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OF THE REPRESENTATIVES  
OF THE GOVERNMENTS  
OF THE MEMBER STATES

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**NOTE**

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from : IGC Secretariat  
dated : 4 February 2004  
to : Working Party of IGC Legal Experts

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*Subject : IGC 2003  
Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark,  
Ireland and the United Kingdom of Great Britain and Northern Ireland, of the  
Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and  
of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden*

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Delegations will find attached a draft Protocol, drawn up by the Commission, on the Accession Treaties and Acts of Accession of the Kingdom of Denmark, Ireland, and the United Kingdom of Great Britain and Northern Ireland, the Hellenic Republic, the Kingdom of Spain and the Portuguese Republic, and the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, as provided for in Article IV-2(2) of the draft Constitution (CIG 50/03).

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## Introductory comments

1. In accordance with the first indent of Article IV-2(2) of the draft Constitution (CIG 50/03), the draft Protocol set out below contains those provisions of the first four Accession Treaties which remain relevant, as adjusted to the proposed legal arrangements.
2. The draft Protocol has been drawn up partly on the basis of the points made in the note in CIG 54/03 and the lists attached to it and partly on the basis of comments made by some members of the Working Party of Legal Experts in reaction to that note.
3. The draft contains five Titles. Title One consists of common provisions which have either been drawn up on the basis of provisions which appear in all the Acts of Accession or have been drafted *ex novo*. The other provisions have been arranged within the other four Titles, depending on the Act of Accession of which they originally formed part <sup>1</sup>. Adjustments to the original text of those provisions appears in bold (additions) and strikethrough (deletions).
4. In the provisions containing the legal bases, it was necessary to specify the legal instruments to be used. The approach followed here consists of stipulating the use of laws and framework laws (in most cases, laws and framework laws of the Council) for legal bases making subsequent amendments to the provisions of the Protocol, and the use of regulations and decisions for legal bases implementing the provisions in question. In certain specific cases – where the same legal basis may give rise to legislative acts on some occasions and non-legislative acts on others – it was necessary to refer to the whole range of acts provided for in the draft Constitution.

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<sup>1</sup> As the only exception, the provisions of the Protocol on cotton annexed to the 1985 Act of Accession have been incorporated into the section on the Protocol on cotton annexed to the 1979 Act of Accession, in accordance with the approach taken in the Acts of Accession in question.

5. Title 1 features a provision (Article 5) setting out a mechanism for the repeal of those transitional provisions which become obsolete over time. Although such a provision does not appear in any of the Accession Treaties, it would seem useful to reduce the volume of provisions of primary law which have become inoperative and cumbersome, without resorting to the burdensome procedure of revising the Treaties (see note CIG 54/03, paragraph 16).
6. The question of what to do about the Part of Protocol No 9 annexed to the 1994 Act of Accession which relates to road transport in Austria needs to be examined specifically consideration by the Working Party of Legal Experts.

The mechanisms for derogations provided for in that Part have expired; it is therefore proposed that the provisions in question (Articles 10 to 15 of the Protocol) be deleted. However, Article 3(2)(e) of Regulation (EC) No 2327/2003 of 22 December 2003 states that "the total NO<sub>x</sub> emissions attributable to heavy goods vehicles shall be determined on the basis of the former ecopoint system as laid down in Protocol 9 to the 1994 Act of Accession".

Although legally the useful effect of this reference is doubtful – given that, according to point (d) of the same paragraph, the emissions in question should be set according to values given in Annex I to the Regulation itself – nonetheless the possibility of retaining a reference to this Part of the Protocol does need to be considered. Either some provisions of this Part (Article 11) could be retained as a historical reference, while making it clear – by maintaining the dates set in it – that the derogations specifically provided for are no longer applicable; or a new provision preserving the requirements and objectives underlying the provisions of the Part in question could be included in this draft Protocol, after Article 69.

**Protocol**  
**on the Treaties and Acts of Accession of the Kingdom of Denmark,**  
**Ireland and the United Kingdom of Great Britain and Northern Ireland,**  
**of the Hellenic Republic,**  
**of the Kingdom of Spain and the Portuguese Republic,**  
**and of the Republic of Austria, the Republic of Finland**  
**and the Kingdom of Sweden**

## **THE HIGH CONTRACTING PARTIES**

**RECALLING** that the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland acceded to the European Communities on 1 January 1973; that the Hellenic Republic acceded to the European Communities on 1 January 1981; that the Kingdom of Spain and the Portuguese Republic acceded to the European Communities on 1 January 1986; that the Republic of Austria, the Republic of Finland and the Kingdom of Sweden acceded to the European Communities and to the European Union established by the Treaty on European Union on 1 January 1995;

**WHEREAS** Article IV-2(2) of the Constitution provides that the Treaties concerning the accessions referred to above shall be repealed;

**WHEREAS** certain provisions appearing in those Accession Treaties and in the Acts annexed thereto remain relevant; and whereas Article IV-2(2) of the Constitution provides that such provisions must be incorporated in or referred to in a Protocol, so that they remain in force and that their legal effects are preserved;

**WHEREAS** the provisions in question require the technical adjustments necessary to bring them into line with the text of the Constitution without altering their scope;

**HAVE AGREED** upon the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and the Treaty establishing the European Atomic Energy Community:

## **TITLE 1**

### **Common provisions**

#### **Article 1**

**The rights and obligations resulting from the Accession Treaties referred to in Article IV-2(2)(a) to (d) of the Constitution took effect, under the conditions laid down in those Treaties, on the following dates:**

- (a) 1 January 1973, for the Treaty concerning the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland;**
- (b) 1 January 1981, for the Treaty concerning the accession of the Hellenic Republic;**
- (c) 1 January 1986, for the Treaty concerning the accession of the Kingdom of Spain and the Portuguese Republic;**
- (d) 1 January 1995, for the Treaty concerning the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.**

## Article 2

1. The acceding States referred to in Article 1 are obliged to accede to the following agreements or conventions concluded before their respective accessions, insofar as such agreements or conventions are still in force:

- (a) agreements or conventions concluded between the other Member States which are based on the Treaty establishing the European Community, the Treaty establishing the European Atomic Energy Community or the Treaty on European Union, or which are inseparable from the attainment of the objectives of those Treaties, relating to the functioning of the Communities or of the Union or connected with the activities thereof;
- (b) agreements or conventions concluded by the other Member States, acting jointly with the European Communities, with one or more third States or with an international organisation, and the agreements which are related to those agreements or conventions. The Union and the other Member States shall assist the acceding States referred to in Article 1 in this respect.

2. The acceding States referred to in Article 1 shall take appropriate measures, where necessary, to adjust their position in relation to international organisations and to those international agreements to which the Union or to which other Member States are also parties, to the rights and obligations arising from their accession to the Union.

## Article 3

Provisions of the Acts of Accession the purpose or effect of which is to repeal or amend acts adopted by the institutions, bodies, offices or agencies of the European Communities or of the European Union established by the Treaty on European Union, as interpreted by the Court of Justice of the European Communities, shall remain in force subject to the application of the second paragraph.

The provisions referred to in the first paragraph shall have the same status in law as the acts which they repeal or amend and shall be subject to the same rules as those acts.

#### **Article 4**

**The texts of the acts of the institutions, bodies, offices and agencies of the Communities or of the European Union established by the Treaty on European Union which were adopted before the accessions referred to in Article 1 and which were subsequently drawn up by the Council or by the Commission successively in the English and Danish languages, in the Greek language, in the Spanish and Portuguese languages, and in the Finnish and Swedish languages, shall be authentic from the date of the respective accessions referred to in Article 1, under the same conditions as the texts drawn up and authentic in the other languages.**

#### **Article 5**

**A European law of the Council may repeal the transitional provisions set out in this Protocol, when they are no longer relevant or have become obsolete. The Council shall act unanimously after consulting the European Parliament.**

## TITLE 2

### Provisions taken from the Act concerning the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland

#### Section 1

#### Provisions on Gibraltar

##### Article 6 (*ex Article 28 AA 1972*)

1. Acts of the institutions of the Community relating to the products in Annex H I to the ~~EEC Treaty~~ **Constitution** and the products subject, on importation into the ~~Community~~ **Union**, to specific rules as a result of the implementation of the common agricultural policy, as well as the acts on the harmonisation of legislation of Member States concerning turnover taxes, shall not apply to Gibraltar unless the Council **adopts, acting unanimously on a proposal from the Commission, a European law, framework law, regulation or decision which** provides otherwise. **The Council shall act unanimously on a proposal from the Commission.**

*(ex Annex II, point VI)*

2. **The situation of Gibraltar resulting from point VI of Annex II to the Act concerning the conditions of accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland shall be maintained.**

**Section 2**  
**Provisions on the Faroe Islands**

**Article 7** (*ex Protocol No 2 AA 1972*)

*Article 1*

~~So long as the Danish Government has not made the declarations referred to in Articles 25, 26 and 27 of the Act of Accession and until 31 December 1975 at the latest, no alteration shall be required in the customs treatment applicable at the time of accession to imports of products originating in and coming from the Faroe Islands into the other regions of Denmark.~~

~~Products imported from the Faroe Islands into the other regions of Denmark under the above-mentioned arrangement shall not be considered as being in free circulation in that State, within the meaning of Article 10 of the EEC Treaty, when they are re-exported to another Member State.~~

*Article 2*

~~If the Danish Government makes the declarations referred to in Article 1, the provisions of the Act of Accession shall apply to the Faroe Islands, taking into account the following provisions:~~

- ~~– imports into the Faroe Islands shall be subject to the customs duties which would have been applicable if the Treaty and Decision concerning the Accession had been applied from 1 January 1973;~~
- ~~– the institutions of the Community will seek, within the framework of the common organisation of the market in fishery products, adequate solutions to the specific problems of the Faroe Islands;~~
- ~~– the authorities of the Faroe Islands may, under Community supervision, retain appropriate measures with a view to ensuring supplies of milk at reasonable prices to the Faroese population.~~

*Article 3*

~~If, during the period referred to in Article 1, the Danish Government, following a resolution of the local Faroese Government, informs the Council that it cannot make the declarations referred to in Article 1, the Council shall, at the request of the Danish Government, examine the situation thus created. The Council shall, on a proposal from the Commission, decide the arrangements to be made for solving the problems which could arise out of this situation for the Community and especially for Denmark and the Faroe Islands.~~

*Article 4*

Danish nationals resident in the Faroe Islands shall be considered to be nationals of a Member State within the meaning of the ~~original Treaties~~ **Constitution** only from the date on which ~~those original Treaties~~ **that Constitution** becomes applicable to those islands.

*Article 5*

~~The declarations referred to in Article 1 must be made simultaneously and can only give rise to a simultaneous application of the original Treaties to the Faroe Islands.~~

### Section 3

#### Provisions on the Channel Islands and the Isle of Man <sup>1</sup>

##### Article 8 (*ex Article 1 of Protocol No 3 AA 1972*)

1. The ~~Community~~ **Union** rules on customs matters and quantitative restrictions, in particular **customs duties, charges having equivalent effect and the Common Customs Tariff**, ~~those of the Act of Accession~~, shall apply to the Channel Islands and the Isle of Man under the same conditions as they apply to the United Kingdom. ~~In particular, customs duties and charges having equivalent effect between those territories and the Community as originally constituted and between those territories and the new Member States shall be progressively reduced in accordance with the timetable laid down in Articles 32 and 36 of the Act of Accession. The Common Customs Tariff and the ECSC unified tariff shall be progressively applied in accordance with the timetable laid down in Articles 39 and 59 of the Act of Accession, and account being taken of Articles 109, 110 and 119 of that Act.~~
2. In respect of agricultural products and products processed therefrom which are the subject of a special trade regime, the levies and other import measures laid down in ~~Community~~ **Union** rules and applicable by the United Kingdom shall be applied to third countries.

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<sup>1</sup> It is necessary to amend Article IV-4(6)(c) of the Constitution in IGC 50/03 as follows: "~~the~~ **this** Treaty ~~establishing the Constitution~~ shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out **originally** in ~~{the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community, signed on 22 January 1972}~~ **referred to in Article IV-2(2)(a) of the Constitution and incorporated in the Protocol on the Accession Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.**

Such provisions of ~~Community Union~~ rules, ~~in particular those of the Act of Accession~~, as are necessary to allow free movement and observance of normal conditions of competition in trade in these products shall also be applicable.

The Council, ~~acting by a qualified majority~~ on a proposal from the Commission, shall ~~determine~~ **adopt the European regulations or decisions establishing** the conditions under which the provisions referred to in the ~~preceding~~ **first and second** subparagraphs shall be applicable to these territories.

**Article 9** (*ex Article 2 of Protocol No 3 AA 1972*)

The rights enjoyed by Channel Islanders or Manxmen in the United Kingdom shall not be affected by ~~the Act of Accession~~ **Union law**. However, such persons shall not benefit from ~~Community~~ provisions **of Union law** relating to the free movement of persons and services.

**Article 10** (*ex Article 3 of Protocol No 3 AA 1972*)

The provisions of the ~~Euratom~~ Treaty **establishing the European Atomic Energy Community** applicable to persons or undertakings within the meaning of Article 196 of that Treaty shall apply to those persons or undertakings when they are established in the ~~aforementioned~~ territories **referred to in Article 8**.

**Article 11** (*ex Article 4 of Protocol No 3 AA 1972*)

The authorities of ~~these~~ **the territories referred to in Article 8** shall apply the same treatment to all natural and legal persons of the ~~Community~~ **Union**.

**Article 12** (*ex Article 5 of Protocol No 3 AA 1972*)

If, during the application of the arrangements defined in this ~~Protocol~~ **Section**, difficulties appear on either side in relations between the ~~Community~~ **Union** and ~~these~~ **the territories referred to in Article 8**, the Commission shall without delay propose to the Council such safeguard measures as it believes necessary, specifying their terms and conditions of application.

The Council shall ~~act by a qualified majority~~ **adopt the appropriate European regulations or decisions** within one month.

**Article 13** (*ex Article 6 of Protocol No 3 AA 1972*)

In this ~~Protocol~~ **Section**, Channel Islander or Manxman shall mean any **British** citizen ~~of the United Kingdom and Colonies~~ who holds that citizenship by virtue of the fact that he, a parent or grandparent was born, adopted, naturalised or registered in the island in question; but such a person shall not for this purpose be regarded as a Channel Islander or Manxman if he, a parent or a grandparent was born, adopted, naturalised or registered in the United Kingdom. Nor shall he be so regarded if he has at any time been ordinarily resident in the United Kingdom for five years.

The administrative arrangements necessary to identify these persons will be notified to the Commission.

**Section 4**

**Provisions on the implementation of the policy of industrialisation and economic development in Ireland**

**Article 14** (*ex Protocol No 30 AA 1972*)

~~THE HIGH CONTRACTING PARTIES,~~

~~Desiring to settle certain special problems of concern to Ireland, and~~

~~Having agreed the following provisions,~~

~~Recall that the fundamental objectives of the European Economic Community include the steady improvement of the living standards and working conditions of the peoples of the Member States and the harmonious development of their economies by reducing the differences existing between the various regions and the backwardness of the less favoured regions;~~

**The Member States** ~~T~~take note of the fact that the Irish Government has embarked upon the implementation of a policy of industrialisation and economic development designed to align the standards of living in Ireland with those of the other European nations and to eliminate under-employment while progressively evening out regional differences in levels of development;

**They** ~~R~~recognise it to be in their common interest that the objectives of this policy be so attained;  
~~A~~**and** agree to recommend to this end that the ~~Community~~ institutions implement all the means and procedures laid down by the ~~EEC Treaty~~ **Constitution**, particularly by making adequate use of the ~~Community~~ **Union** resources intended for the realisation of ~~the Community's above-mentioned~~ **its** objectives;

**The Member States** ~~R~~recognise in particular that, in the application of Articles ~~92 and 93~~ **III-56 and III-57** of the ~~EEC Treaty~~ **Constitution**, it will be necessary to take into account the objectives of economic expansion and the raising of the standard of living of the population.

## **Section 5**

### **Provisions on the exchange of information with Denmark in the field of nuclear energy**

#### **Article 15** (*ex Article 1 of Protocol No 25 AA 1972*)

1. From ~~the date of accession~~ **1 January 1973**, such information as has been communicated to Member States, persons and undertakings, in accordance with Article 13 of the ~~Euratom~~ Treaty **establishing the European Atomic Energy Community**, shall be placed at the disposal of Denmark, which shall give it limited distribution within its territory under the conditions laid down in ~~that~~ **this** Article.

2. From ~~the date of accession~~ **1 January 1973**, Denmark shall place at the disposal of the European Atomic Energy Community an equivalent volume of information in the sectors specified ~~below~~ **in paragraph 3**. This information ~~will~~ **shall** be set forth in detail in a document transmitted to the Commission. The Commission shall communicate this information to Community undertakings under the conditions laid down in ~~the above-mentioned~~ **Article 13 of the Treaty establishing the European Atomic Energy Community**.

3. The sectors in which Denmark shall make information available to the Community are as follows:

- (a) DOR heavy water moderated organic cooled reactor;
- (b) DT-350, DK-400 heavy water pressure vessel reactors;
- (c) high temperature gas loop;
- (d) instrumentation systems and special electronic equipment;
- (e) reliability;
- (f) reactor physics, reactor dynamics and heat exchange;
- (g) in-pile testing of materials and equipment.

4. Denmark shall undertake to supply the Community with any information complementary to the reports which it shall communicate, in particular during visits by Community personnel or personnel from the Member States to the Risö Centre, under conditions to be determined by mutual agreement in each case.

**Article 16** (*ex Article 2 of Protocol No 25 AA 1972*)

1. In those sectors in which Denmark places information at the disposal of the **European Atomic Energy** Community, the competent authorities, at present the "Atomenergikommission", shall grant upon request licences on commercial terms to Member States, persons and undertakings of the Community where they possess exclusive rights to patents filed in Member States of the Community and in so far as they have no obligation or commitment in respect of third parties to grant or offer to grant an exclusive or partially exclusive licence to the rights in these patents.

2. Where an exclusive or partially exclusive licence has been granted, Denmark shall encourage and facilitate the granting of sublicences on commercial terms to Member States, persons and undertakings of the Community by the holders of such licences.  
Such exclusive or partially exclusive licences shall be granted on a normal commercial basis.

**Section 6**  
**Provisions on the exchange of information with Ireland in the field of**  
**nuclear energy**

**Article 17** (*ex Article 1 of Protocol No 26 AA 1972*)

1. From ~~the date of accession~~ **1 January 1973**, such information as has been communicated to Member States, persons and undertakings, in accordance with Article 13 of the ~~Euratom~~ Treaty **establishing the European Atomic Energy Community**, shall be placed at the disposal of Ireland, which shall give it limited distribution within its territory under the conditions laid down in ~~that~~ **this** Article.
2. From ~~the date of accession~~ **1 January 1973**, Ireland shall place at the disposal of the European Atomic Energy Community information obtained in the nuclear field in Ireland, which is given limited distribution, in so far as strictly commercial applications are not involved. The Commission shall communicate this information to Community undertakings under the conditions laid down in ~~the above-mentioned~~ **Article 13 of the Treaty establishing the European Atomic Energy Community**.
3. ~~This~~ **The information referred to in this Article** shall mainly concern studies for the development of a power reactor and work on radioisotopes and their application in medicine, including the problems of radiation protection.

**Article 18** (*ex Article 2 of Protocol No 26 AA 1972*)

1. In those sectors in which Ireland places information at the disposal of the **European Atomic Energy** Community, the competent authorities shall grant upon request licences on commercial terms to Member States, persons and undertakings of the Community where they possess exclusive rights to patents filed in Member States of the Community and in so far as they have no obligation or commitment in respect of third parties to grant or offer to grant an exclusive or partially exclusive licence to the rights in these patents.

2. Where an exclusive or partially exclusive licence has been granted, Ireland shall encourage and facilitate the granting of sublicences on commercial terms to Member States, persons and undertakings of the Community by the holders of such licences.

Such exclusive or partially exclusive licences shall be granted on a normal commercial basis.

**Section 7**

**Provisions on the exchange of information with the United Kingdom in the field of nuclear energy**

**Article 19** (*ex Article 1 of Protocol No 28 AA 1972*)

1. From ~~the date of accession~~ **1 January 1973**, such information as has been communicated to Member States, persons and undertakings in accordance with Article 13 of the ~~Euratom~~ Treaty **establishing the European Atomic Energy Community**, shall be placed at the disposal of the United Kingdom, which shall give it limited distribution within its territory under the conditions laid down in ~~that~~ **this** Article.

2. From ~~the date of accession~~ **1 January 1973**, the United Kingdom shall place at the disposal of the European Atomic Energy Community an equivalent volume of information in the sectors set out in the ~~annexed~~ **list contained in the Annex to Protocol No 28 to the Act concerning the conditions of accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland**. This information ~~will~~ **shall** be set forth in detail in a document transmitted to the Commission. The Commission shall communicate this information to Community undertakings under the conditions laid down in ~~the above-mentioned~~ **Article 13 of the Treaty establishing the European Atomic Energy Community**.

3. In view of the Community's greater interest in certain sectors, the United Kingdom shall lay special emphasis on the transmission of information in the following sectors:

- (a) fast reactor research and development (including safety);
- (b) fundamental research (applicable to reactor types);
- (c) reactor safety (other than fast reactors);
- (d) metallurgy, steel, zirconium alloys and concrete;
- (e) compatibility of structural materials;
- (f) experimental fuel fabrication;
- (g) thermohydrodynamics;
- (h) instrumentation.

**Article 20** (*ex Article 2 of Protocol No 28 AA 1972*)

1. In those fields in which the United Kingdom places information at the disposal of the **European Atomic Energy** Community, the competent authorities, at present the United Kingdom Atomic Energy Authority and the United Kingdom Generating Boards, shall grant upon request licences on commercial terms to Member States, persons and undertakings of the Community where they possess exclusive rights to patents filed in the Member States of the Community and in so far as they have no obligation or commitment in respect of third parties to grant or offer to grant an exclusive or partially exclusive licence to the rights in these patents.
2. Where an exclusive or partially exclusive licence has been granted, the United Kingdom shall encourage and facilitate the granting of sublicences on commercial terms to the Member States, persons and undertakings of the Community by the holders of such licences. Such exclusive or partially exclusive licences shall be granted on a normal commercial basis.

**TITLE 3**

**Provisions taken from the Act concerning the accession of the Hellenic Republic**

**Section 1**

**Provisions on the granting by the Hellenic Republic of exemption from customs duties  
on the import of certain goods**

**Article 21** (*ex Protocol No 3 AA 1979*)

~~Provisions relating to the alignment of duties in the Hellenic Customs Tariff upon the duties in the Common Customs Tariff~~ **Article III-36/37/38/39/40 of the Constitution** shall not prevent the Hellenic Republic from maintaining measures of exemption granted before 1 January 1979 pursuant to:

- (a) Law No 4171/61 (General measures to aid development of the country's economy),
- (b) Decree Law No 2687/53 (Investment and protection of foreign capital),
- (c) Law No 289/76 (Incentives with a view to promoting the development of frontier regions and governing all pertinent questions),

until the expiry of the agreements concluded by the Hellenic Government with those persons benefiting from these measures.

## **Section 2**

### **Provisions on taxation**

#### **Article 22** *(ex Article 128 AA 1979)*

The acts listed in **point II.2 of Annex VIII to this the Act concerning the conditions of accession of the Hellenic Republic** shall apply in respect of the Hellenic Republic under the conditions laid down in that Annex, **with the exception of the references to points 9 and 18.b.**

## **Section 3**

### **Provisions on cotton**

#### **Article 23** *(ex Protocol No 4 AA 1979, amended by Protocol No 14 AA 1985)*

~~THE HIGH CONTRACTING PARTIES,~~

~~RECOGNISING the great importance that cotton production represents for the Greek economy,~~

~~RECOGNISING the specifically agricultural character of this production,~~

~~RECOGNISING that by reason of the importance of cotton as a raw material, the system of trade with third countries ought not to be affected,~~

~~DEEMING that in order to avoid any discrimination between Community producers the system adopted pursuant to this Protocol must apply throughout the territory of the Community,~~

~~HAVE AGREED UPON the following provisions:~~

1. ~~This Protocol~~ **This section** concerns cotton, not carded or combed, falling within heading No 55.01 of the ~~Common Customs Tariff~~ **520 100 of the Combined Nomenclature** <sup>1</sup>.
2. a system shall be introduced in the ~~Community~~ **Union** particularly to:
  - (a) support the production of cotton in regions of the ~~Community~~ **Union** where it is important for the agricultural economy,
  - (b) permit the producers concerned to earn a fair income,
  - (c) stabilise the market by structural improvements at the level of supply and marketing.
3. The system referred to in paragraph 2 shall include the grant of an aid to production. <sup>2</sup>

~~In order to facilitate management and supervision, aid production shall be granted via cotton ginning undertakings. In this respect it will be advisable to ensure that there is no distortion of intra-community competition in the ensuing processing stages.~~

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<sup>1</sup> Paragraph 1 has been amended in accordance with Commission Regulation (EEC) No 4006/87 of 23 December 1987 amending Protocol No 4 on cotton.

<sup>2</sup> Paragraph 3 has been replaced by this text in accordance with Council Regulation (EC) No 1050/2001 of 22 May 2001 adjusting, for the sixth time, the system of aid for cotton.

~~The amount of this aid shall be established from time to time on the basis of the difference existing between:~~

- ~~—— a guide price fixed for cotton, that has not been ginned, in accordance with the criteria referred to in paragraph 2,~~
- ~~—— the world market price determined on the basis of offers and prices recorded on the world market.~~

~~The grant of aid to production shall be restricted to a quantity of cotton to be determined each year for the Community.~~

~~This quantity shall lie within a scale between:~~

- ~~—— the quantity corresponding to Community production during the years 1978 to 1980 or to the production of one of those years, and~~
- ~~—— the quantity fixed pursuant to the preceding indent, increased by 25 %.~~

~~The quantity fixed pursuant to the preceding subparagraph shall be increased by 185 000 tonnes.<sup>1</sup>~~

~~If the actual production in a marketing year exceeds the quantity fixed for the marketing year concerned, the amount of aid shall be multiplied by a coefficient obtained by dividing the fixed quantity by the quantity actually produced.<sup>2</sup>~~

4. In order to allow cotton producers to concentrate supply and to adapt production to market requirements, a system shall be introduced to encourage the formation of producer groups and federations of such groups.

This system shall provide for the grant of aids with a view to providing incentives for the formation and facilitating the functioning of producer groups.

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<sup>1</sup> This subparagraph was added by Protocol No 14 AA 1985.

<sup>2</sup> The second, third, fourth, fifth and sixth subparagraphs of paragraph 3 were deleted by Council Regulation (EC) No 1050/2001 of 22 May 2001 mentioned above.

The only groups that may benefit from this system must:

- (a) be formed on the initiative of the producers themselves,
- (b) offer a sufficient guarantee for the duration and effectiveness of their action,
- (c) be recognised by the Member State concerned.

5. The ~~Community~~ **Union** trading system with third countries ~~may~~**shall** not be affected. In this respect, in particular, no measure restricting imports may be laid down.

~~6.—Member States and the Commission shall forward to each other the necessary data for the application of the system laid down in this Protocol.~~

~~7.—The expenses relating to the measures laid down or to be adopted pursuant to this Protocol shall be the subject of Community financing in accordance with the provisions of the EEC Treaty.~~

~~8.—The Council, acting by a qualified majority on a proposal from the Commission, and after consulting the Assembly shall adopt every year before 1 August for the marketing year beginning the following year the guide price referred to in paragraph 3.~~

~~9.—The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the necessary measures for implementing the provisions laid down in this Protocol and in particular:~~

~~(a)—the rules of procedure and of sound management for its application;~~

~~(b)—the general rules of the system of aid to production referred to in paragraph 3 and the criteria for determining the world market price referred to in the same paragraph;~~

~~(c)—the general rules of the system for encouraging the formation of producer groups and federations of such groups;~~

~~(d)—the general rules concerning financing referred to in paragraph 7.~~

~~In accordance with the same procedure the Council shall fix:~~

~~(a) — each year and in good time before the beginning of each marketing year, the quantity referred to in paragraph 3;~~

~~(b) — the amount of aid referred to in paragraph 4;~~

~~(c) — the conditions under which transitional measures may be taken that are necessary in order to facilitate the transition from the previous system to that resulting from the application of this Protocol, particularly if the implementation of the new system on the date laid down meets with appreciable difficulties.~~

~~10. — The Commission shall determine the world market price and the amount of the aid referred to in paragraph 3.~~

~~11. — The Council shall examine, not later than five years after the implementation of the system introduced pursuant to this Protocol, on the basis of a report from the Commission, the functioning of this system. if the results of the examination render it necessary, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the Assembly, shall decide on any necessary adjustments to the system.~~

~~12. The measures taken pursuant to this Protocol shall be implemented not later than 1 August 1981 and shall apply for the first time to products harvested in 1981.~~

~~Until the date of this implementation the Hellenic Republic may maintain, by way of derogation, the system of aid in force in its territory before accession.~~

~~6. A European law of the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, shall decide on shall establish the adjustments necessary to the system introduced pursuant to this Protocol Section.~~

**The Council, on a proposal from the Commission, shall adopt the European regulations and decisions and shall adopt establishing** the general rules necessary for implementing the provisions of this Protocol-Section.

**The Council shall act after consulting the European Parliament.** <sup>1</sup>

~~13. Articles 68, 70, 75, 76, 89, 90 and 91 of the Act of Accession of the Kingdom of Spain and the Portuguese Republic shall apply mutatis mutandis to the adoption by the Kingdom of Spain of this Protocol.~~

~~Articles 234, 236, 238, 243, 244, 257 and 258 of the abovementioned Act of Accession shall apply mutatis mutandis to the adoption by the Portuguese Republic of this Protocol.~~

#### **Section 4**

#### **Provisions on the economic and industrial development of Greece**

#### **Article 24** (*ex Protocol No 7 AA 1979*)

~~THE HIGH CONTRACTING PARTIES,~~

~~DESIRING to settle certain special problems of concern to Greece and,~~

~~HAVING AGREED UPON the following provisions:~~

~~Recall that the fundamental objectives of the European Economic Community include the steady improvement of the living standards and working conditions of the peoples of the Member States and the harmonious development of their economies by reducing the differences existing between the various regions and the backwardness of the less favoured regions;~~

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<sup>1</sup> Paragraphs 7 to 12, which had been partly amended by Council Regulation (EC) No 1553/95 of 29 June 1995, have been deleted and paragraph 6 has been replaced by this text in accordance with Regulation (EC) No 1050/2001 mentioned above, as adapted to take account of the new typology of legal instruments.

~~The Member States~~ take note of the fact that the Hellenic Government has embarked upon the implementation of a policy of industrialisation and economic development designed to align the standards of living in Greece with those of the other European nations and to eliminate underemployment while progressively evening out regional differences in levels of development.;

~~They~~ recognise it to be in their common interest that the objectives of this policy be so attained.;

~~Agree to recommend~~ To this end, ~~that the Community~~ institutions shall implement all the means and procedures laid down by the ~~EEC Treaty~~ **Constitution**, particularly by making adequate use of the ~~Community~~ **Union** resources intended for the realisation of ~~its the Community's~~ **its** ~~abovementioned~~ objectives.;

~~Recognise~~ In particular ~~that~~, in the application of Articles ~~92~~ **III-56** and ~~93~~ **III-57** of the ~~EEC Treaty~~ **Constitution**, it will be necessary to take into account the objectives of economic expansion and the raising of the standard of living of the population.

## Section 5

### Provisions on the exchange of information with Greece in the field of nuclear energy

#### Article 25 (*ex Article 1 of Protocol No 6 AA 1979*)

1. From ~~the date of accession~~ **1 January 1981**, such information as has been communicated to Member States, persons and undertakings, in accordance with Article 13 of the ~~Euratom Treaty~~ **Treaty establishing the European Atomic Energy Community**, shall be placed at the disposal of the Hellenic Republic which shall give it limited distribution within its territory under the conditions laid down in that Article.

2. From ~~the date of accession~~ **1 January 1981**, the Hellenic Republic shall place at the disposal of the European Atomic Energy Community information obtained in the nuclear field in Greece which is given limited distribution, in so far as strictly commercial applications are not involved. The Commission shall communicate this information to Community undertakings under the conditions laid down in ~~the above-mentioned~~ **Article 13 of the Treaty establishing the European Atomic Energy Community**.

3. ~~This~~ **The information referred to in this Article** shall mainly concern:

- (a) studies on the application of radioisotopes in the following fields: medicine, agriculture, entomology, environmental protection,
- (b) the application of nuclear technology to archeometry,
- (c) the development of electronic medical apparatus,
- (d) the development of methods of radioactive ore prospecting.

**Article 26** (*ex Article 2 of Protocol No 6 AA 1979*)

1. In those sectors in which the Hellenic Republic places information at the disposal of the **European Atomic Energy Community**, the competent authorities shall grant upon request licences on commercial terms to Member States, persons and undertakings of the Community where they possess exclusive rights to patents filed in Member States of the Community and in so far as they have no obligation or commitment in respect of third parties to grant or offer to grant an exclusive or partially exclusive licence to the rights in these patents.

2. Where an exclusive or partially exclusive licence has been granted, the Hellenic Republic shall encourage and facilitate the granting of sub-licences on commercial terms to Member States, persons and undertakings of the Community by the holders of such licences.

Such exclusive or partially exclusive licences shall be granted on a normal commercial basis.

## TITLE 4

### **Provisions taken from the Act concerning the accession of the Kingdom of Spain and the Portuguese Republic**

#### **Section 1**

#### **Financial provisions <sup>1</sup>**

#### **Article 27** (*ex Article 187 AA 1985*)

~~The amount of duties recorded under own resources accruing from value added tax shall be due in its entirety from 1 January 1986.~~

~~That amount~~**The own resources accruing from value added tax** shall be calculated and checked as if the Canary Islands and Ceuta and Melilla were included in the territorial field of application of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment.

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<sup>1</sup> Contrary to what was indicated in CIG 54/03, Articles 185 and 186 AA have become obsolete and should not be incorporated.

~~The Community shall refund to the Kingdom of Spain, as an item of expenditure under the general budget of the European Communities, during the month following its availability to the Commission, a proportion of the amount of payments under own resources accruing from value added tax in accordance with the following procedure:~~

- ~~—— 87 % in 1986,~~
- ~~—— 70 % in 1987,~~
- ~~—— 55 % in 1988,~~
- ~~—— 40 % in 1989,~~
- ~~—— 25 % in 1990,~~
- ~~—— 5 % in 1991.~~

~~The percentage of this graduated refund shall not apply to the amount corresponding to the share to be borne by Spain in financing the deduction provided for in Article 3(3)(b) and (c) of the Council Decision of 7 May 1985 on the Communities' system of own resources, in favour of the United Kingdom.~~

## **Section 2**

### **Provisions on patents**

#### **Article 28** *(ex Protocol No 8 AA 1985)*

~~1. — The Kingdom of Spain shall upon accession adjust its patent law so as to make it compatible with the principles of the free movement of goods and with the level of protection of industrial property attained in the Community, in particular in the fields of contractual licensing rules, of exclusive compulsory licensing, of the compulsory exploitation of a patent and also the patent of importation.~~

~~To that end, close cooperation shall be instituted between the Commission services and the Spanish authorities; this cooperation shall also cover the problems of transition of current Spanish law towards new law.~~

~~2.—The Kingdom of Spain shall introduce, in its national legislation, a provision on shifting the burden of proof corresponding to Article 75 of the Luxembourg Convention of 15 December 1975 on the Community patent.~~

~~This provision shall apply upon accession with regard to new process patents filed as from the date of accession.~~

~~For patents filed prior to that date, this provision shall apply not later than 7 October 1992.~~

~~However, this provision shall not apply if the infringement proceedings are brought against the holder of another process patent for the manufacture of a product identical to that obtained as the result of the patented process of the plaintiff, if that other patent was issued before the date of accession. Nevertheless, the Kingdom of Spain shall repeal from accession Article 273 of its law relating to patents currently in force.~~

**The provisions of Spanish national law relating to the burden of proof, which were adopted under paragraph 2 of Protocol No 8 to the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic, shall not apply to patents granted prior to 1 January 1986.**

In cases where shifting the burden of proof does not apply, ~~the Kingdom of Spain~~ shall continue to require the patent holder to adduce proof of infringement. ~~In all these cases the Kingdom of Spain shall however pass new legislation with effect from 7 October 1992,~~ **However, it shall apply a judicial procedure known as "distrainment-description" in the case of patents granted prior to 1 January 1986.**

"Distrainment-description" means a procedure forming part of the system referred to in the preceding paragraphs by which any person entitled to bring an action for infringement may, after obtaining a Court order, granted on his application, cause a detailed description to be made, at the premises of the alleged infringer, by a bailiff assisted by experts, of the processes in question, in particular by photocopying technical documents, with or without actual distrainment. This Court order may order the payment of a security, intended to grant damages to the alleged infringer in case of injury caused by the "distrainment-description".

~~3.— The Kingdom of Spain shall accede to the Munich Convention of 5 October 1973 on the European patent within the required time limits so as to allow it to invoke the provisions of Article 167 of the said Convention solely for chemical and pharmaceutical products.~~

~~In this context and taking account of the fulfilment of the undertaking entered into by the Kingdom of Spain under paragraph 1, the Member States of the Community in their capacity as Contracting States to the Munich Convention undertake to use their best endeavours to ensure, should a request be submitted by the Kingdom of Spain in accordance with that Convention, an extension—beyond 7 October 1987 and for the maximum period laid down in the Munich Convention of the validity of the reserve laid down in the said Article 167. If the extension of the abovementioned reserve is not obtained, the Kingdom of Spain may rely upon Article 174 of the Munich Convention, it being understood that the Kingdom of Spain will, in any event, accede to that Convention not later than 7 October 1992.~~

~~4.— On the expiry of the abovementioned derogation, the Kingdom of Spain shall accede to the Luxembourg Convention on the Community patent.~~

~~The Kingdom of Spain may invoke Article 95(4) of the said Convention with a view to introducing the purely technical adaptations made necessary by its accession to the said Convention, it being however understood that such an invocation will in no way delay the accession of the Kingdom of Spain to the Luxembourg Convention beyond the abovementioned date.~~

**Article 29** (*ex Protocol No 19 AA 1985*)

1.—~~The Portuguese Republic undertakes, upon accession, to adjust its patent law so as to make it compatible with the principles of the free movement of goods and with the level of protection of industrial property attained in the Community. In particular, the Portuguese Republic shall repeal, on accession, the provisions of Article 8 of Decree No 27/84 of 18 January 1984, under which the holder of a patent granted in Portugal must, in order to enjoy the exclusive rights conferred by that patent, manufacture on Portuguese territory the patented product or the product obtained by using a patented process.~~

~~To that end, close cooperation shall be instituted between the Commission services and the Portuguese authorities; this cooperation shall also cover the problems of transition of current Portuguese law towards new law.~~

2.—~~The Portuguese Republic shall introduce, in its national legislation, a provision on shifting the burden of proof corresponding to Article 75 of the Luxembourg Convention of 15 December 1975 on the Community patent.~~

~~This provision shall apply upon accession with regard to new process patents filed as from the date of accession.~~

~~For patents filed prior to that date, this provision shall apply not later than 1 January 1992.~~

~~However, this provision shall not apply if infringement proceedings are brought against the holder of another process patent for the manufacture of a product identical to that obtained as the result of the patented process of the plaintiff, if that other patent was issued before the date of accession.~~

**The provisions of Portuguese national law relating to the burden of proof, which were adopted under paragraph 2 of Protocol No 8 to the Act concerning the conditions of accession of the Kingdom of Spain and the Portuguese Republic, shall not apply to patents granted prior to 1 January 1986.**

In cases where shifting the burden of proof does not apply, ~~the Portuguese Republic~~ **Portugal** shall continue to require the patent holder to adduce proof of infringement. ~~In all cases where shifting the burden of proof does not apply on 1 January 1987, including patents filed before the date of accession, the Portuguese Republic shall pass new domestic legislation, with effect from that date~~ However, **it shall apply** a judicial procedure known as "distrain-description" **in the case of patents granted prior to 1 January 1986.**

"Distrain-description" means a procedure by which any person entitled to bring an action for infringement may, after obtaining a Court order, granted on his application, cause a detailed description to be made, at the premises of the alleged infringer, by a bailiff assisted by experts, of the processes in question, in particular by photocopying technical documents, with or without actual distrain. This Court order may order the payment of a security, intended to grant damages to the alleged infringer in case of injury caused by the "distrain-description".

~~3. The Portuguese Republic shall accede on 1 January 1992 to the Munich Convention of 5 October 1973 on the European patent and to the Luxembourg Convention of 15 December 1975 on the Community patent.~~

~~The Portuguese Republic may invoke Article 95 (4) of the Luxembourg Convention on the Community patent with a view to introducing the purely technical adaptations made necessary by its accession to the said Convention, it being, however, understood that such an invocation can in no way delay the accession of the Portuguese Republic to the Luxembourg Convention beyond the abovementioned date.~~

### Section 3

## Provisions on the mechanism for additional responsibilities within the framework of fisheries agreements concluded by the ~~Community~~ Union with third countries<sup>1</sup>

### Article 30 (*ex Protocol No 4 AA 1985*)

1. A specific system is hereby established for the execution of operations carried out as a complement to fishing activities undertaken by vessels flying the flag of a Member State of the ~~Community~~ Union in waters falling under the sovereignty or within the jurisdiction of a third country within the framework of responsibilities created under fisheries agreements concluded by the ~~Community~~ Union with the third countries in question.
  
2. Operations considered likely to occur by way of addition to fishing activities subject to the conditions and within the limits stipulated in points 3 and 4 relate to:
  - (a) the processing, in the territory of the third country concerned, of fishery products caught by vessels flying the flag of a Member State of the ~~Community~~ in the waters of that third country in the course of fishing activities carried out by virtue of a fisheries agreement, with a view to those products being put on the ~~Community~~ Union market under tariff headings falling within Chapter 03 of the Common Customs Tariff,
  
  - (b) the loading or transshipment aboard a vessel flying the flag of a Member State of the ~~Community~~ occurring within the framework of activities provided for under such a fisheries agreement, of fishery products falling within Chapter 03 of the Common Customs Tariff with a view to their transport and any processing for the purpose of being put on the ~~Community~~ Union market.

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<sup>1</sup> In the light of a more thorough analysis, and contrary to what was indicated in CIG 54/03, these provisions have been shown to have continuing relevance.

3. The import into the ~~Community~~ **Union** of products having been the subject of the operations referred to in paragraph 2 shall be carried out subject to suspension, in part or in whole, of the Common Customs Tariff duties or subject to a special system of charges, under the conditions and within the limits of additionality fixed annually in relation to the volume of fishing possibilities deriving from the agreements in question and from their accompanying detailed rules.

4. ~~The Council, acting by a qualified majority on a proposal from the Commission, shall, before 1 March 1986,~~ **The European law or framework law shall lay down** the general rules of application of this system and in particular the criteria for fixing and apportioning the quantities concerned.

~~Such adjustments to this system as may prove necessary in the light of experience acquired, shall be adopted in accordance with the same procedure.~~

The detailed implementing rules of this system and the quantities concerned shall be adopted in accordance with the procedure of Article ~~33~~ **37** of Regulation (EEC) No ~~3796/81~~ **104/2000**.

**Section 4**  
**Provisions on Ceuta and Melilla <sup>1</sup>**

***Subsection 1***  
***General provisions***

**Article 31** (*ex Article 25 AA 1985*)

1. ~~The Treaties~~ **The Constitution** and the acts of the institutions of the European Communities shall apply ~~to the Canary Islands and~~ to Ceuta and ~~to~~ Melilla, subject to the derogations referred to in paragraphs 2 and 3 and to the other provisions of ~~this Act~~ **this Section**.
  
2. The conditions under which the provisions of the ~~EEC and ECSC Treaties~~ **Constitution** concerning the free movement of goods, and the acts of the institutions ~~of the Community~~ concerning customs legislation and commercial policy, shall apply ~~to the Canary Islands and~~ to Ceuta and ~~to~~ Melilla are set out ~~in Protocol 2~~ in **Subsection 3**.

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<sup>1</sup> The specific provisions of the Act of Accession relating to the Canary Islands have become obsolete, since they are now covered by Article III-330 of the Constitution (299 TEC) on the outermost regions. Any amendments to (or replacement of) the acts adopted by the Institutions on the basis of those provisions have, for some time now, also been made on that basis. See, for instance, the following acts:

- Council Regulation (EC) No 1450/2001 of 28 June 2001 amending Regulation (EEC) No 1601/92 concerning specific measures for the Canary Islands with regard to certain agricultural products as regards the structural measures (POSEICAN)
- Council Regulation No 1454/2001 of 28 June 2001 introducing specific measures for certain agricultural products for the Canary Islands and repealing Regulation (EEC) No 1601/92, *Official Journal L 198*, 21.7.2001. This Regulation was subsequently repealed and replaced by Council Regulation No 1782/2003 of 29 September 2003.
- Council Regulation (EC) No 704/2002 of 25 March 2002 temporarily suspending autonomous Common Customs Tariff duties on imports of certain industrial products and opening and providing for the administration of autonomous Community tariff quotas on imports of certain fishery products into the Canary Islands, *Official Journal L 111*, 26.4.2002.
- Council Decision of 20 June 2002 on the AIEM tax applicable in the Canary Islands (2002/546/EC), *Official Journal L 179*, 9.7.2002.

3. Without prejudice to the specific provisions of Article ~~155~~ **32** the acts of the institutions ~~of the European Communities~~ concerning the common agricultural policy and the common fisheries policy shall not apply ~~to the Canary Islands and~~ to Ceuta and ~~to~~ Melilla.

~~The Council acting by a qualified majority on a proposal from the Commission shall determine the provisions of a socio-structural nature, which, in the sphere of agriculture, shall apply to the Canary Islands, whilst ensuring that these provisions are compatible with the general objectives of the common agricultural policy.~~

4. At the request of the Kingdom of Spain, ~~the Council, acting unanimously on a proposal from the Commission and after consulting the Assembly,~~ **a European law or framework law of the Council** may:

- (a) ~~decide to include the Canary Islands and~~ Ceuta and Melilla in the customs territory of the ~~Community~~**Union**;
- (b) define the appropriate measures aimed at extending ~~to the Canary Islands and~~ to Ceuta and ~~to~~ Melilla the provisions of ~~Community~~ **Union** law in force.

On a proposal from the Commission acting on its own initiative or at the request of a Member State, the Council, ~~acting unanimously and after consulting the Assembly,~~ may **decide adopt a European law or framework law making** any adjustments to the arrangements applicable ~~to the Canary Islands and~~ to Ceuta and to Melilla as may prove necessary.

**The Council shall act unanimously, after consulting the European Parliament.**

**Subsection 2**  
**Provisions relating to the Common Fisheries Policy**

**Article 32** (*ex Article 155 AA 1985*)

1. Subject to paragraph 2 and without prejudice to ~~Protocol 2~~ **Subsection 3**, the common fisheries policy shall not apply to the ~~Canary Islands~~ nor to Ceuta or to Melilla.
2. The Council, acting ~~by a qualified majority~~ on a proposal from the Commission, **shall adopt the European laws, framework laws or decisions which:**
  - (a) shall determine the ~~Community~~ structural measures which may be adopted in favour of the territories referred to in paragraph 1;
  - (b) shall determine the procedures appropriate to take into consideration all or part of the interests of the territories referred to in paragraph 1 when it **adopts decisions acts**, case by case, with a view to the negotiations by the ~~Community~~ **Union** aimed at the resumption or conclusion of fisheries agreements with third countries and to the specific interests of these territories within international conventions concerning fisheries, to which the ~~Community~~ **Union** is a contracting party.
3. The Council, ~~acting unanimously~~ on a proposal from the Commission, shall **adopt the European laws, framework laws or decisions which shall** determine, where appropriate, the possibilities and conditions of mutual access to respective fishing zones and to the resources thereof. **It shall act unanimously.**
4. **The laws and framework laws referred to in paragraphs 2 and 3 shall be adopted after consultation of the European Parliament.**

### *Subsection 3*

#### *Provisions on free movement of goods, customs legislation and commercial policy*

##### **Article 33** (ex Article 1 of Protocol No 2 AA 1985)

1. Products originating ~~in the Canary Islands or in Ceuta~~ **or in Melilla** and products coming from third countries imported ~~into the Canary Islands or into Ceuta~~ **or into Melilla** under the arrangements which are applicable there to them shall not be deemed, when released for free circulation in the customs territory of the **Community Union**, to be goods fulfilling the conditions of ~~Articles 9 and 10 of the EEC Treaty~~ **paragraphs 1 to 3 of Article III-36/III-37/III-38/III-39/III-40 of the Constitution**, nor goods in free circulation under the ECSC Treaty.
2. The customs territory of the **Community Union** shall not include ~~the Canary Islands and Ceuta and Melilla~~.
3. Except where otherwise provided for in this ~~Protocol~~ **Subsection**, the acts of the institutions of ~~the Community~~ regarding customs legislation for foreign trade shall apply under the same conditions to trade between the customs territory of the **Community Union**, on the one hand, and ~~the Canary Islands and Ceuta and Melilla~~, on the other.
4. Except where otherwise provided for in this ~~Protocol~~ **Subsection**, the acts of the institutions of ~~the Community~~ regarding the common commercial policy, be they autonomous or enacted by agreement, directly linked to the import or export of goods, shall not be applicable ~~to the Canary Islands or to Ceuta~~ **or to Melilla**.
5. Except where otherwise provided for in ~~the Act of Accession, including this Protocol~~ **this Title**, the **Community Union** shall apply in its trade ~~with the Canary Islands and~~ with Ceuta and Melilla, for products falling within Annex ~~II to the EEC Treaty~~ **I to the Constitution**, the general arrangements which it applies in its foreign trade.

**Article 34** (*ex Article 2 of Protocol No 2 AA 1985*)

1. Subject to ~~Articles 3 and 4 of this Protocol~~ **Article 35**, products originating in the Canary Islands and in Ceuta and Melilla, shall, when released for free circulation in the customs territory of the Community, qualify for exemption from customs duties under the conditions defined in paragraphs 2 and 3.

2. ~~In that part of Spain which is included in the customs territory of the Community, the exemption from customs duties referred to in paragraph 1 shall be granted as from 1 January 1986.~~

~~With regard to the remainder of the customs territory of the Community, customs duties on the import into the customs territory of the Union of products originating in the Canary Islands or in Ceuta or in Melilla shall be abolished in accordance with the same timetable and under the same conditions as those provided for in Articles 30, 31 and 32 of the Act of Accession.~~

3. ~~By way of derogation from paragraphs 1 and 2, manufactured tobacco falling within heading No 24.02 of the Common Customs Tariff which is processed in the Canary Islands shall qualify, in the customs territory of the Community, for exemption from customs duties within the limit of tariff quotas.~~

~~These quotas shall be opened and allocated by the Council, acting by a qualified majority on a proposal from the Commission, taking as the reference base the average of the three best of the last five years for which statistics are available. The Council shall act in good time so as to provide for the opening and allocation of these quotas on 1 January 1986.~~

~~In order to avoid a situation whereby this arrangement results in economic difficulties in one or more Member States because of the reconsignment of manufactured tobacco imported into another Member State, the Commission shall adopt, after consulting the Member States, all methods of administrative cooperation which prove necessary.~~

**Article 35** (ex Article 3 of Protocol No 2 AA 1985)

1. Fishery products falling within heading Nos 03.01, 03.02, 03.03, 16.04, 16.05 and subheadings ~~05.15 A~~ **05.11.91** and ~~23.01 B~~ **23.01.20** of the Common Customs Tariff and originating in ~~the Canary Islands or Ceuta~~ **or in Melilla**, shall, within the limit of tariff quotas calculated by product and on the average quantities actually disposed of during 1982, 1983 and 1984, **qualify for exemption from customs duties throughout the customs territory of the Union.** ~~benefit from the arrangements hereinafter defined, intended respectively for that part of Spain which is included in the customs territory of the Community, on one hand, and for the Community as at present constituted, on the other:~~

—Where the said products are imported into ~~that part of Spain which is included in the customs territory of the Community,~~ they shall qualify for exemption from customs duties. They may not be deemed to be in free circulation in ~~that part of Spain within the meaning of Article 10 of the EEC Treaty when they are reconsigned to another Member State.~~

—Where the said products are released for free circulation in ~~the remainder of the customs territory of the Community,~~ they shall qualify for the progressive reduction of customs duties according to ~~the same timetable and under the same conditions as those provided for in Article 173 of the Act of Accession,~~ provided that the reference prices are complied with.

2.—As from 1 January 1993 for the fishery products referred to in paragraph 1, and from 1 January 1996 for the sardine preparations and preserved sardines falling within subheading 16.04 D of the Common Customs Tariff, the products concerned shall qualify for exemption from customs duties in the whole of the customs territory of the Community up to the limit of the tariff quotas calculated by product and on the average quantities actually disposed of during 1982, 1983 and 1984 in ~~that part of Spain which is included in the customs territory of the Community or exported to the Community as at present constituted.~~ The release for free circulation for products imported into the customs territory of the ~~Community~~ **Union**, under these tariff quotas, shall be subject to compliance with the rules laid down by the common organisation of markets and in particular with respect to reference prices.

32. The Council, ~~acting by qualified majority~~ on a proposal from the Commission, shall each year adopt ~~provisions~~ **regulations or decisions** opening and allocating tariff quotas in accordance with the detailed rules laid down in paragraphs 1 and 2. ~~For 1986 the Council shall act in good time so as to provide for the opening and allocation of the quotas by 1 January 1986.~~

*(ex Article 4 of Protocol No 2 AA 1985)*

~~1. The agricultural products appearing in Annex A, originating in the Canary Islands, shall, when they are released for free circulation in the customs territory of the Community, qualify under the conditions laid down in this Article, for exemption from customs duties within the limit of tariff quotas calculated on the average quantities actually disposed of during 1982, 1983 and 1984 respectively, intended for that part of Spain which is included in the customs territory of the Community, on the one hand, and for the Community as at present constituted on the other:~~

~~(a) until 31 December 1995, for those of the products referred to above falling within Regulation (EEC) No 1035/72 and until 31 December 1992 for the other products referred to, the products in question shall qualify:~~

~~—— in that part of Spain which is included in the customs territory of the Community, for an exemption from customs duties, without application, where this arises, of the system of reference prices;~~

~~—— in the remainder of the customs territory of the Community, for the same conditions as those adopted for the same products coming from that part of Spain which is included in the customs territory of the Community, as long as the system of reference prices is complied with, where they are applicable;~~

~~(b) as from 1 January 1996 for those of the products referred to above falling within Regulation (EEC) No 1035/72 and from 1 January 1993 for the other products referred to, the products in question shall qualify for exemption from customs duties in the whole of the customs territory of the Community as long as the system of reference prices is complied with, where they are applicable.~~

~~The Council, acting by a qualified majority on a proposal from the Commission, shall adopt in good time measures so as to provide for the opening and allocation of those quotas by 1 January 1986.~~

~~2.(a) — By way of derogation from paragraph 1, when bananas falling within subheading 08.01 B of the Common Customs Tariff, originating in the Canary Islands, are released for free circulation in that part of Spain which is included in the customs territory of the Community, they shall qualify for exemption from customs duties. Bananas imported under the abovementioned arrangements may not be deemed to be in free circulation in the said part of Spain within the meaning of Article 10 of the EEC Treaty when they are reconsigned to another Member State.~~

~~(b) Until 31 December 1995, the Kingdom of Spain may maintain, for the bananas referred to in (a) which are imported from the other Member States, the quantitative restrictions and measures having equivalent effect which it applied on the import of these products under the previous national arrangements.~~

~~Notwithstanding Article 76(2) of the Act of Accession and until the setting up of a common organisation of the market for that product, the Kingdom of Spain may retain, to the extent that is strictly necessary to ensure the maintenance of the national organisation, quantitative restrictions on imports of bananas referred to in (a) imported from third countries.~~

#### **Article 36** *(ex Article 5 of Protocol No 2 AA 1985)*

1. Where application of ~~the arrangement referred to in Article 2(2)~~ **34** could lead to a substantial increase in the import of certain products originating in ~~the Canary Islands or in Ceuta and or in Melilla~~ such as might prejudice **Community Union** producers, the Council, ~~acting by qualified majority~~ on a proposal from the Commission, may **adopt European regulations or decisions to subject** the access of these products to the customs territory of the **Community Union** to special conditions.

2. Where, because the Common Commercial Policy and the Common Customs Tariff are not applied to the import of raw materials or intermediate products into ~~the Canary Islands or Ceuta and~~ **or into** Melilla, imports of a product originating in ~~the Canary Islands or in Ceuta or in~~ Melilla cause, or may cause, serious injury to a producer activity exercised in one or more Member States, the Commission, at the request of a Member State or on its own initiative, may take the appropriate measures.

**Article 37** (*ex Article 6 of Protocol No 2 AA 1985*)

~~1.— On import into the Canary Islands or into Ceuta and Melilla, products originating in the customs territory of the Community shall qualify for exemption from the customs duties and charges having equivalent effect under the conditions defined in paragraphs 2 and 3.~~

~~2.— The customs duties existing in the Canary Islands and **on import** into Ceuta and **into** Melilla and the charge known as the "arbitrio insular – tarifa general" existing in the Canary Islands shall be abolished progressively, with regard to, of products originating in the customs territory of the Community Union, and charges having equivalent effect, shall be abolished. according to the same timetable and under the same conditions as those provided for in Articles 30, 31 and 32 of the Act of Accession.~~

~~3.— The so-called "arbitrio insular – tarifa especial" of the Canary Islands shall be abolished with regard to products originating in the customs territory of the Community on 1 March 1986.~~

~~However, the said charge may be maintained, on the import of the products listed in Annex B, at a rate corresponding to 90 % of the rate indicated opposite each of the products on the said list and on condition that this reduced rate is applied on a uniform basis to all imports of the products concerned originating in the whole of the customs territory of the Community. The said charge will be abolished by 1 January 1993 at the latest unless the Council, acting by qualified majority on a proposal from the Commission, decides that it should be prolonged on the basis of the trend in the economic situation in the Canary Islands for each of the products concerned.~~

~~The said charge may at no time be higher than the level of the Spanish customs tariff as modified with a view to the progressive introduction of the Common Customs Tariff.~~

**Article 38** *(ex Article 7 of Protocol No 2 AA 1985)*

The customs duties and charges having an effect equivalent to such duties and the trade arrangements applied on the import ~~to the Canary Islands and~~ into Ceuta and **into** Melilla of goods coming from a third country may not be less favourable than those applicable by the ~~Community~~ **Union** in accordance with its international commitments or its preferential arrangements with regard to such third country, providing that the same third country grants, to imports ~~from the Canary Islands and~~ from Ceuta and **from** Melilla, the same treatment as that which it grants to the ~~Community~~ **Union**. However, the arrangements applied to imports ~~into the Canary Islands and~~ into Ceuta and **into** Melilla with regard to goods coming from such third country may not be more favourable than those applied with regard to the imports of products originating in the customs territory of the ~~Community~~ **Union**.

*(ex Article 8 of Protocol No 2 AA 1985)*

~~The arrangements applicable to trade in goods between the Canary Islands, on the one hand, and Ceuta and Melilla, on the other, shall be at least as favourable as those applicable pursuant to Article 6.~~

**Article 39** *(ex Article 9 of Protocol No 2 AA 1985)*

~~1.—~~The Council, ~~acting by a qualified majority~~ on a proposal from the Commission, shall ~~before 1 March 1986,~~ adopt **European regulations or decisions laying down the rules** for the application of ~~this Protocol~~ **Subsection** and in particular the rules of origin applicable to trade, as referred to in Articles ~~2, 3, 4, 6 and 8~~ **34, 35 and 37**, including the provisions concerning the identification of originating products and the control of origin.

The rules will include, in particular, provisions on marking and/or labelling of products, on the conditions of registration of vessels, on the application of the rule on mixed origin for fishery products, and also provisions enabling the origin of products to be determined.

~~2. The following shall remain applicable until 28 February 1986:~~

~~— the rules of origin provided for by the 1970 Agreement between the European Economic Community and Spain, to trade between the customs territory of the Community as at present constituted, on the one hand, and the Canary Islands and Ceuta and Melilla, on the other,~~

~~— the rules of origin provided for by the national provisions in force as at 31 December 1985, to trade between that part of Spain included in the customs territory of the Community, on the one hand, and the Canary Islands and Ceuta and Melilla, on the other.~~

## **Section 5**

### **Provisions on the regional development of Spain**

#### **Article 40** (*ex Protocol No 12 AA 1985*)

~~THE HIGH CONTRACTING PARTIES,~~

~~Desiring to settle certain special problems of concern to Spain and,~~

~~HAVING AGREED THE FOLLOWING PROVISIONS:~~

~~Recall that the fundamental objectives of the European Economic Community include the steady improvement of the living standards and working conditions of the peoples of the Member States and the harmonious development of their economies by reducing the differences existing between the various regions and the backwardness of the less favoured regions;~~

~~**The Member States** take note of the fact that the Spanish Government has embarked upon the implementation of a policy of regional development designed in particular to stimulate economic growth in the less-developed regions and areas of Spain;~~

~~**They** recognise it to be in their common interest that the objectives of this policy be attained;~~

**They** agree, in order to help the Spanish Government to accomplish this task, to recommend that the ~~Community~~ institutions use all the means and procedures laid down by ~~Community~~ rules the **Constitution**, particularly by making adequate use of the ~~Community~~ **Union** resources intended for the realisation of ~~the Community's abovementioned~~ **its** objectives;

**The Member States** recognise in particular that, in the application of Articles ~~92 and 93 of the EEC Treaty~~ **III-56 and III-57 of the Constitution**, it will be necessary to take into account the objectives of economic expansion and the raising of the standard of living of the population of the less-developed regions and areas of Spain.

## **Section 6**

### **Provisions on the economic and industrial development of Portugal**

#### **Article 41** (*ex Protocol No 21 AA 1985*)

~~THE HIGH CONTRACTING PARTIES,~~

~~Desiring to settle certain special problems of concern to Portugal and,~~

~~HAVING AGREED THE FOLLOWING PROVISIONS,~~

~~Recall that the fundamental objectives of the European Economic Community include the steady improvement of the living standards and working conditions of the peoples of the Member States and the harmonious development of their economies by reducing the differences existing between the various regions and the backwardness of the less favoured regions:~~

**The Member States** take note of the fact that the Portuguese Government has embarked upon the implementation of a policy of industrialisation and economic development designed to align the standard of living in Portugal with that of the other European nations and to eliminate underemployment while progressively evening out regional differences in levels of development;

**They** recognise it to be in their common interest that the objectives of this policy be attained;

**They** agree to recommend to this end that the ~~Community~~ institutions use all the means and procedures laid down by the ~~EEC Treaty~~ **Constitution**, particularly by making adequate use of the ~~Community Union~~ resources intended for the realisation of ~~the Community's above-mentioned~~ its objectives;

**The Member States** recognise in particular that, in the application of Articles ~~92 and 93 of the EEC Treaty~~ **III-56 and III-57 of the Constitution**, it will be necessary to take into account the objectives of economic expansion and the raising of the standard of living of the population.

## **Section 7**

### **Provisions on the exchange of information with the Kingdom of Spain in the field of nuclear energy**

#### **Article 42** (*ex Article 1 of Protocol No 13 AA 1985*)

1. From ~~the date of accession~~ **1 January 1986**, such information as has been communicated to Member States, persons and undertakings in accordance with Article 13 of the ~~Euratom Treaty~~ **establishing the European Atomic Energy Community**, shall be placed at the disposal of the Kingdom of Spain which shall give it limited distribution within its territory under the conditions laid down in that Article.

2. From ~~the date of accession~~ **1 January 1986**, the Kingdom of Spain shall place at the disposal of the European Atomic Energy Community information obtained in the nuclear field in Spain which is given limited distribution, in so far as strictly commercial applications are not involved. The Commission shall communicate this information to Community undertakings under the conditions laid down in ~~paragraph 1~~ **Article 13 of the Treaty establishing the European Atomic Energy Community**.

3. ~~This~~ **The** information **referred to in this Article** shall mainly concern:
- (a) nuclear physics (low and high-energy),
  - (b) radiation protection,
  - (c) isotope applications, in particular those of stable isotopes,
  - (d) research reactors and relevant fuels,
  - (e) research into the field of the fuel cycle (more especially the mining and processing of low-grade uranium ore; optimisation of fuel elements for power reactors).

**Article 43** (*ex Article 2 of Protocol No 13 AA 1985*)

1. In those sectors in which the Kingdom of Spain places information at the disposal of the **European Atomic Energy** Community, the competent authorities shall grant upon request licences on commercial terms to Member States, persons and undertakings of the Community where they possess exclusive rights to patents filed in Member States of the Community and in so far as they have no obligation or commitment in respect of third parties to grant or offer to grant an exclusive or partially exclusive licence to the rights in these patents.
2. Where an exclusive or partially exclusive licence has been granted, the Kingdom of Spain shall encourage and facilitate the granting of sub-licences on commercial terms to Member States, persons and undertakings of the Community by the holders of such licences.

Such exclusive or partially exclusive licences shall be granted on a normal commercial basis.

## Section 8

### Provisions on the exchange of information with the Portuguese Republic in the field of nuclear energy

#### Article 44 (*ex Article 1 of Protocol No 22 AA 1985*)

1. From ~~the date of accession~~ **1 January 1986**, such information as has been communicated to Member States, persons and undertakings in accordance with Article 13 of the ~~Euratom~~ **Treaty establishing the European Atomic Energy Community**, shall be placed at the disposal of the Portuguese Republic which shall give it limited distribution within its territory under the conditions laid down in that Article.
  
2. From ~~the date of accession~~ **1 January 1986**, the Portuguese Republic shall place at the disposal of the European Atomic Energy Community information obtained in the nuclear field in Portugal which is given limited distribution, in so far as strictly commercial applications are not involved. The Commission shall communicate this information to Community undertakings under the conditions laid down in ~~paragraph 1~~ **Article 13 of the Treaty establishing the European Atomic Energy Community**.
  
3. ~~This~~ **The information referred to in this Article** shall mainly concern:
  - (a) reactor dynamics,
  - (b) radiation protection,
  - (c) application of nuclear measuring techniques (in the industrial, agricultural, archaeological and geological fields),
  - (d) atomic physics (effective measuring of cross sections, pipeline techniques),
  - (e) extractive metallurgy of uranium.

**Article 45** (*ex Article 2 of Protocol No 22 AA 1985*)

1. In those sectors in which the Portuguese Republic places information at the disposal of the **European Atomic Energy Community**, the competent authorities shall grant upon request licences on commercial terms to Member States, persons and undertakings of the Community where they possess exclusive rights to patents filed in Member States of the Community and in so far as they have no obligation or commitment in respect of third parties to grant or offer to grant an exclusive or partially exclusive licence to the rights in these patents.

2. Where an exclusive or partially exclusive licence has been granted, the Portuguese Republic shall encourage and facilitate the granting of sub-licences on commercial terms to Member States, persons and undertakings of the Community by the holders of such licences.

Such exclusive or partially exclusive licences shall be granted on a normal commercial basis.

**TITLE 5**

**Provisions taken from the Act concerning the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden**

**Section 1**

**Financial provisions**

**Article 46** (*ex Article 108 AA 1994*)

Own resources accruing from ~~VAT~~ **value added tax** shall be calculated and checked as though the Åland Islands were included in the territorial scope of the Sixth Council Directive; 77/388/EEC; of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment.

**Section 2**  
**Provisions on agriculture**

**Article 47** (*ex Article 141 AA 1994*)

Where there are serious difficulties resulting from accession which remain after full utilisation of ~~the provisions of Articles 138, 139, 140 and 142,~~ **Article 48** and of the other measures resulting from the rules existing in the ~~Community~~ **Union**, the Commission may ~~authorise~~ **adopt a European decision authorising** Finland to grant national aids to producers so as to facilitate their full integration into the common agricultural policy.

**Article 48** (*ex Article 142 AA 1994*)

1. The Commission shall ~~authorise~~ **adopt European decisions authorising** Finland and Sweden to grant long-term national aids with a view to ensuring that agricultural activity is maintained in specific regions. These regions should cover the agricultural areas situated to the north of the 62nd Parallel and some adjacent areas south of that parallel affected by comparable climatic conditions rendering agricultural activity particularly difficult.
  
2. The regions referred to in paragraph 1 shall be determined by the Commission, taking into consideration in particular:
  - (a) the low population density;
  
  - (b) the portion of agricultural land in the overall surface area;
  
  - (c) the portion of agricultural land devoted to arable crops intended for human consumption, in the agricultural surface area used.

3. The aids provided for in paragraph 1 may be related to physical factors of production, such as hectares of agricultural land or heads of animal taking account of the relevant limits laid down in the common organisations of the market, as well as the historical production patterns of each farm, but must not:

- (a) be linked to future production;
- (b) or lead to an increase in production or in the level of overall support recorded during a ~~pre-accession~~ reference period **preceding 1 January 1995**, to be determined by the Commission.

The aids may be differentiated by region.

These aids must be granted in particular in order to:

- (a) maintain traditional primary production and processing naturally suited to the climatic conditions of the regions concerned;
- (b) improve the structures for the production, marketing and processing of agricultural products;
- (c) facilitate the disposal of the said products;
- (d) ensure that the environment is protected and the countryside preserved.

**Article 49** (*Article 143 AA 1994*)

1. The aids provided for in Articles ~~138 to 142~~ **47 and 48** and any other national aid subject to Commission authorisation under this ~~Act~~ **Title** shall be notified to the Commission. They may not be applied until such authorisation has been given.

~~Communication of existing or envisaged aid measures by the new Member States prior to accession shall be deemed to constitute notification on the date of accession.~~

2. As regards the aids provided for in Article ~~142~~ **48**, the Commission shall submit to the Council ~~one year after accession and subsequently every five years~~ **as from 1 January 1996** a report on:

(a) the authorisations granted;

(b) the results of the aid granted under such authorisations.

In preparation for drawing up such reports, Member States in receipt of such authorisations shall supply the Commission in good time with information on the effects of the aids granted, illustrating the development noted in the agricultural economy of the regions in question.

**Article 50** (*Article 144 AA 1994*)

In the field of the aids provided for in Articles ~~92 and 93 of the EC Treaty~~ **III-56 and III-57 of the Constitution**:

(a) among the aids applied in ~~the new Member States~~ **Austria, Finland and Sweden** prior to ~~accession~~ **1 January 1995**, only those communicated to the Commission by 30 April 1995 will be deemed to be "existing" aids within the meaning of Article ~~93~~ **III-57(1) of the EC Treaty Constitution**;

(b) existing aids and plans intended to grant or alter aids, **which were** communicated to the Commission prior to ~~accession~~ **1 January 1995**, shall be deemed to have been notified on ~~the~~ **that date of accession**.

**Article 51** (*Article 148 AA 1994*)

1. Unless otherwise stipulated in specific cases, the Council, ~~acting by a qualified majority~~ on a proposal from the Commission, shall adopt the necessary ~~provisions~~ **European regulations or decisions** to implement this ~~Title Section~~.
2. ~~The~~ **A European law of the** Council, ~~acting unanimously on a proposal from the Commission and after consulting the European Parliament,~~ may make the adaptations to the provisions appearing in this ~~Title Section~~ which may prove necessary as a result of a modification in ~~Community rules~~ **Union law**. **The Council shall act unanimously after consulting the European Parliament.**

**Article 52** (*Article 149 AA 1994*)

1. If transitional measures are necessary to facilitate the transition from the existing regime in ~~the new Member States~~ **Austria, Finland and Sweden** to that resulting from application of the common organisation of the markets under the conditions set out in ~~this Title~~ **the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden**, such measures shall be adopted in accordance with the procedure laid down in Article 38 of Regulation No 136/66/EEC or, as appropriate, in the corresponding Articles of the other Regulations on the common organisation of agricultural markets. These measures may be taken during a period expiring on 31 December 1997 and their application shall be limited to that date.
2. ~~The~~ **A European law of the** Council, ~~acting unanimously on a proposal from the Commission and after consulting the European Parliament,~~ may extend the period referred to in paragraph 1. **The Council shall act unanimously after consulting the European Parliament.**

**Article 53** (*ex Articles 88(2) and 115(2) AA 1994*)

Articles ~~148 and 149~~ **51 and 52** shall be applicable to fishery products.

**Section 3**  
**Provisions on transitional measures**

**Article 54** (*Article 151 AA 1994*)

~~1.—~~ The Acts listed in **points VII.B.I, VII.D.1, VII.D.2.c, IX.2.b, c, f, g, h, i, j, l, m, n, x, y, z and aa, and X.a, b and c** of Annex XV to ~~this~~ **the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden** shall apply in respect of ~~the new Member States~~ **Austria, Finland and Sweden** under the conditions laid down in that Annex.

**With regard to point IX.2.x of Annex XV referred to in the first paragraph, the reference to the provisions of the Treaty establishing the European Communities, in particular to Articles 95 and 96 thereof, must be understood as referring to the provisions of the Constitution, in particular to Article III-59/60/61(1) and (2) thereof.**

~~2.—~~ ~~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 January 1995, take measures consisting of temporary derogations from acts of the institutions adopted between 1 January 1994 and the date of signature of the Accession Treaty.~~

## Section 4

### Provisions on the applicability of certain acts

#### Article 55 (*ex Article 172(4), (5) and (7) AA 1994*)

~~4.1.~~ Any individual exemption decisions taken and negative clearance decisions taken before ~~the date of accession~~ **1 January 1995** under Article 53 of the EEA Agreement **on the European Economic Area (EEA)** or Article 1 of Protocol 25 to that Agreement, whether by the ~~EFTA~~ Surveillance Authority **of the European Free Trade Association (EFTA)** or the Commission, and which concern cases which fall under Article ~~85~~ **81** of the ~~EC Treaty~~ **establishing the European Communities** or ~~Article 65 of the ECSC Treaty~~ as a result of accession shall, ~~on accession,~~ remain valid for the purposes of Article ~~85 of the EC Treaty~~ **III-50 of the Constitution** or, ~~as the case may be, Article 65 of the ECSC Treaty~~ until the time limit specified therein expires or until the Commission ~~takes~~ **adopts** a duly motivated **European** decision to the contrary, in accordance with ~~the basic principles of Community~~ **Union** law.

~~5.2.~~ All decisions taken by the EFTA Surveillance Authority before ~~the date of accession~~ **1 January 1995** pursuant to Article 61 of the EEA Agreement and which **concern cases which** fall under Article ~~92~~ **87** of the ~~EC Treaty~~ **establishing the European Communities** as a result of accession shall, ~~on accession,~~ remain valid with respect to Article ~~92~~ **III-56** of the ~~EC Treaty~~ **Constitution** unless the Commission ~~decides otherwise~~ **adopts a European decision to the contrary** pursuant to Article ~~93~~ **III-57** of the ~~EC Treaty~~ **Constitution**. This paragraph shall not apply to decisions subject to the proceedings provided for in Article 64 of the EEA Agreement. ~~Without prejudice to paragraph 2 above, state aids granted by new Member States during 1994 but which, in contravention of the EEA Agreement or arrangements made thereunder, either have not been notified to the EFTA Surveillance Authority or have been notified but granted before the EFTA Surveillance Authority took a decision, shall not as a consequence be considered as existing state aids under Article 93(1) of the EC Treaty.~~

~~7.3.~~ Without prejudice to paragraphs ~~4~~ **1** and ~~5~~ **2**, the decisions taken by the EFTA Surveillance Authority remain valid after ~~accession~~ **1 January 1995** unless the Commission takes a duly motivated decision to the contrary in accordance with the basic principles of ~~Community~~ **Union** law.

## Section 5

### Provisions on the Åland Islands

~~Taking into account the special status that the Åland Islands enjoy under international law, the Treaties on which the European Union is founded shall apply to the Åland Islands with the following derogations:~~<sup>1 2</sup>

#### **Article 56** *(ex Article 1 of Protocol No 2 AA 1994)*

The provisions of the ~~EC Treaty~~ **Constitution** shall not preclude the application of the existing provisions in force on 1 January 1994 on the Åland islands on:

- (a) restrictions, on a non-discriminatory basis, on the right of natural persons who do not enjoy hembygdsrätt/kotiseutuoikeus (regional citizenship) in Åland, and for legal persons, to acquire and hold real property on the Åland islands without permission by the competent authorities of the Åland islands;
- (b) restrictions, on a non-discriminatory basis, on the right of establishment and the right to provide services by natural persons who do not enjoy hembygdsrätt/kotiseutuoikeus (regional citizenship) in Åland, or by legal persons without permission by the competent authorities of the Åland islands.

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<sup>1</sup> Article IV-4(5) of the Constitution as set out in CIG 50/03 should be amended as follows: "**The This Treaty establishing the Constitution shall apply to the Åland Islands in accordance with the provisions with the derogations [set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden] which were originally set out in the Treaty referred to in Article IV-2(2)(d) of the Constitution and which have been incorporated into the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.**"

<sup>2</sup> A Declaration in the Final Act of the IGC should reproduce the reference to the fact that the special arrangements for the Åland Islands stem from those Islands' special status under international law, and point out that this Protocol, in accordance with the penultimate paragraph of its Preamble, does not affect that special status.

**Article 57** (*ex Article 2 of Protocol No 2 AA 1994*)

~~a)~~ **1.** The territory of the Åland Islands – being considered as a third territory, as defined in Article 3(1) third indent of Council Directive 77/388/EEC ~~as amended~~, and as a national territory falling outside the field of application of the excise harmonisation directives as defined in Article 2 of Council Directive 92/12/EEC – shall be excluded from the territorial application ~~of the EC provisions~~ **of Union law** in the fields of harmonisation of the laws of the Member States on turnover taxes and on excise duties and other forms of indirect taxation. ~~This exemption shall not have any effect on the Community's own resources.~~

This paragraph shall not apply to the provisions of Council Directive 69/335/EEC, ~~as amended~~, relating to capital duty.

~~b)~~ **2.** ~~This~~ **The derogation provided for in paragraph 1** is aimed at maintaining a viable local economy in the islands and shall not have any negative effects on the interests of the Union nor on its common policies. If the Commission considers that the provisions in paragraph ~~(a)~~ **1** are no longer justified, particularly in terms of fair competition or own resources, it shall submit appropriate proposals to the Council, which shall ~~act~~ **adopt the necessary acts** in accordance with the pertinent articles of the ~~EC Treaty~~ **Constitution**.

**Article 58** (*ex Article 3 of Protocol No 2 AA 1994*)

The Republic of Finland shall ensure that the same treatment applies to all natural and legal persons of the Member States in the Åland islands.

## Section 6

### Provisions on the Sami people

~~THE HIGH CONTRACTING PARTIES~~

~~RECOGNISING the obligations and commitments of Sweden and Finland with regard to the Sami people under national and international law;~~

~~NOTING, in particular, that Sweden and Finland are committed to preserving and developing the means of livelihood, language, culture and way of life of the Sami people;~~

~~CONSIDERING the dependence of traditional Sami culture and livelihood on primary economic activities, such as reindeer husbandry in the traditional areas of Sami settlement;~~

~~HAVE AGREED on the following provisions,<sup>1</sup>~~

#### **Article 59** *(ex Article 1 of Protocol No 3 AA 1994)*

Notwithstanding the provisions of the ~~EC Treaty~~ **Constitution**, exclusive rights to reindeer husbandry within traditional Sami areas may be granted to the Sami people.

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<sup>1</sup> A declaration in the Final Act of the IGC should reproduce the wording of the preamble, in particular its first paragraph, concerning the special status of the Sami people, and point out that this Protocol, in accordance with the penultimate paragraph of its Preamble, does not affect that special status.

**Article 60** (*ex Article 2 of Protocol No 3 AA 1994*)

~~This Protocol~~ **This Section** may be extended to take account of any further development of exclusive Sami rights linked to their traditional means of livelihood. ~~The A European law of the Council may, acting unanimously on a proposal from the Commission, and after consulting the European Parliament and the Committee of the Regions, adopt~~ **make** the necessary amendments to ~~the Protocol~~ **this Section**. **The Council shall act unanimously after consulting the European Parliament and the Committee of the Regions.**

**Section 7**

**Special provisions ~~for Objective 6~~ in the framework of the Structural Funds in Finland and Sweden**

~~THE HIGH CONTRACTING PARTIES,~~

~~HAVING REGARD to requests by Finland and Sweden for special Structural Fund support for their least densely populated regions,~~

~~WHEREAS the Union has proposed a new complementary priority Objective 6,~~

~~WHEREAS this transitional arrangement will also be re-evaluated and revised simultaneously with the main framework Regulation (EEC) No 2081/93 on structural instruments and policies in 1999,~~

~~WHEREAS the criteria and the list of regions eligible for this new Objective have to be decided upon,~~

~~WHEREAS additional resources will be made available for this new Objective,~~

~~WHEREAS the procedures applying to this new Objective have to be defined,~~

~~HAVE AGREED AS FOLLOWS:~~

*(ex Article 1 of Protocol No 6 AA 1994)*

Until 31 December 1999, the Structural Funds, the Financial Instrument for Fisheries Guidance (FIFG) and the European Investment Bank (EIB) shall each contribute in an appropriate fashion to a further priority Objective in addition to the five referred to in Article 1 of Council Regulation (EEC) No 2052/88, as amended by Council Regulation (EEC) No 2081/93, which Objective shall be:  
– to promote the development and structural adjustment of regions with an extremely low population density (hereinafter referred to as "Objective 6").

**Article 61** *(ex Article 2 of Protocol No 6 AA 1994)*

Areas covered by **the Objective 6 of promoting the development and structural adjustment of regions with an extremely low population density**<sup>1</sup> shall in principle represent or belong to regions at NUTS level II with a population density of 8 persons per km<sup>2</sup> or less. ~~In addition,~~ **Community Union** assistance may, subject to the requirement of concentration, also extend to adjacent and contiguous smaller areas fulfilling the same population density criterion. ~~Such~~ **The** regions and areas, referred to in this ~~Protocol~~ **Article** as "regions" covered by Objective 6, are listed in Annex 1 to **Protocol No 6 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.**

*(ex Article 3 of Protocol No 6 AA 1994)*

For the period 1995 to 1999 the sum of ECU 741 million, at 1995 prices, shall be considered the appropriate amount of Community resources to be committed by the Structural Funds and the FIFG in the regions covered by Objective 6 listed in Annex 1. Annex 2 sets out the breakdown of resources by year and Member State. Those resources shall be in addition to the funds already scheduled for payment from the Structural Funds and the FIFG pursuant to Council Regulation (EEC) No 2052/88, as amended by Council Regulation (EEC) No 2081/93.

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<sup>1</sup> Under Council Regulation (EC) No 1260/1999, which concerns the new general arrangements for the Structural Funds, there are now only three objectives. The regions referred to in the provision in question fall under Objective 1.

~~(ex Article 4 of Protocol No 6 AA 1994)~~

Subject to Articles 1, 2 and 3 above, the provisions of the undernoted Regulations, in particular the provisions applying to Objective 1, shall apply to Objective 6:

~~– Council Regulation (EEC) No 2080/93;~~

~~– Council Regulations (EEC) Nos 2052/88, 4253/88, 4254/88, 4255/88 and 4256/88, as amended by Council Regulations (EEC) Nos 2081/93, 2082/93, 2083/93, 2084/93 and 2085/93.~~

~~(ex Article 5 of Protocol No 6 AA 1994)~~

The provisions of this Protocol, including the eligibility of the regions listed in Annex 1 for assistance from the Structural Funds, shall be re-examined in 1999 simultaneously with the framework Regulation (EEC) No 2081/93 on structural instruments and policies and in accordance with the procedures laid down in that Regulation.

## **Section 8**

### **Provisions on rail and combined transport in Austria**

#### **PART ONE**

#### **DEFINITIONS**

##### **Article 62** *(ex Article 1 of Protocol No 9 AA 1994)*

1. For the purposes of this ~~Protocol~~ **Section**, the following definitions shall apply:

~~(a) "vehicle" shall be as defined in Article 2 of Regulation (EEC) No 881/92, as applied at the date of the signature of the Accession Treaty;~~

~~(b) "international carriage" shall be as defined in Article 2 of Regulation (EEC) No 881/92, as applied at the date of signature of the Accession Treaty;~~

~~(e) "transit traffic through Austria" shall mean traffic through Austrian territory from a departure point to a destination, both of which lie outside Austria;~~

~~(d) (a) "heavy goods vehicle" shall mean any motor vehicle with a maximum authorised weight of over 7,5 tonnes registered in a Member State designed to carry goods or haul trailers, including semi-trailer tractor units, and trailers with a maximum authorised weight of over 7,5 tonnes and hauled by a motor vehicle registered in a Member State with a maximum authorised weight of 7,5 tonnes or less;~~

~~(e) "transit of goods by road through Austria" shall mean transit through Austria by heavy goods vehicles, regardless of whether they are laden or not;~~

~~(f) (b) "combined transport" shall mean the carriage of goods by heavy goods vehicles or loading units which complete part of their journey by rail and either begin or end the journey by road, whereby transit traffic may under no circumstances cross Austrian territory on its way to or from a rail terminal by road alone. <sup>1</sup>;~~

~~(g) "bilateral journeys" shall mean international carriage on journeys undertaken by a vehicle where the point of departure or arrival is in Austria and the point of arrival or departure, respectively, is in another Member State and unladen journeys undertaken in conjunction with such journeys.~~

## **PART II**

### **~~RAIL AND COMBINED TRANSPORT~~**

*(ex Article 2 of Protocol No 9 AA 1994)*

2. This ~~Part~~ **Section** shall apply to measures relating to the provision of rail and combined transport crossing the territory of Austria.

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<sup>1</sup> The second paragraph of this Article is taken from ex Article 2 of the Protocol.

**Article 63** (ex Article 3 of Protocol No 9 AA 1994)

The ~~Community~~ **Union** and the Member States concerned shall, within the framework of their respective competences, adopt and closely coordinate measures for the development and promotion of rail and combined transport for the trans-Alpine carriage of goods.

**Article 64** (ex Article 4 of Protocol No 9 AA 1994)

When establishing the guidelines provided for in Article ~~129c of the EC Treaty~~ **III-145 of the Constitution**, the ~~Community~~ **Union** shall ensure that the axes defined in Annex 1 **to Protocol No 9 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden** form part of the trans-European networks for rail and combined transport and are furthermore identified as projects of common interest.

**Article 65** (ex Article 5 of Protocol No 9 AA 1994)

The ~~Community~~ **Union** and the Member States concerned shall, within the framework of their respective competences, implement the measures listed in Annex 2 **to Protocol No 9 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden**.

**Article 66** (ex Article 6 of Protocol No 9 AA 1994)

The ~~Community~~ **Union** and the Member States concerned shall use their best endeavours to develop and utilise the additional railway capacity referred to in Annex 3 **to Protocol No 9 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden**.

**Article 67** (*ex Article 7 of Protocol No 9 AA 1994*)

The ~~Community~~ **Union** and the Member States concerned shall take measures to enhance the provision of rail and combined transport; where appropriate, and subject to ~~other EC Treaty~~ **the provisions of the Constitution**, such measures shall be established in close consultation with railway companies and other railway service providers. Priority should be given to those measures set out in the ~~Community's~~ **provisions of Union law** on railways and combined transport. In implementing any measures, particular attention shall be attached to the competitiveness, effectiveness and cost transparency of rail and combined transport. In particular, the Member States concerned shall endeavour to take such measures so as to ensure that prices for combined transport are competitive with those for other modes of transport. Any aid granted to these ends shall comply with ~~Community rules~~ **Union law**.

**Article 68** (*ex Article 8 of Protocol No 9 AA 1994*)

The ~~Community~~ **Union** and the Member States concerned shall, in the event of a serious disturbance in rail transit, such as a natural disaster, take all possible concerted action to maintain the flow of traffic. Priority shall be given to sensitive loads, such as perishable foods.

**Article 69** (*ex Article 9 of Protocol No 9 AA 1994*)

The Commission, acting in accordance with the procedure laid down in ~~Article 16~~ **Article 70(2)**, shall review the operation of this ~~Part~~ **Section**.

## PART III

### ROAD TRANSPORT

*(ex Article 10 of Protocol No 9 AA 1994)*

This Part shall apply to the carriage of goods by road on journeys carried out within the territory of the Community.

*(ex Article 11 of Protocol No 9 AA 1994)*

1. — For journeys which involve transit of goods by road through Austria, the regime established for journeys on own account and for journeys for hire or reward under the First Council Directive of 23 July 1962 and Council Regulation (EEC) No 881/92 shall apply subject to the provisions of this Article.

2. — Until 1 January 1998, the following provisions shall apply:

(a) — The total of NO<sub>x</sub> emissions from heavy goods vehicles crossing Austria in transit shall be reduced by 60 % in the period between 1 January 1992 and 31 December 2003, according to the table in Annex 4.

(b) — The reductions in total NO<sub>x</sub> emissions from heavy goods vehicles shall be administered according to an ecopoints system. Under that system any heavy goods vehicle crossing Austria in transit shall require a number of ecopoints equivalent to its NO<sub>x</sub> emissions (authorised under the Conformity of Production (COP) value or type approval value). The method of calculation and administration of such points is described in Annex 5.

(c) — If the number of transit journeys in any year exceeds the reference figure established for 1991 by more than 8 %, the Commission, acting in accordance with the procedure laid down in Article 16, shall adopt appropriate measures in accordance with paragraph 3 of Annex 5.

(d) Austria shall issue and make available in good time the ecopoints cards required for the administration of the ecopoints system, pursuant to Annex 5, for heavy goods vehicles crossing Austria in transit.

~~(e) The ecopoints shall be distributed by the Commission among Member States in accordance with provisions to be established in accordance with paragraph 6.~~

~~3. Before 1 January 1998, the Council, on the basis of a report by the Commission, shall review the operation of provisions concerning transit of goods by road through Austria. The review shall take place in conformity with basic principles of Community law, such as the proper functioning of the internal market, in particular the free movement of goods and freedom to provide services, protection of the environment in the interest of the Community as a whole, and traffic safety. Unless the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, decides otherwise, the transitional period shall be extended to 1 January 2001, during which the provisions of paragraph 2 shall apply.~~

~~4. Before 1 January 2001, the Commission, in cooperation with the European Environment Agency, shall make a scientific study of the degree to which the objective concerning reduction of pollution set out in paragraph 2 (a) has been achieved. If the Commission concludes that this objective has been achieved on a sustainable basis, the provisions of paragraph 2 shall cease to apply on 1 January 2001. If the Commission concludes that this objective has not been achieved on a sustainable basis the Council, acting in accordance with Article 75 of the EC Treaty, may adopt measures, within a Community framework, which ensure equivalent protection of the environment, in particular a 60 % reduction of pollution. If the Council does not adopt such measures, the transitional period shall be automatically extended for a final period of three years, during which the provisions of paragraph 2 shall apply.~~

~~5. At the end of the transitional period, the "acquis communautaire" in its entirety shall be applied.~~

~~6. The Commission, acting in accordance with the procedure laid down in Article 16, shall adopt detailed measures concerning the procedures relating to the ecopoints system, the distribution of ecopoints and technical questions concerning the application of this Article, which shall enter into force on the date of accession of Austria.~~

~~The measures referred to in the first subparagraph shall ensure that the factual situation for the present Member States resulting from the application of Council Regulation (EEC) No 3637/92 and of the Administrative Arrangement, signed on 23 December 1992, setting the date of entry into force and the procedures for the introduction of the ecopoints system referred to in the Transit Agreement, is maintained. All necessary efforts shall be made to ensure that the share of ecopoints allocated to Greece takes sufficient account of Greek needs in this context.~~

*(ex Article 12 of Protocol No 9 AA 1994)*

~~1.— For international carriage of goods on journeys between Member States, the regime established under Council Regulation (EEC) No 881/92 shall apply subject to the provisions set out in this Article. These provisions shall be applicable until 31 December 1996.~~

~~2.— For bilateral journeys, existing quotas shall be progressively liberalised and full freedom to provide transport services shall be effective as from 1 January 1997. A first stage of liberalisation shall take effect on the date of accession of Austria, a second stage on 1 January 1996. If necessary, the Council, acting by a qualified majority on a proposal from the Commission, may take appropriate measures to that effect.~~

~~3.— The Council, acting in accordance with Article 75 of the Treaty, shall adopt appropriate and simple measures to prevent circumvention of the provisions of Article 11 by 1 January 1997 at the latest.~~

~~4.— As long as the provisions of Article 11 (2) apply, the Member States, in the framework of their mutual cooperation, shall, if necessary, take measures compatible with the EC Treaty against misuse of the ecopoints system.~~

~~5.—Hauliers with a Community authorisation issued by the competent authorities in Austria shall not be entitled to carry out an international carriage of goods on journeys where neither loading nor unloading takes place in Austria. All such journeys involving transit through Austria shall, however, be subject to the provisions of Article 11 and also, with the exception of journeys between Germany and Italy, to existing quotas, which shall be subject to the provisions of paragraph 2 above.~~

*(ex Article 13 of Protocol No 9 AA 1994)*

~~1.—Until 31 December 1996, the provisions of Regulation (EEC) No 3118/93 shall not apply to hauliers with a Community authorisation issued by the competent authorities in Austria for the operation of national road haulage services in other Member States.~~

~~2.—During the same period, the provisions of Regulation (EEC) No 3118/93 shall not apply to hauliers with a Community authorisation issued by the competent authorities in another Member State for the operation of national road haulage services in Austria.~~

*(ex Article 14 of Protocol No 9 AA 1994)*

~~1.—There shall be no controls at the borders between Austria and other Member States. However, in derogation from Regulations (EEC) No 4060/89 and (EEC) No 3912/92 and notwithstanding Article 153 of the Act of Accession, non-discriminatory physical controls requiring vehicles to halt in order solely to verify ecopoints issued under the provisions of Article 11, and transport authorisations referred to in Article 12, may be retained until 31 December 1996. Such controls shall not unduly slow down the normal flow of traffic.~~

~~2.—To the extent necessary, any control methods including electronic systems applicable after 31 December 1996 and relating to the implementation of Article 11 shall be decided in accordance with the procedure laid down in Article 16.~~

*(ex Article 15 of Protocol No 9 AA 1994)*

1. — ~~Austria may, in derogation from Article 7 (f) of Directive 93/89/EEC, apply, until 31 December 1995, user charges at a maximum level of ECU 3.750 per year including administrative costs and, until 31 December 1996, at a maximum level of ECU 2.500 per year including administrative costs.~~

2. — ~~If Austria makes use of the possibility mentioned in paragraph 1, it shall, in accordance with the first sentence of Article 7 (g) of Directive 93/89/EEC, apply until 31 December 1995 a user charge at a maximum level of ECU 18 per day, ECU 99 per week and ECU 375 per month including administrative costs and, until 31 December 1996, at a maximum level of ECU 12 per day, ECU 66 per week and ECU 250 per month including administrative costs.~~

3. — ~~Austria shall apply a reduction of 50 % to the rates of user charges mentioned in paragraphs 1 and 2 of this Article in favour of vehicles registered in Ireland and Portugal until 31 December 1996, and in Greece until 31 December 1997.~~

4. — ~~Until 31 December 1995 Italy may apply to vehicles registered in Austria a charge at a maximum level of ECU 6,5 per entrance including administrative costs and, until 31 December 1996, at a maximum level of ECU 3,5 per entrance including administrative costs. This charge shall be administered in a manner consistent with Article 7 (c) of Directive 93/89/EEC.~~

## **PART IV**

### **GENERAL PROVISIONS**

**Article 70** *(ex Article 16 of Protocol No 9 AA 1994)*

1. The Commission shall be assisted by a ~~Committee composed of the representatives of the Member States and chaired by the representative of the Commission.~~

2. ~~When~~ **In cases where** reference is made to ~~the procedure laid down in this Article paragraph~~, the representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the EC Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. ~~The Chairman shall not vote~~ **Articles 3 and 7 of Decision 1999/468/EC shall apply.**

3. ~~The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee. If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.~~

4. ~~3. If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission. The Committee shall adopt its rules of procedure.~~

## Section 9

### **Provisions on the use of specific Austrian terms of the German language in the framework of the European Union**

~~In the framework of the European Union, the following shall apply:~~

#### **Article 71** *(ex Sole Article of Protocol No 10 AA 1994)*

1. The specific Austrian terms of the German language contained in the Austrian legal order and listed in the Annex to ~~this Protocol~~ **No 10 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden** shall have the same status and may be used with the same legal effect as the corresponding terms used in Germany listed in that Annex.

2. In the German language version of new legal acts the specific Austrian terms mentioned in the Annex to ~~this~~ Protocol **No 10 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden** shall be added in appropriate form to the corresponding terms used in Germany.

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