

THE TREATY OF AMSTERDAM

**AMENDING THE TREATY ON
EUROPEAN UNION, THE TREATIES
ESTABLISHING THE EUROPEAN COMMUNITIES
AND CERTAIN RELATED ACTS**

FINAL ACT

AND

**DECLARATIONS
ADOPTED BY THE CONFERENCE**

Amsterdam

2 October 1997

FINAL ACT

The CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES convened in Turin on the twenty-ninth day of March in the year nineteen hundred and ninety-six to adopt by common accord the amendments to be made to the Treaty on European Union, the Treaties establishing respectively the European Community, the European Coal and Steel Community and the European Atomic Energy Community and certain related Acts has adopted the following texts:

I.

The Treaty of Amsterdam amending the Treaty on European Union,
the Treaties establishing the European Communities and
certain related Acts

II.

Protocols

A. Protocol annexed to the Treaty on European Union:

1. Protocol on Article J.7 of the Treaty on European Union

B. Protocols annexed to the Treaty on European Union and to the Treaty establishing the European Community:

2. Protocol integrating the Schengen acquis into the framework of the European Union

3. Protocol on the application of certain aspects of Article 7a of the Treaty establishing the European Community to the United Kingdom and to Ireland

4. Protocol on the position of the United Kingdom and Ireland

5. Protocol on the position of Denmark

C. Protocols annexed to the Treaty establishing the European Community:

6. Protocol on asylum for nationals of Member States of the European Union

7. Protocol on the application of the principles of subsidiarity and proportionality

8. Protocol on external relations of the Member States with regard to the crossing of external borders

9. Protocol on the system of public broadcasting in the Member States
10. Protocol on protection and welfare of animals

D. Protocols annexed to the Treaty on European Union and to the Treaties establishing the European Community, the European Coal and Steel Community and the European Atomic Energy Community

11. Protocol on the institutions with the prospect of enlargement of the European Union
12. Protocol on the location of the seats of the institutions and of certain bodies and departments of the European Communities and of Europol
13. Protocol on the role of national parliaments in the European Union

III.

Declarations

The Conference adopted the following declarations annexed to this Final Act:

1. Declaration on the abolition of the death penalty
2. Declaration on enhanced co-operation between the European Union and the Western European Union
3. Declaration relating to Western European Union
4. Declaration on Articles J.14 and K.10 of the Treaty on European Union
5. Declaration on Article J.15 of the Treaty on European Union
6. Declaration on the establishment of a policy planning and early warning unit
7. Declaration on Article K.2 of the Treaty on European Union
8. Declaration on Article K.3(e) of the Treaty on European Union
9. Declaration on Article K.6(2) of the Treaty on European Union
10. Declaration on Article K.7 of the Treaty on European Union
11. Declaration on the status of churches and non-confessional organisations
12. Declaration on environmental impact assessments
13. Declaration on Article 7d of the Treaty establishing the European Community

14. Declaration on the repeal of Article 44 of the Treaty establishing the European Community
15. Declaration on the preservation of the level of protection and security provided by the Schengen acquis
16. Declaration on Article 73j(2)(b) of the Treaty establishing the European Community
17. Declaration on Article 73k of the Treaty establishing the European Community
18. Declaration on Article 73k(3)(a) of the Treaty establishing the European Community
19. Declaration on Article 73l(1) of the Treaty establishing the European Community
20. Declaration on Article 73m of the Treaty establishing the European Community
21. Declaration on Article 73o of the Treaty establishing the European Community
22. Declaration regarding persons with a disability
23. Declaration on incentive measures referred to in Article 109r of the Treaty establishing the European Community
24. Declaration on Article 109r of the Treaty establishing the European Community
25. Declaration on Article 118 of the Treaty establishing the European Community
26. Declaration on Article 118(2) of the Treaty establishing the European Community
27. Declaration on Article 118b(2) of the Treaty establishing the European Community
28. Declaration on Article 119(4) of the Treaty establishing the European Community
29. Declaration on sport
30. Declaration on island regions
31. Declaration relating to the Council Decision of 13 July 1987
32. Declaration on the organisation and functioning of the Commission
33. Declaration on Article 188c(3) of the Treaty establishing the European Community

34. Declaration on respect for time limits under the co-decision procedure
35. Declaration on Article 191a(1) of the Treaty establishing the European Community
36. Declaration on the Overseas Countries and Territories
37. Declaration on public credit institutions in Germany
38. Declaration on voluntary service activities
39. Declaration on the quality of the drafting of Community legislation
40. Declaration concerning the procedure for concluding international agreements by the European Coal and Steel Community
41. Declaration on the provisions relating to transparency, access to documents and the fight against fraud
42. Declaration on the consolidation of the Treaties
43. Declaration relating to the Protocol on the application of the principles of subsidiarity and proportionality
44. Declaration on Article 2 of the Protocol integrating the Schengen acquis into the framework of the European Union
45. Declaration on Article 4 of the Protocol integrating the Schengen acquis into the framework of the European Union
46. Declaration on Article 5 of the Protocol integrating the Schengen acquis into the framework of the European Union
47. Declaration on Article 6 of the Protocol integrating the Schengen acquis into the framework of the European Union
48. Declaration relating to the Protocol on asylum for nationals of Member States of the European Union
49. Declaration relating to subparagraph (d) of the Sole Article of the Protocol on asylum for nationals of Member States of the European Union
50. Declaration relating to the Protocol on the institutions with the prospect of enlargement of the European Union
51. Declaration on Article 10 of the Treaty of Amsterdam

The Conference also took note of the following declarations annexed to this Final Act:

1. Declaration by Austria and Luxembourg on credit institutions
2. Declaration by Denmark relating to Article K.14 of the Treaty on European Union
3. Declaration by Germany, Austria and Belgium on subsidiarity
4. Declaration by Ireland on Article 3 of the Protocol on the position of the United Kingdom and Ireland
5. Declaration by Belgium on the Protocol on asylum for nationals of Member States of the European Union
6. Declaration by Belgium, France and Italy on the Protocol on the institutions with the prospect of enlargement of the European Union
7. Declaration by France concerning the situation of the overseas departments in the light of the Protocol integrating the Schengen acquis into the framework of the European Union
8. Declaration by Greece on the Declaration on the status of churches and non-confessional organisations

Finally, the Conference agreed to attach, for illustrative purposes, to this Final Act the texts of the Treaty on European Union and the Treaty establishing the European Community, as they result from the amendments made by the Conference.

Done at Amsterdam on the second day of October in the year one thousand nine hundred and ninety-seven.

DECLARATIONS ADOPTED BY THE CONFERENCE

1. DECLARATION ON THE ABOLITION OF THE DEATH PENALTY

With reference to Article F(2) of the Treaty on European Union, the Conference recalls that Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, and which has been signed and ratified by a large majority of Member States, provides for the abolition of the death penalty.

In this context, the Conference notes the fact that since the signature of the abovementioned Protocol on 28 April 1983, the death penalty has been abolished in most of the Member States of the Union and has not been applied in any of them.

2. DECLARATION ON ENHANCED CO-OPERATION BETWEEN THE EUROPEAN UNION AND THE WESTERN EUROPEAN UNION

With a view to enhanced co-operation between the European Union and the Western European Union, the Conference invites the Council to seek the early adoption of appropriate arrangements for the security clearance of the personnel of the General Secretariat of the Council.

3. DECLARATION RELATING TO WESTERN EUROPEAN UNION

The Conference notes the following Declaration, adopted by the Council of Ministers of the Western European Union on 22 July 1997

“DECLARATION OF WESTERN EUROPEAN UNION
ON THE ROLE OF WESTERN EUROPEAN UNION
AND ITS RELATIONS WITH THE EUROPEAN UNION
AND WITH THE ATLANTIC ALLIANCE

INTRODUCTION

1. The Western European Union (WEU) Member States agreed at Maastricht in 1991 on the need to develop a genuine European Security and Defence Identity (ESDI) and to assume a greater European responsibility for defence matters. In the light of the Treaty of Amsterdam, they reaffirm the importance of continuing and strengthening these efforts. WEU is an integral part of the development of the European Union (EU) providing the Union with access to an operational capability, notably in the context of the Petersberg tasks and is an essential element of the development of the ESDI within the Atlantic Alliance in accordance with the Paris Declaration and with the decisions taken by NATO ministers in Berlin.

2. Today the WEU Council brings together all the Member States of the European Union and all the European Members of the Atlantic Alliance in accordance with their respective status. The Council also brings together those States with the Central and Eastern European States linked to the European Union by an Association Agreement and that are applicants for accession to both the European Union and the Atlantic

Alliance. WEU is thus establishing itself as a genuine framework for dialogue and co-operation among Europeans on wider European security and defence issues.

3. In this context, WEU takes note of Title V of the Treaty on European Union regarding the EU's common foreign and security policy, in particular Articles J.3(1), J.7 and the Protocol to Article J.7, which read as follows:

Article J.3(1)

“1. The European Council shall define the principles of and general guidelines for the common foreign and security policy, including for matters with defence implications.”

Article J.7

“1. The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, in accordance with the second subparagraph, which might lead to a common defence, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The Western European Union (WEU) is an integral part of the development of the Union providing the Union with access to an operational capability notably in the context of paragraph 2. It supports the Union in framing the defence aspects of the common foreign and security policy as set out in this Article. The Union shall accordingly foster closer institutional relations with the WEU with a view to the possibility of the integration of the WEU into the Union, should the European Council so decide. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Article shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.

The progressive framing of a common defence policy will be supported, as Member States consider appropriate, by co-operation between them in the field of armaments.

2. Questions referred to in this Article shall include humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking.

3. The Union will avail itself of the WEU to elaborate and implement decisions and actions of the Union which have defence implications.

The competence of the European Council to establish guidelines in accordance with Article J.3 shall also obtain in respect of the WEU for those matters for which the Union avails itself of the WEU.

When the Union avails itself of the WEU to elaborate and implement decisions of the Union on the tasks referred to in paragraph 2 all Member States of the Union shall be entitled to participate fully in the tasks in question. The Council, in agreement with the institutions of the WEU, shall adopt the necessary practical arrangements to allow all Member States contributing to the tasks in question to participate fully and on an equal footing in planning and decision-taking in the WEU.

Decisions having defence implications dealt with under this paragraph shall be taken without prejudice to the policies and obligations referred to in paragraph 1, third subparagraph.

4. The provisions of this Article shall not prevent the development of closer co-operation between two or more Member States on a bilateral level, in the framework of the WEU and the Atlantic Alliance, provided such co-operation does not run counter to or impede that provided for in this Title.

5. With a view to furthering the objectives of this Article, the provisions of this Article will be reviewed in accordance with Article N.”

Protocol on Article J.7

“THE HIGH CONTRACTING PARTIES,

BEARING IN MIND the need to implement fully the provisions of Article J.7(1), second subparagraph, and (3) of the Treaty on European Union,

BEARING IN MIND that the policy of the Union in accordance with Article J.7 shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in NATO, under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework,

HAVE AGREED UPON the following provision, which is annexed to the Treaty on European Union,

The European Union shall draw up, together with the Western European Union, arrangements for enhanced co-operation between them, within a year from the entry into force of the Treaty of Amsterdam.”

A. WEU’S RELATIONS WITH THE EUROPEAN UNION: ACCOMPANYING THE IMPLEMENTATION OF THE TREATY OF AMSTERDAM

4. In the “Declaration on the Role of the Western European Union and its Relations with the European Union and with the Atlantic Alliance” of 10 December 1991, WEU Member States set as their objective “to build up WEU in stages as the defence

component of the European Union". They today reaffirm this aim as developed by the Treaty of Amsterdam.

5. When the Union avails itself of WEU, WEU will elaborate and implement decisions and actions of the EU which have defence implications.

In elaborating and implementing decisions and actions of the EU for which the Union avails itself of WEU, WEU will act consistently with guidelines established by the European Council.

WEU supports the Union in framing the defence aspects of the European Union Common Foreign and Security Policy as set out in Article J.7 of the Treaty on European Union.

6. WEU confirms that when the European Union avails itself of WEU to elaborate and implement decisions of the Union on the tasks referred to in Article J.7(2) of the Treaty on European Union, all Member States of the Union shall be entitled to participate fully in the tasks in question in accordance with Article J.7(3) of the Treaty on European Union.

WEU will develop the role of the Observers in WEU in line with provisions contained in Article J.7(3) and will adopt the necessary practical arrangements to allow all Member States of the EU contributing to the tasks undertaken by WEU at the request of the EU to participate fully and on an equal footing in planning and decision-taking in the WEU.

7. Consistent with the Protocol on Article J.7 of the Treaty on European Union, WEU shall draw up, together with the European Union, arrangements for enhanced co-operation between them. In this regard, a range of measures, on some of which work is already in hand in WEU, can be taken forward now, such as:

- arrangements for improving the co-ordination of the consultation and decision-making processes of the respective Organisations, in particular in crisis situations;
- holding of joint meetings of the relevant bodies of the two Organisations;
- harmonisation as much as possible of the sequence of the Presidencies of WEU and the EU, as well as the administrative rules and practices of the two Organisations;
- close co-ordination of the work of the staff of the Secretariat-General of the WEU and the General Secretariat of the Council of the EU, including through the exchange and secondment of personnel;
- arrangements to allow the relevant bodies of the EU, including its Policy Planning and Early Warning Unit, to draw on the resources of WEU's Planning Cell, Situation Centre and Satellite Centre;
- co-operation in the field of armaments, as appropriate, within the framework of the Western European Armaments Group (WEAG), as the European forum for armaments co-operation, the EU and WEU in the context of rationalisation of the

European armaments market and the establishment of a European Armaments Agency;

- practical arrangements for ensuring co-operation with the European Commission reflecting its role in the CFSP as defined in the revised Treaty on European Union;
- improved security arrangements with the European Union.

B. RELATIONS BETWEEN WEU AND NATO IN THE FRAMEWORK OF THE DEVELOPMENT OF AN ESDI WITHIN THE ATLANTIC ALLIANCE

8. The Atlantic Alliance continues to be the basis of collective defence under the North Atlantic Treaty. It remains the essential forum for consultation among Allies and the framework in which they agree on policies bearing on their security and defence commitments under the Washington Treaty. The Alliance has embarked on a process of adaptation and reform so that it can more effectively carry out the full range of its missions. This process is aimed at strengthening and renewing the transatlantic partnership, including building an ESDI within the Alliance.

9. WEU is an essential element of the development of the European Security and Defence Identity within the Atlantic Alliance and will accordingly continue its efforts to strengthen institutional and practical co-operation with NATO.

10. In addition to its support for the common defence enshrined in Article 5 of the Washington Treaty and Article V of the modified Brussels Treaty, WEU takes an active role in conflict prevention and crisis management as provided for in the Petersberg Declaration. In this context, WEU undertakes to perform its role to the full, respecting the full transparency and complementarity between the two Organisations.

11. WEU affirms that this identity will be grounded on sound military principles and supported by appropriate military planning and will permit the creation of militarily coherent and effective forces capable of operating under the political control and strategic direction of WEU.

12. To this end, WEU will develop its co-operation with NATO, in particular in the following fields:

- mechanisms for consultation between WEU and NATO in the context of a crisis;
- WEU's active involvement in the NATO defence planning process;
- operational links between WEU and NATO for the planning, preparation and conduct of operations using NATO assets and capabilities under the political control and strategic direction of WEU, including:

* military planning, conducted by NATO in co-ordination with WEU, and exercises;

- * a framework agreement on the transfer, monitoring and return of NATO assets and capabilities;
- * liaison between WEU and NATO in the context of European command arrangements.

This co-operation will continue to evolve, also taking account of the adaptation of the Alliance.

C. WEU's OPERATIONAL ROLE IN THE DEVELOPMENT OF THE ESDI

13. WEU will develop its role as the European politico-military body for crisis management, by using the assets and capabilities made available by WEU nations on a national or multinational basis, and having recourse, when appropriate, to NATO's assets and capabilities under arrangements being worked out. In this context, WEU will also support the UN and OSCE in their crisis management tasks.

WEU will contribute, in the framework of Article J.7 of the Treaty on European Union, to the progressive framing of a common defence policy and carry forward its concrete implementation through the further development of its own operational role.

14. To this end, WEU will take forward work in the following fields:

- WEU has developed crisis management mechanisms and procedures which will be updated as WEU gains experience through exercises and operations. The implementation of Petersberg missions calls for flexible modes of action geared to the diversity of crisis situations and making optimum use of the available capabilities including through recourse to a national headquarters, which might be one provided by a framework nation, or to a multinational headquarters answerable to WEU or to NATO assets and capabilities;
- WEU has already worked out Preliminary Conclusions on the Formulation of a Common European Defence Policy which is an initial contribution on the objectives, scope and means of a common European defence policy.

WEU will continue this work on the basis in particular of the Paris Declaration and taking account of the relevant elements of the decisions of WEU and NATO summits and ministerial meetings since Birmingham. It will focus on the following fields:

- * definition of principles for the use of armed forces of the WEU States for WEU Petersberg operations in pursuit of common European security interests;
- * organisation of operational means for Petersberg tasks, such as generic and contingency planning and exercising, preparation and interoperability of forces, including through participation in the NATO defence planning process, as appropriate;
- * strategic mobility on the basis of its current work;

* defence intelligence, through its Planning Cell, Situation Centre and Satellite Centre;

- WEU has adopted many measures to strengthen its operational role (Planning Cell, Situation Centre, Satellite Centre). The improvement of the functioning of the military components at WEU Headquarters and the establishment, under the Council's authority, of a military committee will represent a further enhancement of structures which are important for the successful preparation and conduct of WEU operations;

- with the aim of opening participation in all its operations to Associate Members and Observer States, WEU will also examine the necessary modalities to allow Associate Members and Observer States to participate fully in accordance with their status in all operations undertaken by WEU;

- WEU recalls that Associate Members take part on the same basis as full members in operations to which they contribute, as well as in relevant exercises and planning. WEU will also examine the question of participation of the Observers as fully as possible in accordance with their status in planning and decision-taking within WEU in all operations to which they contribute;

- WEU will, in consultation where appropriate with the relevant bodies, examine the possibilities for maximum participation in its activities by Associate Members and Observer States in accordance with their status. It will address in particular activities in the fields of armaments, space and military studies;

- WEU will examine how to strengthen the Associate Partners' participation in an increasing number of activities.”

4. DECLARATION ON ARTICLES J.14 AND K.10 OF THE TREATY ON EUROPEAN UNION

The provisions of Articles J.14 and K.10 of the Treaty on European Union and any agreements resulting from them shall not imply any transfer of competence from the Member States to the European Union.

5. DECLARATION ON ARTICLE J.15 OF THE TREATY ON EUROPEAN UNION

The Conference agrees that Member States shall ensure that the Political Committee referred to in Article J.15 of the Treaty on European Union is able to meet at any time, in the event of international crises or other urgent matters, at very short notice at Political Director or deputy level.

6. DECLARATION ON THE ESTABLISHMENT OF A POLICY PLANNING AND EARLY WARNING UNIT

The Conference agrees that:

1. A policy planning and early warning unit shall be established in the General Secretariat of the Council under the responsibility of its Secretary-General, High Representative for the CFSP. Appropriate co-operation shall be established with the Commission in order to ensure full coherence with the Union's external economic and development policies.
2. The tasks of the unit shall include the following:
 - (a) monitoring and analysing developments in areas relevant to the CFSP;
 - (b) providing assessments of the Union's foreign and security policy interests and identifying areas where the CFSP could focus in future;
 - (c) providing timely assessments and early warning of events or situations which may have significant repercussions for the Union's foreign and security policy, including potential political crises;
 - (d) producing, at the request of either the Council or the Presidency or on its own initiative, argued policy options papers to be presented under the responsibility of the Presidency as a contribution to policy formulation in the Council, and which may contain analyses, recommendations and strategies for the CFSP.
3. The unit shall consist of personnel drawn from the General Secretariat, the Member States, the Commission and the WEU.
4. Any Member State or the Commission may make suggestions to the unit for work to be undertaken.
5. Member States and the Commission shall assist the policy planning process by providing, to the fullest extent possible, relevant information, including confidential information.

7. DECLARATION ON ARTICLE K.2 OF THE TREATY ON EUROPEAN UNION

Action in the field of police co-operation under Article K.2 of the Treaty on European Union, including activities of Europol, shall be subject to appropriate judicial review by the competent national authorities in accordance with rules applicable in each Member State.

8. DECLARATION ON ARTICLE K.3(e) OF THE TREATY ON EUROPEAN UNION

The Conference agrees that the provisions of Article K.3(e) of the Treaty on European Union shall not have the consequence of obliging a Member State whose legal system does not provide for minimum sentences to adopt them.

9. DECLARATION ON ARTICLE K.6(2) OF THE TREATY ON EUROPEAN UNION

The Conference agrees that initiatives for measures referred to in Article K.6(2) of the Treaty on European Union and acts adopted by the Council thereunder shall be published in the *Official Journal of the European Communities*, in accordance with the relevant Rules of Procedure of the Council and the Commission.

10. DECLARATION ON ARTICLE K.7 OF THE TREATY ON EUROPEAN UNION

The Conference notes that Member States may, when making a declaration pursuant to Article K.7(2) of the Treaty on European Union, reserve the right to make provisions in their national law to the effect that, where a question relating to the validity or interpretation of an act referred to in Article K.7(1) is raised in a case pending before a national court or tribunal against whose decision there is no judicial remedy under national law, that court or tribunal will be required to refer the matter to the Court of Justice.

11. DECLARATION ON THE STATUS OF CHURCHES AND NON-CONFESSIONAL ORGANISATIONS

The European Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.

The European Union equally respects the status of philosophical and non-confessional organisations.

12. DECLARATION ON ENVIRONMENTAL IMPACT ASSESSMENTS

The Conference notes that the Commission undertakes to prepare environmental impact assessment studies when making proposals which may have significant environmental implications.

13. DECLARATION ON ARTICLE 7d OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The provisions of Article 7d of the Treaty establishing the European Community on public services shall be implemented with full respect for the jurisprudence of the Court of Justice, inter alia as regards the principles of equality of treatment, quality and continuity of such services.

14. DECLARATION ON THE REPEAL OF ARTICLE 44 OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The repeal of Article 44 of the Treaty establishing the European Community, which contains a reference to a natural preference between Member States in the context of fixing minimum prices during the transitional period, has no effect on the principle of Community preference as defined by the case law of the Court of Justice.

15. DECLARATION ON THE PRESERVATION OF THE LEVEL OF PROTECTION AND SECURITY PROVIDED BY THE SCHENGEN ACQUIS

The Conference agrees that measures to be adopted by the Council, which will have the effect of replacing provisions on the abolition of checks at common borders contained in the 1990 Schengen Convention, should provide at least the same level of protection and security as under the aforementioned provisions of the Schengen Convention.

16. DECLARATION ON ARTICLE 73j(2)(b) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The Conference agrees that foreign policy considerations of the Union and the Member States shall be taken into account in the application of Article 73j(2)(b) of the Treaty establishing the European Community.

17. DECLARATION ON ARTICLE 73k OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

Consultations shall be established with the United Nations High Commissioner for Refugees and other relevant international organisations on matters relating to asylum policy.

18. DECLARATION ON ARTICLE 73k(3)(a) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The Conference agrees that Member States may negotiate and conclude agreements with third countries in the domains covered by Article 73k(3)(a) of the Treaty establishing the European Community as long as such agreements respect Community law.

19. DECLARATION ON ARTICLE 73l(1) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The Conference agrees that Member States may take into account foreign policy considerations when exercising their responsibilities under Article 73l(1) of the Treaty establishing the European Community.

20. DECLARATION ON ARTICLE 73m OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

Measures adopted pursuant to Article 73m of the Treaty establishing the European Community shall not prevent any Member State from applying its constitutional rules relating to freedom of the press and freedom of expression in other media.

21. DECLARATION ON ARTICLE 73o OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The Conference agrees that the Council will examine the elements of the decision referred to in Article 73o(2), second indent, of the Treaty establishing the European Community before the end of the five year period referred to in Article 73o with a view to taking and applying this decision immediately after the end of that period.

22. DECLARATION REGARDING PERSONS WITH A DISABILITY

The Conference agrees that, in drawing up measures under Article 100a of the Treaty establishing the European Community, the institutions of the Community shall take account of the needs of persons with a disability.

23. DECLARATION ON INCENTIVE MEASURES REFERRED TO IN ARTICLE 109r OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The Conference agrees that the incentive measures referred to in Article 109r of the Treaty establishing the European Community should always specify the following:

- the grounds for taking them based on an objective assessment of their need and the existence of an added value at Community level;
- their duration, which should not exceed five years;
- the maximum amount for their financing, which should reflect the incentive nature of such measures.

24. DECLARATION ON ARTICLE 109r OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

It is understood that any expenditure under Article 109r of the Treaty establishing the European Community will fall within Heading 3 of the financial perspectives.

25. DECLARATION ON ARTICLE 118 OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

It is understood that any expenditure under Article 118 of the Treaty establishing the European Community will fall within Heading 3 of the financial perspectives.

26. DECLARATION ON ARTICLE 118(2) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The High Contracting Parties note that in the discussions on Article 118(2) of the Treaty establishing the European Community it was agreed that the Community does not intend, in laying down minimum requirements for the protection of the safety and health of employees, to discriminate in a manner unjustified by the circumstances against employees in small and medium-sized undertakings.

27. DECLARATION ON ARTICLE 118b(2) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The High Contracting Parties declare that the first of the arrangements for application of the agreements between management and labour at Community level - referred to in Article 118b(2) of the Treaty establishing the European Community - will consist in developing, by collective bargaining according to the rules of each Member State, the content of the agreements, and that consequently this arrangement implies no obligation on the Member States to apply the agreements directly or to work out rules for their transposition, nor any obligation to amend national legislation in force to facilitate their implementation.

28. DECLARATION ON ARTICLE 119(4) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

When adopting measures referred to in Article 119(4) of the Treaty establishing the European Community, Member States should, in the first instance, aim at improving the situation of women in working life.

29. DECLARATION ON SPORT

The Conference emphasises the social significance of sport, in particular its role in forging identity and bringing people together. The Conference therefore calls on the bodies of the European Union to listen to sports associations when important questions affecting sport are at issue. In this connection, special consideration should be given to the particular characteristics of amateur sport.

30. DECLARATION ON ISLAND REGIONS

The Conference recognises that island regions suffer from structural handicaps linked to their island status, the permanence of which impairs their economic and social development.

The Conference accordingly acknowledges that Community legislation must take account of these handicaps and that specific measures may be taken, where justified, in favour of these regions in order to integrate them better into the internal market on fair conditions.

31. DECLARATION RELATING TO THE COUNCIL DECISION OF 13 JULY 1987

The Conference calls on the Commission to submit to the Council by the end of 1998 at the latest a proposal to amend the Council decision of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission.

32. DECLARATION ON THE ORGANISATION AND FUNCTIONING OF THE COMMISSION

The Conference notes the Commission's intention to prepare a reorganisation of tasks within the college in good time for the Commission which will take up office in 2000, in order to ensure an optimum division between conventional portfolios and specific tasks.

In this context, it considers that the President of the Commission must enjoy broad discretion in the allocation of tasks within the College, as well as in any reshuffling of those tasks during a Commission's term of office.

The Conference also notes the Commission's intention to undertake in parallel a corresponding reorganisation of its departments. It notes in particular the desirability of bringing external relations under the responsibility of a Vice-President.

33. DECLARATION ON ARTICLE 188c(3) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The Conference invites the Court of Auditors, the European Investment Bank and the Commission to maintain in force the present Tripartite Agreement. If a succeeding or amending text is required by any party, they shall endeavour to reach agreement on such a text having regard to their respective interests.

34. DECLARATION ON RESPECT FOR TIME LIMITS UNDER THE CO-DECISION PROCEDURE

The Conference calls on the European Parliament, the Council and the Commission to make every effort to ensure that the co-decision procedure operates as expeditiously as possible. It recalls the importance of strict respect for the deadlines set out in Article 189b of the Treaty establishing the European Community and confirms that recourse, provided for in paragraph 7 of that Article, to extension of the periods in question should be considered only when strictly necessary. In no case should the actual period between the second reading by the European Parliament and the outcome of the Conciliation Committee exceed nine months.

35. DECLARATION ON ARTICLE 191a(1) OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY

The Conference agrees that the principles and conditions referred to in Article 191a(1) of the Treaty establishing the European Community will allow a Member State to request the Commission or the Council not to communicate to third parties a document originating from that State without its prior agreement.

36. DECLARATION ON THE OVERSEAS COUNTRIES AND TERRITORIES

The Conference recognises that the special arrangements for the association of the overseas countries and territories (OCTs) under Part Four of the Treaty establishing the European Community were designed for countries and territories that were numerous, covered vast areas and had large populations. The arrangements have changed little since 1957.

The Conference notes that there are today only 20 OCTs and that they are extremely scattered island territories with a total population of approximately 900 000. Moreover, most OCTs lag far behind in structural terms, a fact linked to their particularly severe geographical and economic handicaps. In these circumstances, the special arrangements for association as they were conceived in 1957 can no longer deal effectively with the challenges of OCT development.

The Conference solemnly restates that the purpose of association is to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Community as a whole.

The Conference invites the Council, acting in accordance with the provisions of Article 136 of the Treaty establishing the European Community, to review the association arrangements by February 2000, with the fourfold objective of:

- promoting the economic and social development of the OCTs more effectively;
- developing economic relations between the OCTs and the European Union;
- taking greater account of the diversity and specific characteristics of the individual OCTs, including aspects relating to freedom of establishment;
- ensuring that the effectiveness of the financial instrument is improved.

37. DECLARATION ON PUBLIC CREDIT INSTITUTIONS IN GERMANY

The Conference notes the Commission's opinion to the effect that the Community's existing competition rules allow services of general economic interest provided by public credit institutions existing in Germany and the facilities granted to them to compensate for the costs connected with such services to be taken into account in full. In this context, the way in which Germany enables local authorities to carry out their task of making available in their regions a comprehensive and efficient financial infrastructure is a matter for the organisation of that Member State. Such facilities may not adversely affect the conditions of competition to an extent beyond that required in order to perform these particular tasks and which is contrary to the interests of the Community.

The Conference recalls that the European Council has invited the Commission to examine whether similar cases exist in the other Member States, to apply as

appropriate the same standards on similar cases and to inform the Council in its ECOFIN formation.

38. DECLARATION ON VOLUNTARY SERVICE ACTIVITIES

The Conference recognises the important contribution made by voluntary service activities to developing social solidarity.

The Community will encourage the European dimension of voluntary organisations with particular emphasis on the exchange of information and experiences as well as on the participation of the young and the elderly in voluntary work.

39. DECLARATION ON THE QUALITY OF THE DRAFTING OF COMMUNITY LEGISLATION

The Conference notes that the quality of the drafting of Community legislation is crucial if it is to be properly implemented by the competent national authorities and better understood by the public and in business circles. It recalls the conclusions on this subject reached by the Presidency of the European Council in Edinburgh on 11 and 12 December 1992, as well as the Council Resolution on the quality of drafting of Community legislation adopted on 8 June 1993 (*Official Journal of the European Communities*, No C 166, 17.6.1993, p. 1).

The Conference considers that the three institutions involved in the procedure for adopting Community legislation, the European Parliament, the Council and the Commission, should lay down guidelines on the quality of drafting of the said legislation. It also stresses that Community legislation should be made more accessible and welcomes in this regard the adoption and first implementation of an accelerated working method for official codification of legislative texts, established by the Inter-Institutional Agreement of 20 December 1994 (*Official Journal of the European Communities*, No C 102, 4.4.1996, p. 2).

Therefore, the Conference declares that the European Parliament, the Council and the Commission ought to:

- establish by common accord guidelines for improving the quality of the drafting of Community legislation and follow those guidelines when considering proposals for Community legislation or draft legislation, taking the internal organisational measures they deem necessary to ensure that these guidelines are properly applied;
- make their best efforts to accelerate the codification of legislative texts.

40. DECLARATION CONCERNING THE PROCEDURE FOR CONCLUDING INTERNATIONAL AGREEMENTS BY THE EUROPEAN COAL AND STEEL COMMUNITY

The repeal of Article 14 of the Convention on the Transitional Provisions annexed to the Treaty establishing the European Coal and Steel Community does not alter existing practice concerning the procedure for the conclusion of international agreements by the European Coal and Steel Community.

41. DECLARATION ON THE PROVISIONS RELATING TO TRANSPARENCY, ACCESS TO DOCUMENTS AND THE FIGHT AGAINST FRAUD

The Conference considers that the European Parliament, the Council and the Commission, when they act in pursuance of the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, should draw guidance from the provisions relating to transparency, access to documents and the fight against fraud in force within the framework of the Treaty establishing the European Community.

42. DECLARATION ON THE CONSOLIDATION OF THE TREATIES

The High Contracting Parties agreed that the technical work begun during the course of this Intergovernmental Conference shall continue as speedily as possible with the aim of drafting a consolidation of all the relevant Treaties, including the Treaty on European Union.

They agreed that the final results of this technical work, which shall be made public for illustrative purposes under the responsibility of the Secretary-General of the Council, shall have no legal value.

43. DECLARATION RELATING TO THE PROTOCOL ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY

The High Contracting Parties confirm, on the one hand, the Declaration on the implementation of Community law annexed to the Final Act of the Treaty on European Union and, on the other, the conclusions of the Essen European Council stating that the administrative implementation of Community law shall in principle be the responsibility of the Member States in accordance with their constitutional arrangements. This shall not affect the supervisory, monitoring and implementing powers of the Community Institutions as provided under Articles 145 and 155 of the Treaty establishing the European Community.

44. DECLARATION ON ARTICLE 2 OF THE PROTOCOL INTEGRATING THE SCHENGEN ACQUIS INTO THE FRAMEWORK OF THE EUROPEAN UNION

The High Contracting Parties agree that the Council shall adopt all the necessary measures referred to in Article 2 of the Protocol integrating the Schengen acquis into the framework of the European Union upon the date of entry into force of the Treaty of Amsterdam. To that end, the necessary preparatory work shall be undertaken in due time in order to be completed prior to that date.

45. DECLARATION ON ARTICLE 4 OF THE PROTOCOL INTEGRATING THE SCHENGEN ACQUIS INTO THE FRAMEWORK OF THE EUROPEAN UNION

The High Contracting Parties invite the Council to seek the opinion of the Commission before it decides on a request under Article 4 of the Protocol integrating the Schengen acquis into the framework of the European Union by Ireland or the United Kingdom of Great Britain and Northern Ireland to take part in some or all of the provisions of the Schengen acquis. They also undertake to make their best efforts with a view to allowing Ireland or the United Kingdom of Great Britain and Northern Ireland, if they so wish, to use the provisions of Article 4 of the said Protocol so that the Council may be in a position to take the decisions referred to in that Article upon the date of entry into force of that Protocol or at any time thereafter.

46. DECLARATION ON ARTICLE 5 OF THE PROTOCOL INTEGRATING THE SCHENGEN ACQUIS INTO THE FRAMEWORK OF THE EUROPEAN UNION

The High Contracting Parties undertake to make all efforts in order to make action among all Member States possible in the domains of the Schengen *acquis*, in particular whenever Ireland and the United Kingdom of Great Britain and Northern Ireland have accepted some or all of the provisions of that acquis in accordance with Article 4 of the Protocol integrating the Schengen acquis into the framework of the European Union.

47. DECLARATION ON ARTICLE 6 OF THE PROTOCOL INTEGRATING THE SCHENGEN ACQUIS INTO THE FRAMEWORK OF THE EUROPEAN UNION

The High Contracting Parties agree to take all necessary steps so that the Agreements referred to in Article 6 of the Protocol integrating the Schengen *acquis* into the framework of the European Union may enter into force on the same date as the date of entry into force of the Treaty of Amsterdam.

48. DECLARATION RELATING TO THE PROTOCOL ON ASYLUM FOR NATIONALS OF MEMBER STATES OF THE EUROPEAN UNION

The Protocol on asylum for nationals of Member States of the European Union does not prejudice the right of each Member State to take the organisational measures it deems necessary to fulfil its obligations under the Geneva Convention of 28 July 1951 relating to the status of refugees.

49. DECLARATION RELATING TO SUB-PARAGRAPH (d) OF THE SOLE ARTICLE OF THE PROTOCOL ON ASYLUM FOR NATIONALS OF MEMBER STATES OF THE EUROPEAN UNION

The Conference declares that, while recognising the importance of the Resolution of the Ministers of the Member States of the European Communities responsible for immigration of 30 November/1 December 1992 on manifestly unfounded applications for asylum and of the Resolution of the Council of 20 June 1995 on minimum guarantees for asylum procedures, the question of abuse of asylum procedures and appropriate rapid procedures to dispense with manifestly unfounded applications for asylum should be further examined with a view to introducing new improvements in order to accelerate these procedures.

50. DECLARATION RELATING TO THE PROTOCOL ON THE INSTITUTIONS WITH THE PROSPECT OF ENLARGEMENT OF THE EUROPEAN UNION

Until the entry into force of the first enlargement it is agreed that the decision of the Council of 29 March 1994 (“the Ioannina Compromise”) will be extended and, by that date, a solution for the special case of Spain will be found.

51. DECLARATION ON ARTICLE 10 OF THE TREATY OF AMSTERDAM

The Treaty of Amsterdam repeals and deletes lapsed provisions of the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community as they were in force before the entry into force of the Treaty of Amsterdam and adapts certain of their provisions, including the insertion of certain provisions of the Treaty establishing a single Council and a single Commission of the European Communities and the Act concerning the election of the representatives of the European Parliament by direct universal suffrage. Those operations do not affect the “acquis communautaire”.

**DECLARATIONS
OF WHICH THE CONFERENCE TOOK NOTE**

1. DECLARATION BY AUSTRIA AND LUXEMBOURG ON CREDIT INSTITUTIONS

Austria and Luxembourg consider that the Declaration on public credit institutions in Germany also applies to credit institutions in Austria and Luxembourg with a comparable organisational structure.

2. DECLARATION BY DENMARK ON ARTICLE K.14 OF THE TREATY ON EUROPEAN UNION

Article K.14 of the Treaty on European Union requires the unanimity of all members of the Council of the European Union, i.e. all Member States, for the adoption of any decision to apply the provisions of Title IIIa of the Treaty establishing the European Community on visas, asylum, immigration and other policies related to free movement of persons to action in areas referred to in Article K.1. Moreover, any unanimous decision of the Council, before coming into force, will have to be adopted in each Member State, in accordance with its constitutional requirements. In Denmark, such adoption will, in the case of a transfer of sovereignty, as defined in the Danish constitution, require either a majority of five sixths of members of the Folketing or both a majority of the members of the Folketing and a majority of voters in a referendum.

3. DECLARATION BY GERMANY, AUSTRIA AND BELGIUM ON SUBSIDIARITY

It is taken for granted by the German, Austrian and Belgian governments that action by the European Community in accordance with the principle of subsidiarity not only concerns the Member States but also their entities to the extent that they have their own law-making powers conferred on them under national constitutional law.

4. DECLARATION BY IRELAND ON ARTICLE 3 OF THE PROTOCOL ON THE POSITION OF THE UNITED KINGDOM AND IRELAND

Ireland declares that it intends to exercise its right under Article 3 of the Protocol on the position of the United Kingdom and Ireland to take part in the adoption of measures pursuant to Title IIIa of the Treaty establishing the European Community to the maximum extent compatible with the maintenance of its Common Travel Area with the United Kingdom. Ireland recalls that its participation in the Protocol on the application of certain aspects of Article 7a of the Treaty establishing the European Community reflects its wish to maintain its Common Travel Area with the United Kingdom in order to maximise freedom of movement into and out of Ireland.

5. DECLARATION BY BELGIUM ON THE PROTOCOL ON ASYLUM FOR NATIONALS OF MEMBER STATES OF THE EUROPEAN UNION

In approving the Protocol on asylum for nationals of Member States of the European Union, Belgium declares that, in accordance with its obligations under the 1951 Geneva Convention and the 1967 New York Protocol, it shall, in accordance with the provision set out in point (d) of the sole Article of that Protocol, carry out an individual examination of any asylum request made by a national of another Member State.

6. DECLARATION BY BELGIUM, FRANCE AND ITALY ON THE PROTOCOL ON THE INSTITUTIONS WITH THE PROSPECT OF ENLARGEMENT OF THE EUROPEAN UNION

Belgium, France and Italy observe that, on the basis of the results of the Intergovernmental Conference, the Treaty of Amsterdam does not meet the need, reaffirmed at the Madrid European Council, for substantial progress towards reinforcing the institutions.

Those countries consider that such reinforcement is an indispensable condition for the conclusion of the first accession negotiations. They are determined to give the fullest effect appropriate to the Protocol as regards the composition of the Commission and the weighting of votes and consider that a significant extension of recourse to qualified majority voting forms part of the relevant factors which should be taken into account.

7. DECLARATION BY FRANCE CONCERNING THE SITUATION OF THE OVERSEAS DEPARTMENTS IN THE LIGHT OF THE PROTOCOL INTEGRATING THE SCHENGEN *ACQUIS* INTO THE FRAMEWORK OF THE EUROPEAN UNION

France considers that the implementation of the Protocol integrating the Schengen *acquis* into the framework of the European Union does not affect the geographical scope of the Convention implementing the Schengen Agreement of 14 June 1985 signed in Schengen on 19 June 1990, as it is defined by Article 138, first paragraph, of that Convention.

8. DECLARATION BY GREECE CONCERNING THE DECLARATION ON THE STATUS OF CHURCHES AND NON-CONFESSIONAL ORGANISATIONS

With reference to the Declaration on the status of churches and non-confessional organisations, Greece recalls the Joint Declaration on Mount Athos annexed to the Final Act of the Treaty of Accession of Greece to the European Communities.