of the procedure laid down in the original Treaties enabling those Treaties to be revised.

ARTICLE 8

Acts adopted by the institutions to which the transitional provisions laid down in this Act relate shall retain their status in law; in particular, the procedures for amending those acts shall continue to apply.

ARTICLE 9

Provisions of this Act the purpose or effect of which is to repeal or amend acts adopted by the institutions, otherwise than as a transitional measure, shall have the same status in law as the provisions which they repeal or amend and shall be subject to the same rules as those provisions.

ARTICLE 10

The application of the original Treaties and acts adopted by the institutions shall, as a transitional measure, be subject to the derogations provided for in this Act.

PART TWO

Adjustments to the treaties

TITLE I

Institutional provisions

CHAPTER 1

The European Parliament

ARTICLE 11

With effect from the start of the 2004-2009 term, in Article 190(2) of the EC Treaty and in Article 108(2) of the Euratom Treaty, the first subparagraph shall be replaced by the following:

"The number of representatives elected in each Member State shall be as follows:

Belgium	24
Czech Republic	24
Denmark	14
Germany	99
Estonia	6
Greece	24
Spain	54
France	78
Ireland	13
Italy	78
Cyprus	6
Latvia	9
Lithuania	13
Luxembourg	6
Hungary	24
Malta	5
Netherlands	27
Austria	18
Poland	54
Portugal	24
Slovenia	7
Slovakia	14

Finland	14
Sweden	19
United Kingdom	78"

CHAPTER 2

The Council

ARTICLE 12

1. With effect from 1 November 2004:

(a) In Article 205 of the EC Treaty and Article 118 of the Euratom Treaty

(i) paragraph 2 shall be replaced by the following:

"2. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as follows:

Belgium	12
Czech Republic	12
Denmark	7
Germany	29
Estonia	4
Greece	12
Spain	27
France	29
Ireland	7
Italy	29
Cyprus	4
Latvia	4
Lithuania	7
Luxembourg	4
Hungary	12
Malta	3
Netherlands	13
Austria	10
Poland	27
Portugal	12
Slovenia	4
Slovakia	7

Finland	7
Sweden	10
United Kingdom	29

Acts of the Council shall require for their adoption at least 232 votes in favour cast by a majority of the members where this Treaty requires them to be adopted on a proposal from the Commission.

In other cases, for their adoption acts of the Council shall require at least 232 votes in favour, cast by at least two-thirds of the members.";

(ii) the following paragraph shall be added:

"4. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62% of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.";

(b) In Article 23(2) of the EU Treaty, the third subparagraph shall be replaced by the following:

"The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community. For their adoption, decisions shall require at least 232 votes in favour cast by at least two-thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62% of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted."

(c) In Article 34 of the EU Treaty, paragraph 3 shall be replaced by the following:

"3. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 205(2) of the Treaty establishing the European Community, and for their adoption acts of the Council shall require at least 232 votes in favour, cast by at least two-thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62% of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted."

2. Article 3(1) of the Protocol annexed to the EU Treaty and to the EC Treaty on the enlargement of the European Union is repealed.

3. In the event of fewer than ten new Member States acceding to the European Union, the threshold for the qualified majority shall be fixed by Council decision by applying a strictly linear, arithmetical interpolation, rounded up or down to the nearest vote, between 71% for a Council with 300 votes and the level of 72,27% for an EU of 25 Member States.

CHAPTER 3

The Court of Justice

ARTICLE 13

1. Article 9, first paragraph, of the Protocol annexed to the EU Treaty, the EC Treaty and the Euratom Treaty on the Statute of the Court of Justice shall be replaced by the following:

"When, every three years, the Judges are partially replaced, thirteen and twelve Judges shall be replaced alternately."

2. Article 48 of the Protocol annexed to the EU Treaty, the EC Treaty and the Euratom Treaty on the Statute of the Court of Justice shall be replaced by the following:

"Article 48

The Court of First Instance shall consist of twenty-five Judges."

CHAPTER 4

The Economic and Social Committee

ARTICLE 14

The second paragraphs of Article 258 of the EC Treaty and Article 166 of the Euratom Treaty are replaced by the following:

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

Belgium	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	7
Greece	12
Spain	21
France	24
Ireland	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24"

CHAPTER 5

The Committee of the Regions

ARTICLE 15

The third paragraph of Article 263 of the EC Treaty is replaced by the following:

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

Belgium	12
Czech Republic	12
Denmark	9
Germany	24
Estonia	7
Greece	12

Spain	21
France	24
Ireland	9
Italy	24
Cyprus	6
Latvia	7
Lithuania	9
Luxembourg	6
Hungary	12
Malta	5
Netherlands	12
Austria	12
Poland	21
Portugal	12
Slovenia	7
Slovakia	9
Finland	9
Sweden	12
United Kingdom	24"

CHAPTER 6

The Scientific and Technical Committee

ARTICLE 16

The following is substituted for the first subparagraph of Article 134(2) of the Euratom Treaty:

"2. The Committee shall consist of thirty-nine members, appointed by the Council after consultation with the Commission."

CHAPTER 7

The European Central Bank

ARTICLE 17

In Protocol No 18 on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty establishing the European Community, the following paragraph shall be added to Article 49:

"49.3 Upon one or more countries becoming Member States and their respective national central banks becoming part of the ESCB, the subscribed capital of the ECB and the limit on the amount of foreign reserve assets that may be transferred to the ECB shall be automatically increased. The increase shall be determined by multiplying the respective amounts then prevailing by the ratio, within the expanded capital key, between the weighting of the entering national central banks concerned and the weighting of the national central banks already members of the ESCB. Each national central bank's weighting in the capital key shall be calculated by analogy with Article 29.1 and in compliance with Article 29.2. The reference periods to be used for the statistical data shall be identical to those applied for the latest quinquennial adjustment of the weightings under Article 29.3."

TITLE II

Other Adjustments

ARTICLE 18

In Article 57(1) of the EC Treaty the following shall be added:

"In respect of restrictions existing under national law in Estonia and Hungary, the relevant date shall be 31 December 1999".

ARTICLE 19

Article 299(1) of the EC Treaty shall be replaced by the following:

"1. This Treaty shall apply to the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland."

PART THREE

Permanent Provisions

TITLE I

Adaptations to Acts Adopted by the Institutions

ARTICLE 20

The acts listed in Annex II to this Act shall be adapted as specified in that Annex.

ARTICLE 21

The adaptations to the acts listed in Annex III to this Act made necessary by accession shall be drawn up in conformity with the guidelines set out in that Annex and in accordance with the procedure and under the conditions laid down in Article 57.

TITLE II

Other Provisions

ARTICLE 22

The measures listed in Annex IV to this Act shall be applied under the conditions laid down in that Annex.

ARTICLE 23

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may make the adaptations to the provisions of this Act relating to the common agricultural policy which may prove necessary as a result of a modification in Community rules. Such adaptations may be made before the date of accession.

PART FOUR

Temporary Provisions

TITLE I

Transitional Measures

ARTICLE 24

The measures listed in Annexes V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV to this Act shall apply in respect of the new Member States under the conditions laid down in those Annexes.

ARTICLE 25

1. By way of derogation from the second paragraph of Article 189 of the EC Treaty and from the second paragraph of Article 107 of the Euratom Treaty and with regard to Article 190(2) of the EC Treaty and Article 108(2) of the Euratom Treaty, the number of seats in the European Parliament for the new Member States for the period running from the date of accession until the beginning of the 2004-2009 term of the European Parliament shall be as follows:

Czech Republic	24
Estonia	6
Cyprus	6
Latvia	9
Lithuania	13
Hungary	24
Malta	5
Poland	54
Slovenia	7
Slovakia	14

2. By way of derogation from Article 190(1) EC Treaty and Article 108(2) Euratom Treaty, the representatives in the European Parliament of the peoples of the new Member States for the period running from the date of accession until the beginning of the 2004-2009 term of the European Parliament shall be appointed by the Parliaments of those States within themselves in accordance with the procedure laid down by each of those States.

ARTICLE 26

1. For the period until 31 October 2004 the following provisions shall apply:

(a) with regard to Article 205(2) of the EC Treaty and Article 118(2) of the Euratom Treaty:

Where the Council is required to act by a qualified majority the votes of its members shall be weighted as follows:

Belgium	5
Czech Republic	5
Denmark	3
Germany	10
Estonia	3
Greece	5
Spain	8
France	10
Ireland	3
Italy	10
Cyprus	2
Latvia	3
Lithuania	3
Luxembourg	2
Hungary	5
Malta	2
Netherlands	5
Austria	4
Poland	8
Portugal	5
Slovenia	3
Slovakia	3
Finland	3
Sweden	4
United Kingdom	10

(b) with regard to the second and third subparagraphs of Article 205(2) of the EC Treaty and of Article 118(2) of the Euratom Treaty:

For their adoption, acts of the Council shall require at least:

88 votes in favour where this Treaty requires them to be adopted on a proposal from the Commission,

88 votes in favour, cast by at least two-thirds of the members, in other cases.

- (c) with regard to the second sentence of the third subparagraph of Article 23(2) of the EU Treaty:

For their adoption, decisions shall require at least 88 votes in favour cast by at least two-thirds of the members.

- (d) with regard to Article 34(3) of the EU Treaty:

Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 205(2) of the Treaty establishing the European Community, and for their adoption acts of the Council shall require at least 88 votes in favour, cast by at least two-thirds of the members.

2. In the event that fewer than ten new Member States accede to the Union, the threshold for the qualified majority for the period until 31 October 2004 shall be fixed by Council decision so as to correspond as closely as possible to 71,26% of the total number of votes.

ARTICLE 27

1. The revenue designated as "Common Customs Tariff duties and other duties" referred to in Article 2(1)(b) of Council Decision 2000/597/EC, Euratom on the system of the European Communities' own resources¹, or the corresponding provision in any Decision replacing it, shall include the customs duties calculated on the basis of the rates resulting from the Common Customs Tariff and any tariff concession relating thereto applied by the Community in the new Member States' trade with third countries.

2. For the year 2004, the harmonised VAT assessment base and the GNI (gross national income) base of each new Member State, referred to in Article 2(1)(c) and (d) of Council Decision 2000/597/EC, Euratom shall be equal to two-thirds of the annual base. The GNI base of each new Member State to be taken into account for the calculation of the financing of the correction in respect of budgetary imbalances granted to the United Kingdom, referred to in Article 5(1) of Council Decision 2000/597/EC, shall likewise be equal to two-thirds of the annual base.

¹ OJ L 253, 7.10.2000, p. 42.

3. For the purposes of determining the frozen rate for 2004 according to Article 2(4)(b) of Council Decision 2000/597/EC, Euratom the capped VAT bases of the new Member States shall be calculated on the basis of two-thirds of their uncapped VAT base and two-thirds of their GNI.

ARTICLE 28

1. The general budget of the European Communities for the financial year 2004 shall be adapted to take into account the accession of the new Member States through an amending budget that shall enter into effect on 1 May 2004.

2. The twelve monthly twelfths of VAT and GNI-based resources to be paid by the new Member States under this amending budget, as well as the retroactive adjustment of the monthly twelfths for the period January-April 2004 that only apply to the present Member States, shall be converted into eighths to be called during the period May-December 2004. The retroactive adjustments that result from any subsequent amending budget adopted in 2004 shall likewise be converted into equal parts to be called during the remainder of the year.

ARTICLE 29

On the first working day of each month the Community shall pay the Czech Republic, Cyprus, Malta and Slovenia, as an item of expenditure under the general budget of the European Communities, one eighth in 2004, as of the date of accession, and one twelfth in 2005 and 2006 of the following amounts of temporary budgetary compensation:

	2004	2005	2006
	(EUR million, 1999 prices)		
Czech Republic	125,4	178,0	85,1
Cyprus	68,9	119,2	112,3
Malta	37,8	65,6	62,9
Slovenia	29,5	66,4	35,5

ARTICLE 30

On the first working day of each month the Community shall pay the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, as an item of expenditure under the general budget of the European Communities, one eighth in 2004, as of the date of accession, and one twelfth in 2005 and 2006 of the following amounts of a special lump-sum cash-flow facility:

	2004	2005	2006
	(EUR million, 1999 prices)		
Czech Republic	174,7	91,55	91,55
Estonia	15,8	2,9	2,9
Cyprus	27,7	5,05	5,05
Latvia	19,5	3,4	3,4
Lithuania	34,8	6,3	6,3
Hungary	155,3	27,95	27,95
Malta	12,2	27,15	27,15
Poland	442,8	550,0	450,0
Slovenia	65,4	17,85	17,85
Slovakia	63,2	11,35	11,35

EUR 1 billion for Poland and EUR 100 million for the Czech Republic included in the special lump-sum cash-flow facility shall be taken into account for any calculations on the distribution of structural funds for the years 2004-2006.

ARTICLE 31

1. The new Member States listed below shall pay the following amounts to the Research Fund for Coal and Steel referred to in Decision 2002/234/ECSC of the Representatives of the Governments of the Member States, meeting within the Council, of 27 February 2002 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel¹:

	(EUR million, current prices)
Czech Republic	39,88
Estonia	2,5
Latvia	2,69
Hungary	9,93
Poland	92,46
Slovenia	2,36
Slovakia	20,11

¹ OJ L 79, 22.3.2002, p. 42.

2. The contributions to the Research Fund for Coal and Steel shall be made in four instalments starting in 2006 and paid as follows, in each case on the first working day of the first month of each year:

2006: 15%

2007: 20%

2008: 30%

2009: 35%.

ARTICLE 32

1. Save as otherwise provided for in this Treaty, no financial commitments shall be made under the Phare programme¹, the Phare Cross-Border Cooperation programme², pre-accession funds for Cyprus and Malta³, the ISPA programme⁴ and the SAPARD programme⁵ in favour of the new Member States after 31 December 2003. The new Member States shall receive the same treatment as the present Member States as regards expenditure under the first three Headings of the financial perspective, as defined in the Interinstitutional Agreement of 6 May 1999⁶, as from 1 January 2004, subject to the individual specifications and exceptions below or as otherwise provided for in this Treaty. The maximum additional appropriations for headings 1, 2, 3 and 5 of the Financial Perspective related to enlargement are set out in Annex XV. However, no financial commitment under the 2004 budget for any programme or agency concerned may be made before the accession of the relevant new Member State has taken place.

2. Paragraph 1 shall not apply to expenditure under the European Agricultural Guidance and Guarantee Fund, Guarantee Section, according to Articles 2(1), 2(2), and 3(3) of Council Regulation (EC) No 1258/1999 on the financing of the common agricultural policy⁷, which will become eligible for Community funding only from the date of accession, in accordance with Article 2 of this Act.

However, paragraph 1 of this Article shall apply to expenditure for rural development under the European Agricultural Guidance and Guarantee Fund, Guarantee Section, according to Article 47a of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural

¹ Regulation (EEC) No 3906/89 (OJ L 375, 23.12.1989, p. 11), as amended.

² Regulation (EC) No 2760/98 (OJ L 345, 19.12.1998, p. 49), as amended.

³ Regulation (EC) No 555/2000 (OJ L 68, 16.3.2000, p. 3), as amended.

⁴ Regulation (EC) No 1267/1999 (OJ L 161, 26.6.1999, p. 73), as amended.

⁵ Regulation (EC) No 1268/1999 (OJ L 161, 26.6.1999, p. 87).

⁶ Interinstitutional Agreement of 6 May 1999, between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure (OJ C 172, 18.6.1999, p. 1).

⁷ OJ L 160, 26.6.99, p. 103.

Guidance and Guarantee Fund (EAGGF) and amending and repealing certain regulations¹, subject to the conditions set out in the amendment of that Regulation in Annex II to this Act.

3. Subject to the last sentence of paragraph 1, as of 1 January 2004, the new Member States will participate in Community programmes and agencies according to the same terms and conditions as the present Member States with funding from the general budget of the European Communities. The terms and conditions laid down in Association Council Decisions, Agreements and Memoranda of Understanding between the European Communities and the new Member States regarding their participation in Community programmes and agencies shall be superseded by the provisions governing the relevant programmes and agencies with effect from 1 January 2004.

4. Should any of the States referred to in Article 1(1) of the Treaty of Accession not accede to the Community during 2004, any application made by or from the State concerned for funding by expenditure under the first three Headings of the Financial Perspective for 2004 shall be null and void. In that case the relevant Association Council Decision, Agreement or Memorandum of Understanding shall continue to apply in respect of that State throughout the entire year 2004.

5. If any measures are necessary to facilitate the transition from the pre-accession regime to that resulting from the application of this Article, the Commission shall adopt the required measures.

ARTICLE 33

1. Tendering, contracting, implementation and payments for pre-accession assistance under the Phare programme², the Phare CBC programme³ and pre-accession funds for Cyprus and Malta⁴ shall be managed by implementing agencies in the new Member States as of the date of accession.

The ex-ante control by the Commission over tendering and contracting shall be waived by a Commission decision to that effect, following a positively assessed Extended Decentralised Implementation System (EDIS) in accordance with the criteria and conditions laid down in the Annex to Council Regulation (EC) No 1266/1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89⁵.

If this Commission decision to waive ex-ante control has not been taken before

¹ OJ L 160, 26.6.1999, p. 80.

² Regulation (EEC) No 3906/89 (OJ L 375 23.12.1989, p. 11), as amended.

³ Regulation (EC) No 2760/98 (OJ L 345, 19.12.1998, p. 49), as amended.

⁴ Regulation (EC) No 555/2000 (OJ L 68, 16.3.2000, p. 3), as amended.

⁵ OJ L 232, 2.9.1999, p. 34.

the date of accession, any contracts signed between the date of accession and the date on which the Commission decision is taken shall not be eligible for pre-accession assistance.

However, exceptionally, if the Commission decision to waive ex-ante control is delayed beyond the date of accession for reasons not attributable to the authorities of a new Member State, the Commission may accept, in duly justified cases, eligibility for pre-accession assistance of contracts signed between accession and the date of the Commission decision, and the continued implementation of pre-accession assistance for a limited period, subject to ex-ante control by the Commission over tendering and contracting.

2. Global budget commitments made before accession under the pre-accession financial instruments referred to in paragraph 1, including the conclusion and registration of subsequent individual legal commitments and payments made after accession shall continue to be governed by the rules and regulations of the pre-accession financing instruments and be charged to the corresponding budget chapters until closure of the programmes and projects concerned. Notwithstanding this, public procurement procedures initiated after accession shall be carried out in accordance with the relevant Community Directives.

3. The last programming exercise for the pre-accession assistance referred to in paragraph 1 shall take place in the last full calendar year preceding accession. Actions under these programmes will have to be contracted within the following two years and disbursements made as provided for in the Financing Memorandum¹, usually by the end of the third year after the commitment. No extensions shall be granted for the contracting period. Exceptionally and in duly justified cases, limited extensions in terms of duration may be granted for disbursement.

4. In order to ensure the necessary phasing out of the pre-accession financial instruments referred to in paragraph 1 as well as the ISPA programme², and a smooth transition from the rules applicable before and after accession, the Commission may take all appropriate measures to ensure that the necessary statutory staff is maintained in the new Member States for a maximum of fifteen months following accession. During this period, officials assigned to posts in the new Member States before accession and who are required to remain in service in those States after the date of accession shall benefit, as an exception, from the same financial and material conditions as were applied by the Commission before accession in accordance with Annex X to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities laid down in Regulation (EEC, Euratom, ECSC) No

¹ As set out in the Phare Guidelines (SEC (1999) 1596, updated on 6.9.2002 by C 3303/2).

² Regulation (EC) No 1267/99 (OJ L 161, 26.6.1999, p. 73), as amended.

259/68¹. The administrative expenditure, including salaries for other staff, necessary for the management of the pre-accession assistance shall be covered, for all of 2004 and until the end of July 2005, under the heading "support expenditure for operations" (former part B of the budget) or equivalent headings for the financial instruments referred to in paragraph 1 as well as the ISPA programme, of the relevant pre-accession budgets.

5. Where projects approved under Regulation (EC) No 1268/1999 can no longer be funded under that instrument, they may be integrated into rural development programming and financed under the European Agricultural Guidance and Guarantee Fund. Should specific transitional measures be necessary in this regard, these shall be adopted by the Commission in accordance with the procedures laid down in Article 50(2) of Council Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds².

ARTICLE 34

1. Between the date of accession and the end of 2006, the Union shall provide temporary financial assistance, hereinafter referred to as the "Transition Facility", to the new Member States to develop and strengthen their administrative capacity to implement and enforce Community legislation and to foster exchange of best practice among peers.

2. Assistance shall address the continued need for strengthening institutional capacity in certain areas through action which cannot be financed by the Structural Funds, in particular in the following areas:

justice and home affairs (strengthening of the judicial system, external border controls, anti-corruption strategy, strengthening of law enforcement capacities),

financial control,

protection of the Communities' financial interests and the fight against fraud,

internal market, including customs union,

environment,

¹ OJ L 56, 4.3.1968, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 2265/02 (OJ L 347, 20.12.2002, p. 1).

² OJ L 161, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 1447/2001 (OJ L 198, 21.7.2001, p. 1).

veterinary services and administrative capacity-building relating to food safety,

administrative and control structures for agriculture and rural development, including the Integrated Administration and Control System (IACS),

nuclear safety (strengthening the effectiveness and competence of nuclear safety authorities and their technical support organisations as well as public radioactive waste management agencies),

statistics,

strengthening public administration according to needs identified in the Commission's comprehensive monitoring report which are not covered by the Structural Funds.

3. Assistance under the Transition Facility shall be decided in accordance with the procedure laid down in Article 8 of Council Regulation (EEC) No 3906/89 on economic aid to certain countries of Central and Eastern Europe¹.

4. The programme shall be implemented in accordance with Article 53(1)(a) and (b) of the Financial Regulation applicable to the general budget of the European Communities². For twinning projects between public administrations for the purpose of institution building, the procedure for call for proposals through the network of contact points in the Member States shall continue to apply, as established in the Framework Agreements with the present Member States for the purpose of pre-accession assistance.

The commitment appropriations for the Transition Facility, at 1999 prices, shall be EUR 200 million in 2004, EUR 120 million in 2005 and EUR 60 million in 2006. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

ARTICLE 35

1. A Schengen Facility is hereby created as a temporary instrument to help beneficiary Member States between the date of accession and the end of 2006 to finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control.

¹ OJ L 375, 23.12.1989, p. 11. Regulation as last amended by Regulation (EC) No 2500/2001 (OJ L 342, 27.12.2001, p. 1).

² Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

In order to address the shortcomings identified in the preparation for participation in Schengen, the following types of action shall be eligible for financing under the Schengen Facility:

investment in construction, renovation or upgrading of border crossing infrastructure and related buildings,

investments in any kind of operating equipment (e.g. laboratory equipment, detection tools, Schengen Information System-SIS 2 hardware and software, means of transport),

training of border guards,

support to costs for logistics and operations.

2. The following amounts shall be made available under the Schengen Facility in the form of lump sum grant payments as of the date of accession to the beneficiary Member States listed below:

	2004	2005	2006
	(EUR million, 1999 prices)		
Estonia	22,9	22,9	22,9
Latvia	23,7	23,7	23,7
Lithuania	44,78	61,07	29,85
Hungary	49,3	49,3	49,3
Poland	93,34	93,33	93,33
Slovenia	35,64	35,63	35,63
Slovakia	15,94	15,93	15,93

3. The beneficiary Member States shall be responsible for selecting and implementing individual operations in compliance with this Article. They shall also be responsible for coordinating use of the facility with assistance from other Community instruments, ensuring compatibility with Community policies and measures and compliance with the Financial Regulation applicable to the general budget of the European Communities.

The lump-sum grant payments shall be used within three years from the first payment and any unused or unjustifiably spent funds shall be recovered by the Commission. The beneficiary Member States shall submit, no later than six months after expiry of the three-year deadline, a comprehensive report on the financial execution of the lump-sum grant payments with a statement justifying the expenditure.

The beneficiary State shall exercise this responsibility without prejudice to the Commission's responsibility for the implementation of the general budget of the

European Communities and in accordance with the provisions of the Financial Regulation applicable to decentralised management.

4. The Commission retains the right of verification, through the Anti-Fraud Office (OLAF). The Commission and the Court of Auditors may also carry out on-the-spot checks in accordance with the appropriate procedures.

5. The Commission may adopt any technical provisions necessary for the operation of this Facility.

ARTICLE 36

The amounts referred to in Articles 29, 30, 34 and 35 shall be adjusted each year, as part of the technical adjustment provided for in paragraph 15 of the Interinstitutional Agreement of 6 May 1999.

TITLE II

Other Provisions

ARTICLE 37

1. If, until the end of a period of up to three years after accession, difficulties arise which are serious and liable to persist in any sector of the economy or which could bring about serious deterioration in the economic situation of a given area, a new Member State may apply for authorisation to take protective measures in order to rectify the situation and adjust the sector concerned to the economy of the common market.

In the same circumstances, any present Member State may apply for authorisation to take protective measures with regard to one or more of the new Member States.

2. Upon request by the State concerned, the Commission shall, by emergency procedure, determine the protective measures which it considers necessary, specifying the conditions and modalities in which they are to be put into effect.

In the event of serious economic difficulties and at the express request of the Member State concerned, the Commission shall act within five working days of the receipt of the request accompanied by the relevant background information. The measures thus decided on shall be applicable forthwith, shall take account of the interests of all parties concerned and shall not entail frontier controls.

3. The measures authorised under paragraph 2 may involve derogations from the rules of the EC Treaty and from this Act to such an extent and for such periods as are strictly necessary in order to attain the objectives referred to in paragraph 1. Priority shall be given to such measures as will least disturb the functioning of the common market.

ARTICLE 38

If a new Member State has failed to implement commitments undertaken in the context of the accession negotiations, causing a serious breach of the functioning of the internal market, including any commitments in all sectoral policies which concern economic activities with cross-border effect, or an imminent risk of such breach the Commission may, until the end of a period of up to three years after the date of entry into force of this Act, upon motivated request of a Member State or on its own initiative, take appropriate measures.

Measures shall be proportional and priority shall be given to measures, which disturb least the functioning of the internal market and, where appropriate, to the application of the existing sectoral safeguard mechanisms. Such safeguard measures shall not be invoked as a means of arbitrary discrimination or a disguised restriction on trade between Member States. The safeguard clause may be invoked even before accession on the basis of the monitoring findings and enter into force as of the date of accession. The measures shall be maintained no longer than strictly necessary, and, in any case, will be lifted when the relevant commitment is implemented. They may however be applied beyond the period specified in the first paragraph as long as the relevant commitments have not been fulfilled. In response to progress made by the new Member State concerned in fulfilling its commitments, the Commission may adapt the measures as appropriate. The Commission will inform the Council in good time before revoking safeguard measures, and it will take duly into account any observations of the Council in this respect.

ARTICLE 39

If there are serious shortcomings or any imminent risks of such shortcomings in the transposition, state of implementation, or the application of the framework decisions or any other relevant commitments, instruments of cooperation and decisions relating to mutual recognition in the area of criminal law under Title VI of the EU Treaty and Directives and Regulations relating to mutual recognition in civil matters under Title IV of the EC Treaty in a new Member State, the Commission may, until the end of a period of up to three years after the date of entry into force of this Act, upon motivated request of a Member State or on its own initiative and after consulting the Member States, take appropriate measures

and specify the conditions and modalities under which these measures are put into effect.

These measures may take the form of temporary suspension of the application of relevant provisions and decisions in the relations between a new Member State and any other Member State or Member States, without prejudice to the continuation of close judicial cooperation. The safeguard clause may be invoked even before accession on the basis of the monitoring findings and enter into force as of the date of accession. The measures shall be maintained no longer than strictly necessary, and, in any case, will be lifted when the shortcomings are remedied. They may however be applied beyond the period specified in the first paragraph as long as these shortcomings persist. In response to progress made by the new Member State concerned in rectifying the identified shortcomings, the Commission may adapt the measures as appropriate after consulting the Member States. The Commission will inform the Council in good time before revoking safeguard measures, and it will take duly into account any observations of the Council in this respect.

ARTICLE 40

In order not to hamper the proper functioning of the internal market, the enforcement of the new Member States' national rules during the transitional periods referred to in Annexes V to XIV shall not lead to border controls between Member States.

ARTICLE 41

If transitional measures are necessary to facilitate the transition from the existing regime in the new Member States to that resulting from the application of the common agricultural policy under the conditions set out in this Act, such measures shall be adopted by the Commission in accordance with the procedure referred to in Article 42(2) of Council Regulation (EC) No 1260/2001 on the common organisation of the markets in the sugar sector¹, or as appropriate, in the corresponding Articles of the other Regulations on the common organisation of agricultural markets or the relevant committee procedure as determined in the applicable legislation. The transitional measures referred to in this Article may be taken during a period of three years following the date of accession and their application shall be limited to that period. The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may extend this period.

¹ OJ L 178, 30.6.2001, p. 1.

The transitional measures relating to implementation of the instruments concerning the common agricultural policy not specified in this Act which are required as a result of accession shall be adopted prior to the date of accession by the Council acting by a qualified majority on a proposal from the Commission or, where they affect instruments initially adopted by the Commission, they shall be adopted by the Commission in accordance with the procedure required for adopting the instruments in question.

ARTICLE 42

If transitional measures are necessary to facilitate the transition from the existing regime in the new Member States to that resulting from the application of the Community veterinary and phytosanitary rules, such measures shall be adopted by the Commission in accordance with the relevant committee procedure as determined in the applicable legislation. These measures shall be taken during a period of three years following the date of accession and their application shall be limited to that period.

PART FIVE

Provisions Relating to the Implementation of this Act

TITLE I

Setting up of the Institutions and Bodies

ARTICLE 43

The European Parliament shall make such adaptations to its Rules of Procedure as are rendered necessary by accession.

ARTICLE 44

The Council shall make such adaptations to its Rules of Procedure as are rendered necessary by accession.

ARTICLE 45

1. Any State which accedes to the Union shall be entitled to have one of its nationals as a member of the Commission.
2. Notwithstanding the second subparagraph of Article 213(1), the first subparagraph of Article 214(1), Article 214(2) of the EC Treaty and the first subparagraph of Article 126 of the Euratom Treaty:
 - (a) a national of each new Member State shall be appointed to the Commission as from the date of its accession. The new Members of the Commission shall be appointed by the Council, acting by qualified majority and by common accord with the President of the Commission,
 - (b) the term of office of the Members of the Commission appointed pursuant to (a) as well as of those who were appointed as from 23 January 2000 shall expire on 31 October 2004,
 - (c) a new Commission composed of one national of each Member State shall take up its duties on 1 November 2004; the term of office of the Members of this new Commission shall expire on 31 October 2009,
 - (d) the date of 1 November 2004 is substituted for the date of 1 January 2005 in Article 4(1) of the Protocol on the enlargement of the European Union annexed to the EU Treaty and to the Treaties establishing the European Communities.
3. The Commission shall make such changes to its Rules of Procedure as are rendered necessary by accession.

ARTICLE 46

1. Ten judges shall be appointed to the Court of Justice and ten judges shall be appointed to the Court of First Instance.
- 2.(a) The term of office of five of the judges of the Court of Justice appointed in accordance with paragraph 1 shall expire on 6 October 2006. Those judges shall be chosen by lot. The term of office of the other judges shall expire on 6 October 2009.
- (b) The term of office of five of the judges of the Court of First Instance appointed in accordance with paragraph 1 shall expire on 31 August 2004. Those judges shall be chosen by lot. The term of office of the other judges shall expire on 31 August 2007.

- 3.(a) The Court of Justice shall make such adaptations to its Rules of Procedure as are rendered necessary by accession.
 - (b) The Court of First Instance, in agreement with the Court of Justice, shall make such adaptations to its Rules of Procedure as are rendered necessary by accession.
 - (c) The Rules of Procedure as adapted shall require the approval of the Council, acting by a qualified majority.
4. For the purpose of judging cases pending before the Courts on the date of accession in respect of which oral proceedings have started before that date, the full Courts or the Chambers shall be composed as before accession and shall apply the Rules of Procedure in force on the day preceding the date of accession.

ARTICLE 47

The Court of Auditors shall be enlarged by the appointment of ten additional members for a term of office of six years.

ARTICLE 48

The Economic and Social Committee shall be enlarged by the appointment of 95 members representing the various economic and social components of organised civil society in the new Member States. The terms of office of the members thus appointed shall expire at the same time as those of the members in office at the time of accession.

ARTICLE 49

The Committee of the Regions shall be enlarged by the appointment of 95 members representing regional and local bodies in the new Member States, who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly. The terms of office of the members thus appointed shall expire at the same time as those of the members in office at the time of accession.

ARTICLE 50

1. The terms of office of the present members of the Scientific and Technical Committee under Article 134(2) of the Euratom Treaty shall expire on the date of entry into force of this Act.

2. Upon accession the Council shall appoint the new Members of the Scientific and Technical Committee in accordance with the procedure laid down in Article 134(2) of the Euratom Treaty.

ARTICLE 51

Adaptations to the rules of the Committees established by the original Treaties and to their rules of procedure, necessitated by the accession, shall be made as soon as possible after accession.

ARTICLE 52

1. The terms of office of the new members of the Committees, groups and other bodies created by the Treaties and the legislator listed in Annex XVI shall expire at the same time as those of the members in office at the time of accession.
2. The terms of office of the new members of the Committees and groups created by the Commission listed in Annex XVII shall expire at the same time as those of the members in office at the time of accession.
3. Upon accession, the membership of the Committees listed in Annex XVIII shall be completely renewed.

TITLE II

Applicability of the Acts of the Institutions

ARTICLE 53

Upon accession, the new Member States shall be considered as being addressees of directives and decisions within the meaning of Article 249 of the EC Treaty and of Article 161 of the Euratom Treaty, provided that those directives and decisions have been addressed to all the present Member States. Except with regard to directives and decisions which enter into force pursuant to Article 254(1) and 254(2) of the EC Treaty, the new Member States shall be considered as having received notification of such directives and decisions upon accession.

ARTICLE 54

The new Member States shall put into effect the measures necessary for them to comply, from the date of accession, with the provisions of directives and decisions within the meaning of Article 249 of the EC Treaty and of Article 161 of the Euratom Treaty, unless another time-limit is provided for in the Annexes referred to in Article 24 or in any other provisions of this Act or its Annexes.

ARTICLE 55

At the duly substantiated request of one of the new Member States, the Council, acting unanimously on a proposal from the Commission, may, before 1 May 2004, take measures consisting of temporary derogations from acts of the institutions adopted between 1 November 2002 and the date of signature of the Treaty of Accession.

ARTICLE 56

Unless otherwise stipulated, the Council, acting by a qualified majority on a proposal from the Commission, shall adopt the necessary measures to implement the provisions contained in Annexes II, III and IV referred to in Articles 20, 21 and 22 of this Act.

ARTICLE 57

1. Where acts of the institutions prior to accession require adaptation by reason of accession, and the necessary adaptations have not been provided for in this Act or its Annexes, those adaptations shall be made in accordance with the procedure laid down by paragraph 2. Those adaptations shall enter into force as from accession.

2. The Council, acting by a qualified majority on a proposal from the Commission, or the Commission, according to which of these two institutions adopted the original acts, shall to this end draw up the necessary texts.

ARTICLE 58

The texts of the acts of the institutions, and of the European Central Bank, adopted before accession and drawn up by the Council, the Commission or the European Central Bank in the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovenian languages shall, from the date of accession, be authentic under the same conditions as the texts drawn up in the present eleven

languages. They shall be published in the Official Journal of the European Union if the texts in the present languages were so published.

ARTICLE 59

Provisions laid down by law, regulation or administrative action designed to ensure the protection of the health of workers and the general public in the territory of the new Member States against the dangers arising from ionising radiations shall, in accordance with Article 33 of the Euratom Treaty, be communicated by those States to the Commission within three months of accession.

TITLE III

Final Provisions

ARTICLE 60

Annexes I to XVIII, the Appendices thereto and Protocols Nos 1 to 10 attached to this Act shall form an integral part thereof.

ARTICLE 61

The Government of the Italian Republic shall remit to the Governments of the new Member States a certified copy of the Treaty on European Union, the Treaty establishing the European Community and of the Treaty establishing the European Atomic Energy Community, and the Treaties amending or supplementing them, including the Treaty concerning the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and to the European Atomic Energy Community¹, the Treaty concerning the accession of the Hellenic Republic to the European Economic Community and the European Atomic Energy Community², the Treaty concerning the accession of the Kingdom of Spain and the Portuguese Republic to the European Economic Community and the European Atomic Energy Community³, and the Treaty concerning the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union⁴ in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages.

¹ Treaty Series No.1 (1973) Cm 5179-1

² Treaty Series No.61 (1984) Cmnd 9304

³ Treaty Series No.1 (1989) Cm 548

⁴ Treaty Series No. 43 (1995) Cm 2887

The texts of those Treaties, drawn up in the Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovenian languages, shall be annexed to this Act. Those texts shall be authentic under the same conditions as the texts of the Treaties referred to in the first paragraph, drawn up in the present languages.

ARTICLE 62

A certified copy of the international agreements deposited in the archives of the General Secretariat of the Council of the European Union shall be remitted to the Governments of the new Member States by the Secretary-General.