

**THE TREATY OF NICE**

**amending the Treaty on European Union,  
the Treaties establishing the European Communities  
and certain related Acts**

**FINAL ACT**

**AND**

**DECLARATIONS**

**NICE**

**26 FEBRUARY 2001**

# FINAL ACT

The CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES convened in Brussels on 14 February 2000 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 Atomic Energy Community and the European Coal and Steel Community and certain related Acts has adopted the following texts:

- I. Treaty of Nice 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 and to the Treaties establishing the European Communities

Protocol on the enlargement of the European Union

- B. Protocol annexed to the Treaty on European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community

Protocol on the Statute of the Court of Justice

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

1. Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel
2. Protocol on Article 67 of the Treaty establishing the European Community

## III. Declarations

- A. Declarations adopted by the Conference

1. Declaration on the European security and defence policy
2. Declaration on Article 31(2) of the Treaty on European Union
3. Declaration on Article 10 of the Treaty establishing the European Community
4. Declaration on the third paragraph of Article 21 of the Treaty establishing the European Community
5. Declaration on Article 67 of the Treaty establishing the European Community

6. Declaration on Article 100 of the Treaty establishing the European Community
7. Declaration on Article 111 of the Treaty establishing the European Community
8. Declaration on Article 137 of the Treaty establishing the European Community
9. Declaration on Article 175 of the Treaty establishing the European Community
10. Declaration on Article 181a of the Treaty establishing the European Community
11. Declaration on Article 191 of the Treaty establishing the European Community
12. Declaration on Article 225 of the Treaty establishing the European Community
13. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community
14. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community
15. Declaration on Article 225(3) of the Treaty establishing the European Community
16. Declaration on Article 225a of the Treaty establishing the European Community
17. Declaration on Article 229a of the Treaty establishing the European Community
18. Declaration on the Court of Auditors
19. Declaration on Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank
20. Declaration on the enlargement of the European Union
21. Declaration on the qualified majority threshold and the number of votes for a blocking minority in an enlarged Union
22. Declaration on the venue for European Councils
23. Declaration on the future of the Union
24. Declaration on Article 2 of the Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel

B. Declarations of which the Conference took note

1. Unilateral declaration by Luxembourg
2. Declaration by Greece, Spain and Portugal on Article 161 of the Treaty establishing the European Community

Done at Nice this twenty-sixth day of February in the year two thousand and one

## **DECLARATIONS ADOPTED BY THE CONFERENCE**

### **1. Declaration on the European security and defence policy**

In accordance with the texts approved by the European Council in Nice concerning the European security and defence policy (Presidency report and Annexes), the objective for the European Union is for that policy to become operational quickly. A decision to that end will be taken by the European Council as soon as possible in 2001 and no later than at its meeting in Laeken/Brussels, on the basis of the existing provisions of the Treaty on European Union. Consequently, the entry into force of the Treaty of Nice does not constitute a precondition.

### **2. Declaration on Article 31(2) of the Treaty on European Union**

The Conference recalls that:

- the decision to set up a unit composed of national prosecutors, magistrates or police officers of equivalent competence, detached from each Member State (Eurojust), having the task of facilitating proper coordination between national prosecuting authorities and of supporting criminal investigations in organised crime cases, was provided for in the Presidency conclusions of the European Council at Tampere on 15 and 16 October 1999;
- the European Judicial Network was set up by Joint Action 98/428/JHA adopted by the Council on 29 June 1998 (OJ L 191, 7.7.1998, p. 4).

### **3. Declaration on Article 10 of the Treaty establishing the European Community**

The Conference recalls that the duty of sincere co-operation which derives from Article 10 of the Treaty establishing the European Community and governs relations between the Member States and the Community institutions also governs relations between the Community institutions themselves. In relations between those institutions, when it proves necessary, in the context of that duty of sincere cooperation, to facilitate the application of the provisions of the Treaty establishing the European Community, the European Parliament, the Council and the Commission may conclude inter-institutional agreements. Such agreements may not amend or supplement the provisions of the Treaty and may be concluded only with the agreement of these three institutions.

### **4. Declaration on the third paragraph of Article 21 of the Treaty establishing the European Community**

The Conference calls upon the institutions and bodies referred to in the third paragraph of Article 21 or in Article 7 to ensure that the reply to any written request by a citizen of the Union is made within a reasonable period.

## **5. Declaration on Article 67 of the Treaty establishing the European Community**

The High Contracting Parties agree that the Council, in the decision it is required to take pursuant to the second indent of Article 67(2):

- will decide, from 1 May 2004, to act in accordance with the procedure referred to in Article 251 in order to adopt the measures referred to in Article 62(3) and Article 63(3)(b);
- will decide to act in accordance with the procedure referred to in Article 251 in order to adopt the measures referred to in Article 62(2)(a) from the date on which agreement is reached on the scope of the measures concerning the crossing by persons of the external borders of the Member States.

The Council will, moreover, endeavour to make the procedure referred to in Article 251 applicable from 1 May 2004 or as soon as possible thereafter to the other areas covered by Title IV or to parts of them.

## **6. Declaration on Article 100 of the Treaty establishing the European Community**

The Conference recalls that decisions regarding financial assistance, such as are provided for in Article 100 and are compatible with the “no bail-out” rule laid down in Article 103, must comply with the 2000–2006 financial perspective, and in particular paragraph 11 of the Inter-institutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure, and with the corresponding provisions of future inter-institutional agreements and financial perspectives.

## **7. Declaration on Article 111 of the Treaty establishing the European Community**

The Conference agrees that procedures shall be such as to enable all the Member States in the euro area to be fully involved in each stage of preparing the position of the Community at international level as regards issues of particular relevance to economic and monetary union.

## **8. Declaration on Article 137 of the Treaty establishing the European Community**

The Conference agrees that any expenditure incurred by virtue of Article 137 is to be charged to heading 3 of the financial perspective.

## **9. Declaration on Article 175 of the Treaty establishing the European Community**

The High Contracting Parties are determined to see the European Union play a leading role in promoting environmental protection in the Union and in international efforts pursuing the same objective at global level. Full use should be made of all possibilities

offered by the Treaty with a view to pursuing this objective, including the use of incentives and instruments which are market-oriented and intended to promote sustainable development.

#### **10. Declaration on Article 181a of the Treaty establishing the European Community**

The Conference confirms that, without prejudice to other provisions of the Treaty establishing the European Community, balance-of-payments aid to third countries falls outside the scope of Article 181a.

#### **11. Declaration on Article 191 of the Treaty establishing the European Community**

The Conference recalls that the provisions of Article 191 do not imply any transfer of powers to the European Community and do not affect the application of the relevant national constitutional rules.

The funding for political parties at European level provided out of the budget of the European Communities may not be used to fund, either directly or indirectly, political parties at national level.

The provisions on the funding for political parties shall apply, on the same basis, to all the political forces represented in the European Parliament.

#### **12. Declaration on Article 225 of the Treaty establishing the European Community**

The Conference calls on the Court of Justice and the Commission to give overall consideration as soon as possible to the division of jurisdiction between the Court of Justice and the Court of First Instance, in particular in the area of direct actions, and to submit suitable proposals for examination by the competent bodies as soon as the Treaty of Nice enters into force.

#### **13. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community**

The Conference considers that the essential provisions of the review procedure in Article 225(2) and (3) should be defined in the Statute of the Court of Justice. Those provisions should in particular specify:

- the role of the parties in proceedings before the Court of Justice, in order to safeguard their rights;
- the effect of the review procedure on the enforceability of the decision of the Court of First Instance;
- the effect of the Court of Justice decision on the dispute between the parties.

**14. Declaration on Article 225(2) and (3) of the Treaty establishing the European Community**

The Conference considers that when the Council adopts the provisions of the Statute which are necessary to implement Article 225(2) and (3), it should put a procedure in place to ensure that the practical operation of those provisions is evaluated no later than three years after the entry into force of the Treaty of Nice.

**15. Declaration on Article 225(3) of the Treaty establishing the European Community**

The Conference considers that, in exceptional cases in which the Court of Justice decides to review a decision of the Court of First Instance on a question referred for a preliminary ruling, it should act under an emergency procedure.

**16. Declaration on Article 225a of the Treaty establishing the European Community**

The Conference asks the Court of Justice and the Commission to prepare as swiftly as possible a draft decision establishing a judicial panel which has jurisdiction to deliver judgments at first instance on disputes between the Community and its servants.

**17. Declaration on Article 229a of the Treaty establishing the European Community**

The Conference considers that Article 229a does not prejudice the choice of the judicial framework which may be set up to deal with disputes relating to the application of acts adopted on the basis of the Treaty establishing the European Community which create Community industrial property rights.

**18. Declaration on the Court of Auditors**

The Conference invites the Court of Auditors and the national audit institutions to improve the framework and conditions for cooperation between them, while maintaining the autonomy of each. To that end, the President of the Court of Auditors may set up a contact committee with the chairmen of the national audit institutions.

**19. Declaration on Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank**

The Conference expects that a recommendation within the meaning of Article 10.6 of the Statute of the European System of Central Banks and of the European Central Bank will be presented as soon as possible.

## 20. Declaration on the enlargement of the European Union <sup>1</sup>

The common position to be adopted by the Member States at the accession conferences, as regards the distribution of seats at the European Parliament, the weighting of votes in the Council, the composition of the Economic and Social Committee and the composition of the Committee of the Regions will correspond to the following tables for a Union of 27 Member States.

### 1. THE EUROPEAN PARLIAMENT

MEMBER STATES	EP SEATS
Germany	99
Kingdom	72
France	72
Italy	72
Spain	50
Poland	50
Romania	33
Netherlands	25
Greece	22
Republic	20
Belgium	22
Hungary	20
Portugal	22
Sweden	18
Bulgaria	17
Austria	17
Slovakia	13
Denmark	13
Finland	13
Ireland	12
Lithuania	12
Latvia	8
Slovenia	7
Estonia	6
Cyprus	6
Luxembourg	6
Malta	5
<b>TOTAL</b>	<b>732</b>

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1. The tables in this declaration take account only of those candidate countries with which accession negotiations have actually started.

## 2. THE WEIGHTING OF VOTES IN THE COUNCIL

MEMBERS OF THE COUNCIL	WEIGHTED VOTES
Germany	29
United Kingdom	29
France	29
Italy	29
Spain	27
Poland	27
Romania	14
Netherlands	13
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	10
Bulgaria	10
Austria	10
Slovakia	7
Denmark	7
Finland	7
Ireland	7
Lithuania	7
Latvia	4
Slovenia	4
Estonia	4
Cyprus	4
Luxembourg	4
Malta	3
<b>TOTAL</b>	<b>345</b>

Acts of the Council shall require for their adoption at least 258 votes in favour, cast by a majority of members, where this Treaty requires them to be adopted on a proposal from the Commission.

In other cases, for their adoption acts of the Council shall require at least 258 votes in favour cast by at least two-thirds of the members.

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

### 3. THE ECONOMIC AND SOCIAL COMMITTEE

MEMBER STATES	MEMBERS
Germany	24
United Kingdom	24
France	24
Italy	24
Spain	21
Poland	21
Romania	15
Netherlands	12
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	12
Bulgaria	12
Austria	12
Slovakia	9
Denmark	9
Finland	9
Ireland	9
Lithuania	9
Latvia	7
Slovenia	7
Estonia	7
Cyprus	6
Luxembourg	6
Malta	5
<b>TOTAL</b>	<b>344</b>

#### 4. THE COMMITTEE OF THE REGIONS

MEMBER STATES	MEMBERS
Germany	24
United Kingdom	24
France	24
Italy	24
Spain	21
Poland	21
Romania	15
Netherlands	12
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	12
Bulgaria	12
Austria	12
Slovakia	9
Denmark	9
Finland	9
Ireland	9
Lithuania	9
Latvia	7
Slovenia	7
Estonia	7
Cyprus	6
Luxembourg	6
Malta	5
<b>TOTAL</b>	<b>344</b>

## **21. Declaration on the qualified majority threshold and the number of votes for a blocking minority in an enlarged Union**

Insofar as all the candidate countries listed in the Declaration on the enlargement of the European Union have not yet acceded to the Union when the new vote weightings take effect (1 January 2005), the threshold for a qualified majority will move, according to the pace of accessions, from a percentage below the current one to a maximum of 73.4%. When all the candidate countries mentioned above have acceded, the blocking minority, in a Union of 27, will be raised to 91 votes, and the qualified majority threshold resulting from the table given in the Declaration on enlargement of the European Union will be automatically adjusted accordingly.

## **22. Declaration on the venue for European Councils**

As from 2002, one European Council meeting per Presidency will be held in Brussels. When the Union comprises 18 members, all European Council meetings will be held in Brussels.

## **23. Declaration on the future of the Union**

1. Important reforms have been decided in Nice. The Conference welcomes the successful conclusion of the Conference of Representatives of the Governments of the Member States and commits the Member States to pursue the early ratification of the Treaty of Nice.

2. It agrees that the conclusion of the Conference of Representatives of the Governments of the Member States opens the way for enlargement of the European Union and underlines that, with ratification of the Treaty of Nice, the European Union will have completed the institutional changes necessary for the accession of new Member States.

3. Having thus opened the way to enlargement, the Conference calls for a deeper and wider debate about the future of the European Union. In 2001, the Swedish and Belgian Presidencies, in cooperation with the Commission and involving the European Parliament, will encourage wide-ranging discussions with all interested parties: representatives of national parliaments and all those reflecting public opinion, namely political, economic and university circles, representatives of civil society, etc. The candidate States will be associated with this process in ways to be defined.

4. Following a report to be drawn up for the European Council in Göteborg in June 2001, the European Council, at its meeting in Laeken/Brussels in December 2001, will agree on a declaration containing appropriate initiatives for the continuation of this process.

5. The process should address, inter alia, the following questions:

- how to establish and monitor a more precise delimitation of powers between the European Union and the Member States, reflecting the principle of subsidiarity;

- the status of the Charter of Fundamental Rights of the European Union, proclaimed in Nice, in accordance with the conclusions of the European Council in Cologne;
- a simplification of the Treaties with a view to making them clearer and better understood without changing their meaning;
- the role of national parliaments in the European architecture.

6. Addressing the abovementioned issues, the Conference recognises the need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, in order to bring them closer to the citizens of the Member States.

7. After these preparatory steps, the Conference agrees that a new Conference of the Representatives of the Governments of the Member States will be convened in 2004, to address the abovementioned items with a view to making corresponding changes to the Treaties.

8. The Conference of Member States will not constitute any form of obstacle or precondition to the enlargement process. Moreover, those candidate States which have concluded accession negotiations with the Union will be invited to participate in the Conference. Those candidate States which have not concluded their accession negotiations shall be invited as observers.

#### **24. Declaration on Article 2 of the Protocol on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel**

The Conference invites the Council to ensure, under Article 2 of the Protocol, the prolongation of the ECSC statistics system after the expiry of the ECSC Treaty until 31 December 2002 and to invite the Commission to make the appropriate recommendations.

## **DECLARATIONS OF WHICH THE CONFERENCE TOOK NOTE**

### **1. Unilateral Declaration by Luxembourg**

Without prejudice to the Decision of 8 April 1965 and the provisions and possibilities contained therein regarding the seats of institutions, bodies and departments to be set up, the Luxembourg Government undertakes not to claim the seat of the Boards of Appeal of the Office for Harmonisation in the Internal Market (trade marks and designs), which will remain in Alicante, even if those Boards were to become judicial panels within the meaning of Article 220 of the Treaty establishing the European Community.

### **2. Declaration by Greece, Spain and Portugal on Article 161 of the Treaty establishing the European Community**

Greece, Spain and Portugal have agreed to the move to a qualified majority in Article 161 of the Treaty establishing the European Community on the basis that the word “multiannual” in the third paragraph means that the financial perspective applicable from 1 January 2007 and the Interinstitutional Agreement relating thereto will have the same duration as the current financial perspective.