

COUNCIL OF THE EUROPEAN COMMUNITIES

PRESS RELEASES

PRESIDENCY: BELGIUM

JULY-DECEMBER 1993

Meetings and press releases October 1993

<b>Meeting number</b>	<b>Subject</b>	<b>Date</b>
1688 <sup>th</sup>	General Affairs	4 October 1993
1689 <sup>th</sup>	Environment	5 October 1993
1690 <sup>th</sup>	Research	11 October 1993
1691 <sup>st</sup>	Labour/Social Affairs	12 October 1993
1692 <sup>nd</sup>	Agriculture	18-19 October 1993
1693 <sup>rd</sup>	Fisheries	20 October 1993
1694 <sup>th</sup>	No record of a meeting	
1695 <sup>th</sup>	Economics/Finance	25 October 1993
1696 <sup>th</sup>	General Affairs	25-26 October 1993

PRESS RELEASE

8907/93 (Presse 156)

1688th meeting of the Council

- GENERAL AFFAIRS -

Luxembourg, 4 October 1993

President: Mr Willy CLAES  
Minister for Foreign Affairs  
of the Kingdom of Belgium

The Governments of the Member States and the Commission of the European Communities were represented as follows:

**Belgium:**

Mr Willy CLAES  
Mr Robert URBAIN

Minister for Foreign Affairs  
Minister for Foreign Trade and European Affairs

**Denmark:**

Mr Niels HELVEG PETERSEN  
Mr Jorgen ØSTRØM MØLLER

Minister for Foreign Affairs  
State Secretary for Foreign Affairs

**Germany:**

Mr Klaus KINKEL  
Ms Ursula SEILER-ALBRING

Federal Minister for Foreign Affairs  
Minister of State, Foreign Affairs

**Greece:**

Mr Michalis PAPACONSTANTINO

Minister for Foreign Affairs

**Spain:**

Mr Javier SOLANA  
Mr Carlos WESTENDORP

Minister for Foreign Affairs  
State Secretary for Relations with the European Communities  
State Secretary for Trade

Mr Miguel Angel FEITO HERNANDEZ

**France:**

Mr Alain JUPPE  
Mr Gérard LONGUET

Minister for Foreign Affairs  
Minister for Industry and Foreign Trade

**Ireland:**

Mr Dick SPRING  
Mr Charlie McCREEVY  
Mr Tom KITT

Minister for Foreign Affairs  
Minister for Tourism and Trade  
Minister of State at the Department of the Taoiseach with special responsibility for European Affairs

**Italy:**

Mr Beniamino ANDREATTA  
Mr Paolo BARATTA

Minister for Foreign Affairs  
Minister for Foreign Trade

**Luxembourg:**

Mr Jacques POOS

Minister for Foreign Affairs

**Netherlands:**

Mr Peter KOOIJMANS  
Ms Yvonne VAN ROOY  
Mr Piet DANKERT

Minister for Foreign Affairs  
Minister for Foreign Trade  
State Secretary for Foreign Affairs

**Portugal:**

Mr José Manuel DURAO BARROSO  
Mr Vitor MARTINS  
Mr Luis Manuel C. de SOUSA

Minister for Foreign Affairs  
State Secretary for European Affairs  
State Secretary for the Portuguese Communities

**United Kingdom:**

Mr Douglas HURD

Secretary of State for Foreign and Commonwealth Affairs  
Minister of State, Foreign and Commonwealth Office

Mr David HEATHCOAT-AMORY

**Commission:**

Mr Jacques DELORS  
Sir Leon BRITTAN  
Mr Manuel MARIN  
Mr Peter SCHMIDHUBER  
Mr Hans VAN DEN BROEK  
Mr Raniero VANNI D'ARCHIRAFI

President  
Vice-President  
Vice-President  
Member  
Member  
Member

DECLARATION ON RUSSIA

"The Community and its Member States are following the events in Moscow with great concern.

They deplore the loss of human life in Moscow for which elements hostile to the democratization process in Russia carry a heavy responsibility, for having deliberately provoked violence in the Russian Parliament and in different parts of the capital.

The Community and its Member States reiterate their support for President Yeltsin and the process of reform. The Community and its Member States stress the importance of early restoration of peaceful and democratic order.

It is now more than ever necessary that the process towards democracy is carried through, and this should be achieved through free elections which will allow the Russian people to pronounce clearly on their future."

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In addition, following a statement by the Commission on progress in the sixth round of negotiations for a partnership agreement with Russia, held in Brussels on 23 and 24 September 1993, the Council expressed its wish to speed up proceedings so that the negotiations could be rounded off by the end of the year.

## PRESIDENCY CONCLUSIONS ON THE URUGUAY ROUND

1. The Commission gave the Council a detailed briefing on the discussions which it had held with the United States in accordance with the conclusions adopted by the joint Council on 20 September 1993 and on the negotiations conducted in Geneva at bilateral and multilateral level.
2. The Council considered that the Commission's action represented a useful step towards achieving the goal of conclusion of the Uruguay Round before 15 December 1993.
3. The Council recalled that of all the subjects to be covered by the negotiations as a whole the question of market access was, in accordance with the Tokyo Agreement, of particular importance for the balance of an overall agreement. It stressed that the Tokyo Agreement constituted significant progress which each of the four signatory partners must implement rapidly, comprehensively and in good faith, in order to create the momentum necessary for all the participants in the Uruguay Round negotiations to be able to make their necessary contributions.
4. Following up its conclusions of 20 September, the Council provided further details on a number of non-agricultural sectors:
  - with regard to textiles, a sector of crucial importance for the economies of certain Member States, the Council confirmed the guidelines worked out on 20 September 1993. The Council thus confirmed that the integration of the textiles and clothing trade in the GATT had to be achieved through stricter rules and greater discipline and invited the United States and the other partners, including exporting countries, to put forward offers which met the Community objective of tariff harmonization;

- on the question of subsidies, the Council noted the amendments lodged by the Community in December 1992, confirming the guidelines followed by the Commission and asking it to continue its action in the light of the clarification given to date;
- with regard to steel, the Council confirmed the February 1993 guideline in favour of the conclusion of a multilateral agreement as an effective way of producing a lasting and stable solution to the problem of international trade in steel;
- with regard to aircraft construction, the Council confirmed the Community's wish to obtain a multilateral agreement on the basis of the principles of the bilateral agreement of 17 July 1992 concluded between the Community and the United States;
- with regard to services, the Council recalled the scope of the offer made by the Community and its Member States and urged the Commission to press the third countries concerned to make offers that matched the Community's ambitions, particularly in the fields of shipping and financial services;
- in the audiovisual field, the Council noted the Commission's confirmation that it would ensure that the section of the draft Final Act dealing with services was compatible with the Community Directive of 3 October 1989 and reiterated the need to preserve European cultural identities, without hindering normal international trade in this field;
- with regard to the Multilateral Trade Organization (MTO), the Council recalled its conclusions of 20 September 1993 and confirmed that the objective to be achieved was the strengthening of the multilateral trade system and the exclusion of unilateralism;

- finally, the Council noted the Commission's statement on the provisional prolongation of the current arrangements for imports of corn gluten feed into the Community until the end of June 1994.

The Council noted that the guidelines followed by the Commission were broadly in line with Member States' concerns and asked it to continue its work taking account of the supplementary guidelines and clarifications that had emerged in the course of the Council's proceedings.

5. The Council noted that the Commission intended to supplement its proposals on trade policy instruments in the fields of, inter alia, greater transparency and speedier anti-dumping and anti-subsidy procedures.
6. In conclusion, the Council voiced the hope that at its next meeting the Commission would be able to report progress in all the areas covered by the negotiations, so that the shape of a comprehensive and balanced agreement might be clear enough to allow the Council then to work out its final guidelines on this matter.

FORMER YUGOSLAVIA

Ministers heard a report by the co-Chairmen, Lord Owen and Mr T. Stoltenberg. They held a detailed discussion of the situation and the prospects for negotiations following the failure of the peace proposals before the Parliament in Sarajevo.

Ministers confirmed their full support for the co-Chairmen, Lord Owen and Mr Stoltenberg.

Ministers concluded that, as matters now stood, there was no realistic solution apart from continuing with the negotiating process and that a military solution was out of the question.

They decided to appeal to the three parties once again to resume dialogue with the aim of swiftly arriving at an acceptable agreement and to abide by what had been established so far in the negotiations. They pointed to the considerable responsibility borne by the parties vis-à-vis the war-stricken civilian population faced with impending humanitarian disaster.

Ministers confirmed that the Community and its Member States remained ready to play their part, under United Nations authority, in implementing a peace plan agreed by the parties and that their preparations should accordingly press ahead in close liaison with the other institutions concerned.

As regards the administration of Mostar, Ministers agreed to ask the WEU to consider the support which it could give in organizing a police force and improving certain vital logistical functions, particularly in the medical field.

Ministers discussed serious problems arising with regard to humanitarian aid in view of the

growing shortage of available resources and transport difficulties. They thought it inadmissible for part of such humanitarian assistance to be taken for the armed forces and diverted from its intended recipients. They decided to make the strongest representations to all parties to get them to take a co-operative attitude and to emphasize that they would be held directly responsible in the eyes of international humanitarian law.

Ministers noted that over and above the contribution of ECU 89 million for the rest of the year the Commission had found another ECU 86 million by reallocating appropriations, thus bringing the total contributions to ECU 175 million, but the UNHCR's estimated requirements amounted to \$ 750 million for the remainder of the year. In spite of budgetary difficulties, they decided that the Community and its Member States had as far as possible to keep up the effort being made. They also agreed to approach other potential donor countries, in particular the Islamic countries, in order for them to play a greater part in the effort to provide assistance for Bosnia Herzegovina.

Ministers asked the Presidency to keep in close touch with partners, particularly the United States, on these points.

COMMISSION OPINION ON CYPRUS'S REQUEST FOR ACCESSION – COUNCILCONCLUSIONS

1. At its meeting on 19 and 20 July 1993 the Council heard a presentation by the Commission of its opinion on Cyprus's request for accession to the European Community. It welcomed the positive message which that opinion carried concerning Cyprus's eligibility and its vocation to be part of the European Union.
2. At its present meeting the Council continued examining the Commission's opinion on the basis of the discussions of the Permanent Representatives Committee. The Council's discussions showed that there was a wide consensus among the Member States on the various aspects of the analyses put forward by the Commission and on the approach proposed in its conclusions.
3. The Council supported the Commission's approach, which was to propose, without awaiting a peaceful, balanced and lasting solution to the Cyprus problem, to use all the instruments offered by the Association Agreement to help, in close co-operation with the Cypriot Government, with the economic, social and political transition of Cyprus towards integration into the European Union. To that end the Council invited the Commission to open substantive discussions forthwith with the Government of Cyprus to help it to prepare for the accession negotiations which would then follow under the best possible conditions, and to keep the Council regularly informed of the progress made.
4. The Council also confirmed the Community's support for the efforts made by the United Nations Secretary-General to produce a political settlement of the Cyprus question. If, in spite of these efforts, there was no prospect of a solution in the foreseeable future, the Council agreed to reassess the situation in the light of the positions expressed by each side in the inter-community discussions and to examine in January 1995 the question of the accession of Cyprus to the European Union in the light of this situation.

COMMISSION OPINION ON MALTA'S REQUEST FOR ACCESSION - COUNCIL  
CONCLUSIONS

1. At its meeting on 19 and 20 July 1993 the Council heard a presentation by the Commission of its opinion on Malta's request for accession to the European Community. It welcomed the positive message which that opinion carried concerning Malta's eligibility and its vocation to be part of the European Union.
2. At its present meeting the Council continued examining the Commission's opinion on the basis of the discussions of the Permanent Representatives Committee. The Council's discussions showed that there was a wide consensus among the Member States on the various aspects of the analyses put forward by the Commission and on the approach proposed in its conclusions.
3. The Council supported the Commission's approach, which was to propose to use all the instruments offered by the Association Agreement to help implement the structural reforms vital for the transition of Malta's economy towards integration into the European Union. To that end the Council invited the Commission to open an in-depth dialogue forthwith with the Maltese Government so as to define by common agreement the content of and timetable for the priority reforms to be implemented. That dialogue would also cover technical assistance, financial co-operation, training resources and other assistance that the Community could offer to Malta, in the framework of an appropriate Protocol, to help it implement these reforms and facilitate that economic transition, and thus prepare for accession negotiations which would then follow in the best possible circumstances. The Commission would keep the Council regularly informed of the progress made.

MIDDLE EAST

Ministers recorded agreement on the principle of concluding a new agreement with Israel and agreed that negotiations should begin shortly. They accordingly instructed the Permanent Representatives Committee to draw up swiftly, on the basis of the Commission's recommendation, negotiating directives for adoption by the Council.

Ministers also instructed the Permanent Representatives Committee to consider as a matter of urgency specific proposals which they requested the Commission to put forward as regards aid for the occupied territories, eligible for Community financing, and the adjustment of the Financial Protocols with the other countries in the region in the light of the new regional co-operation aspect.

SOUTH AFRICA

The Council welcomed the recent political developments in South Africa, especially the agreement on the setting-up of a Transitional Executive Council (TEC). Those developments paved the way for normalization of relations between the Community and a democratic South Africa.

Ministers confirmed their decision on 28 September 1993 in New York regarding the lifting of sanctions still in force against South Africa, i.e. the recall of military attachés accredited to South Africa and refusal to consent to the accreditation of South African military attachés and the freeze on official contacts and international security agreements. As regards the lifting of the ban on any new nuclear co-operation and the stop to exports of sensitive equipment for the police and armed forces, the Council agreed to discuss the matter again at its November meeting.

In addition Ministers confirmed the following positive measures: conversion of the Commission office in South Africa into a normal delegation, encouragement of the normalization of relations between the International Monetary Fund, World Bank and

other relevant international institutions and South Africa, and suspension of the drawing-up of the annual report on the code of conduct for European firms in South Africa. Confirming its commitment to contribute to the economic and social development of the new South Africa, the Council also held an initial discussion on a Commission communication putting forward some guidelines for a Community policy to support the transition to democracy in South Africa.

The communication was welcomed. The Council asked the Permanent Representatives Committee to consider it further and report back at the Council's November meeting.

### BULGARIA

Ministers instructed the Permanent Representatives Committee to consider as a matter of urgency ways of reaching agreement as regards implementation of the Interim Agreement with Bulgaria.

### RELATIONS WITH THE ACP STATES

The Council agreed to ask the Permanent Representatives Committee to examine the proposals for negotiating directives submitted by the Commission for the mid-term review of the Fourth ACP-EEC Convention and to report back for the Council's December meeting.

### RELATIONS WITH SWITZERLAND

The Council heard a presentation by the Commission of its communication on future relations with Switzerland.

It instructed the Permanent Representatives Committee to consider the communication and report back for its November meeting.

## ENLARGEMENT

The Council prepared for the third negotiating meetings at ministerial level with Austria, Sweden, Finland and Norway, to be held on the morning of 5 October in Luxembourg.

The Council in particular assessed, on the basis of information supplied by the Commission, the progress of the negotiations and prospects for their future course.

## PACT ON STABILITY IN EUROPE

With a view to the European Council meeting in Brussels, Ministers assessed progress in work on the Pact on Stability in Europe. They had before them a report from the ad hoc High-Level Working Party on the Pact on Stability, summarizing work to date and setting out the broad lines decided on by the Community and its Member States.

It will be recalled that the European Council, meeting in Copenhagen, received a proposal from the French Government for an initiative by the European Union for such a Pact, designed in particular to ensure practical application of the principles established by European countries as regards observance of frontiers and the rights of minorities.

In conclusion Ministers approved the outcome of proceedings as described in the above report. They also took note of comments by third countries as outlined in that report.

In addition Ministers approved the timetable for action to be carried out and the procedures to be followed, particularly for informal consultations with the third countries concerned.

Lastly, Ministers noted the Presidency's intention of giving a presentation of current work at the forthcoming Council of Europe summit and at the CSCE ministerial meeting

on 30 November. An interim report on the Pact on Stability would also be submitted by the Presidency to the General Affairs Council meeting in November.

#### INTERINSTITUTIONAL AGREEMENT ON BUDGETARY DISCIPLINE

The Council give a favourable political opinion on the draft Interinstitutional Agreement on budgetary discipline and improvement of the budgetary procedure, emerging from negotiations between the Council, the European Parliament and the Commission. The Ministers for Economic and Financial Affairs would also be discussing the draft Agreement at their informal meeting on 8 October 1993.

The Agreement, which is broadly in line with the instructions given by the European Council in Edinburgh, confirms the financial framework set in Edinburgh for the period 1993-1999, strengthens budgetary discipline in the establishment and implementation of the budget and recognizes the own resources ceiling as an imperative limit to be complied with.

The Agreement also accommodates the European Parliament's concern for a more detailed discussion with the Council on compulsory expenditure, while not affecting the institutions' respective budgetary powers as laid down in the Treaty.

It also brings to an end a period of confrontation and budgetary uncertainty and will thus enable the institutions to move forward smoothly with the budgetary procedure for 1994.

## RIGHT TO VOTE AND TO STAND AS A CANDIDATE IN ELECTIONS TO THE EUROPEAN PARLIAMENT

The Council reached agreement in principle on the draft proposal for a Directive laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in elections to the European Parliament, in accordance with Article 8b(2) of the EC Treaty as inserted by the Treaty on European Union. The Council instructed the Permanent Representatives Committee to finalize the draft.

Agreement on this dossier was particularly urgent in order to enable Member States' administrative authorities to take the necessary steps as of now for the Directive to be transposed as swiftly as possible after its formal adoption – once the Treaty on European Union is in force, by 31 December 1993 – and for administrative arrangements to be made in each Member State in time for next year's European elections.

The Council had in particular to settle on the arrangements on disqualification and the measures to be taken to prevent individuals from voting twice or standing twice for election. Given the appreciable differences between Member States in electoral law and the special situations of some Member States, the provisions decided on are transitional in nature for the 1994 elections, with a general review clause allowing the necessary adjustments to be made for future elections.

## INCREASE IN THE NUMBER OF SEATS IN THE EUROPEAN PARLIAMENT

The Council assessed progress with Member States' ratification of the Decision of 1 February 1993 concerning the number of seats in the European Parliament, which is to be applicable at the European elections in June 1994 <sup>(1)</sup>.

Following the discussion, the President again drew delegations' attention to the extreme urgency of rapid completion of ratification procedures by all Member States.

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<sup>(1)</sup> To date only Ireland has ratified the Decision; Germany has also completed its domestic procedures and will follow shortly.

## PUBLICATION OF THE RECORD AND EXPLANATIONS OF VOTES IN THE COUNCIL

In accordance with the conclusions of the European Council meeting in Edinburgh, stipulating that "when a formal vote is taken in Council, the record of the vote (including explanations of vote where delegations request these) shall be published", the Council agreed to amendments to its Rules of Procedure (Articles 5 and 18) providing for publication of:

-- voting:

- = where the vote is requested by a Member State;
- = where a delegation expressly requests that the vote be made public unless a majority of Member States are opposed to such publication, and

-- voting explanations given when a vote was taken, at the request of the Council members in question.

The decision on the wording adopted for the publication of voting was taken by a simple majority, with Germany, Spain, France, Greece, Ireland, Italy and Portugal voting in favour. The other delegations voted against that solution, favouring a broader formula.

## EXPORT CONTROLS ON DUAL-USE GOODS AND TECHNOLOGIES

Continuing its discussions on the important topic of export controls on dual-use goods and technologies, with implications both for the completion of the internal market and for the furtherance of the security objectives of the Community and its Member States, the Council addressed certain key issues regarding export controls on dual-use goods on a common list, export controls on goods not included on the common list (catch-all clause) and the duration of the transitional arrangements for intra-Community trade.

The discussion yielded some progress and the Council instructed the Permanent Representative committee to consider the matter further so as to enable the Council to discuss it again as soon as possible.

## MISCELLANEOUS DECISIONS

### Relations with the countries of Central and Eastern Europe

The Council:

- together with the Representatives of the Member States meeting within the Council, decided to sign, subject to subsequent conclusion, the European Agreements with the Czech Republic and with Slovakia;
- for the purposes of subsequent conclusion, decided to seek Parliament's assent. Signing took place the same day alongside the Council meeting (see joint press release 8908/93 Presse 157).

### Relations with Vietnam

The Council adopted directives for the Commission to negotiate a framework trade and co-operation agreement between the European Community and the Socialist Republic of Vietnam.

### Agriculture

The Council adopted the Directive on the control of potato ring rot. That Directive repeals Directive 80/665/EEC and provides for the introduction of improved arrangements for controlling potato ring rot, based on a better understanding of the biology of the organism, developments regarding detection of the disease and the concept of a single market.

The Council also adopted by a qualified majority (with the German and Portuguese delegations voting against) an amendment to Regulation No 1842/83 laying down general rules for the supply of milk and certain milk products at reduced prices to school children.

That Regulation sets at 95% of the target price the level of Community aid granted for the school milk scheme (up to now the figure was 125% of the target price). A compromise on these lines had been reached in the Agriculture Council on 21 September 1993 (see press release 8696/93 Presse 147).

Environment

Following agreement in substance at the Environment Council meeting on 28 and 29 June 1993, the Council adopted by a qualified majority – with the German delegation voting against – the common position on the Directive on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations.

The Directive, which concerns operations for the storage, loading and transport of petrol from one terminal to another or from a terminal to a service station, forms the first step in Community strategy to reduce considerably evaporation losses at all stages of the petrol storage and distribution chain; emissions in connection with vehicle refuelling at service stations are shortly to be covered by a further proposal.

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PRESS RELEASE

8906/93 (Presse 155)

1689th Council meeting

**- ENVIRONMENT -**

Luxembourg, 5 October 1993

President:

Ms Magda DE GALAN,

Minister for the Environment  
of the Kingdom of Belgium

The Governments of the Member States and the Commission of the European Communities were represented as follows:

**Belgium:**

Ms Magda DE GALAN Minister for the Environment

**Denmark:**

Mr Svend AUKEN Minister for the Environment  
Mr Leo BJØRNESKOV State Secretary for the Environment

**Germany:**

Mr Klaus TOEPFER Minister for the Environment  
Mr Clemens STROETMANN State Secretary for the Environment

**Greece:**

Mr Jean CORANTIS Deputy Permanent Representative

**Spain:**

Mr José BORRELL Minister for Public Works, Transport and  
the Environment

Ms Cristina NARBONA State Secretary for the Environment

**France:**

Mr Michel BARNIER Minister for the Environment

**Ireland:**

Mr Michael SMITH Minister for the Environment

**Italy:**

Mr Valdo SPINI Minister for the Environment

**Luxembourg:**

Mr Alex BODRY Minister for the Environment

**Netherlands:**

Mr J.G.M. ALDERS Minister for Housing, Planning and the Environment

**Portugal:**

Ms Teresa GOUVEIA Minister for the Environment and Natural Resources

**United Kingdom:**

Mr Timothy YEO Minister of State, Department of the Environment

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**Commission:**

Mr Yannis PALEOKRASSAS Member

## PACKAGING AND PACKAGING WASTE

The Council held a detailed policy debate on the proposal for a Directive on packaging and packaging waste.

The aim of the proposal, which forms part of the Community's waste management strategy, is to harmonize national measures on the management of this type of waste in order to reduce its impact on the environment, to contribute to the completion and the functioning of the single market and to prevent barriers to trade and distortions of and restrictions on competition in the Community.

To those ends, the proposal lays down quantified objectives and essential requirements with which packaging must comply and provides for measures to prevent the production of packaging waste and to encourage the return, re-use and recovery of packaging and packaging waste in order to protect health and the environment.

The debate dealt with:

- the order of precedence of waste management principles, and in particular the role to be assigned to prevention;
- the setting of target figures for re-use, recovery and recycling, and the degree of flexibility required;
- the balance between environmental protection and the internal market;
- questions relating to the marking of packaging (logos) and the essential requirements (manufacture and composition).

The debate clarified delegations' positions and enabled certain differences to be reconciled with a view to preparing compromise solutions to be examined by the Council at its next meeting in December.

**EXPORT AND IMPORT OF CERTAIN DANGEROUS CHEMICALS**

Pending the Opinion of the European Parliament, the Council discussed the proposed adjustments to Annex I to Regulation 2455/92. That Regulation, which was adopted on 23 July 1992 and entered into force at the end of November of that year, establishes a common system of notification and information for imports and exports from and to third countries of certain chemicals banned or severely restricted because of their effects on human health and the environment, in the context of the international notification procedure and the principle of "prior informed consent" introduced by the UNEP and the FAO.

The Commission proposal concerns a first set of adjustments to the list of chemicals banned or severely restricted by Community legislation, further to amendments to the latter.

The debate revealed that there was support for the proposed changes, whereby 15 new products would be added and 6 products already on the list would undergo a change in status (from "severely restricted" to "banned"). The Council therefore instructed the Permanent Representatives Committee to prepare the texts, in the light of the Opinion of the European Parliament, so that the Council could adopt them as soon as possible.

**PROTECTION OF THE OZONE LAYER**

Pending the Opinion of the European Parliament, the Council discussed the Commission proposal for implementation in the Community of the controls decided on by the parties to the Montreal Protocol at the November 1992 meeting in Copenhagen on HCFCs and HBFCs ("transitional substances") and methyl bromide.

For HCFCs and methyl bromide the proposal provides for stricter measures than does the Protocol: a lower ceiling on consumption and a tighter schedule, leading to elimination of HCFCs in 2015 (instead of 2030); for methyl bromide, a reduction of 25% is scheduled for 1996, in addition to the freeze agreed in Copenhagen for 1995. The proposal also provides, inter alia, for measures on recovering controlled substances and reducing leakages.

The discussion produced guidelines on the main questions under discussion, and in particular on whether provisions going further than the Protocol were desirable, with a view to continuation of the proceedings, in particular in the light of the Opinion of the European Parliament.

**COMMUNITY STRATEGY ON CLIMATE CHANGE**

The Council held an exchange of views on Community strategy on climate change.

The Council has already dealt with three aspects of the Community strategy: a monitoring mechanism for CO<sub>2</sub> and other greenhouse gas emissions, the SAVE programme to limit carbon dioxide emissions by improving energy efficiency and the Altener programme to promote renewable sources of energy. The fourth aspect, namely the proposal for a tax on carbon dioxide emissions and energy is still under examination.

At the close of the exchange of views, the Presidency confirmed that it was the intention that joint ratification by the Community and the Member States of the Convention on Climate Change signed in Rio should take place as soon as possible and said that, in this context, it intended to continue, with the aid of the Commission in particular, to seek solutions on the proposed tax.

## LANDFILL OF WASTE

A policy debate was held on the proposal for a Directive on the landfill of waste.

The proposal, which was called for in the Council Resolution of 7 May 1990, is in line with the Community waste management strategy which ranks landfill as the final stage of waste disposal, which in turn comes last in the hierarchy of options for the strategy.

The purpose of the proposal is to harmonize environmental and technical standards for the landfill of waste in order to:

- ensure a high level of protection for aspects of the environment (water, soil, air) liable to be affected by such landfill;
- avoid distortions of competition in waste management, which could result from differences in national laws on landfill.

At the close of the discussion, which dealt *inter alia* with the justification for Community legislation in this field and the treatment of existing landfill sites and mixed landfill, the Council instructed the Permanent Representatives Committee to continue the proceedings on the basis of the guidelines which had emerged, in particular that concerning the need for a framework-type Directive.

## AMENDMENT OF THE DIRECTIVE ON HAZARDOUS WASTE

Pending the Opinion of the European Parliament, the Council discussed the proposal for a Directive amending Directive 91/689/EEC on hazardous waste and postponing its implementation until 31 December 1994, while also postponing the date of repeal of Directive 78/319/EEC on toxic and dangerous waste in order to avoid a legal vacuum.

Directive 91/689/EEC on hazardous waste, which is supposed to replace Directive 78/319/EEC on toxic waste on 12 December 1993, stipulates that the Commission will draw up a list of hazardous waste no later than six months before the date of implementation of the Directive.

The Commission says that it has proved impossible to draw up this list because the Directive stipulates that the Commission must define hazardous waste in terms of an exhaustive, binding list based on the hazard properties of the products. Such a definition implies that waste is definitively classified as hazardous in all circumstances. In reality, the hazard presented by waste depends inter alia on the concentration of dangerous components or the specific conditions in which it is kept. The Commission therefore proposes amending the criteria for drawing up the Community list of hazardous waste by taking into account the origin and composition of the waste and any limit values on concentrations.

The discussion revealed a broad consensus in favour of extending the deadline for bringing Directive 91/689/EEC into force.

The Council therefore instructed the Permanent Representatives Committee to continue the proceedings, in the light of the Opinion of the European Parliament.

## DISPOSAL OF PCBs/PCTs

The Council held an exchange of views on the proposal for a Directive on the disposal of polychlorinated biphenyls and polychlorinated terphenyls, providing for the approximation of the laws of the Member States on the controlled disposal of PCBs/PCTs and of equipment contaminated with these substances (mainly transformers and condensers).

In 1991, further to the Opinion of the European Parliament, the Commission extensively amended the original proposal of 1988. The proposal is intended to replace a 1976 Directive which has become obsolete following the ban on placing PCBs/PCTs on the market and advances in disposal techniques.

Following its exchange of views, dealing mainly with the significance and place of the proposal in relation to recent developments at Community and international level, the Council declared itself in favour of examining the proposal and instructed the Permanent Representatives Committee to continue the proceedings forthwith.

## PLACING OF BIOCIDAL PRODUCTS ON THE MARKET

The Council noted the Commission's presentation of a proposal for a Directive concerning the placing of biocidal products (non-agricultural pesticides) on the market. This was in response to the Council's request, made at the time of the adoption of the eighth amendment to Directive 76/769/EEC, for a Community strategy on the marketing and use of these products.

The proposal complements Directive 91/414/EEC on the placing on the market of plant protection products and proposes a comparable approach.

Biocidal products are necessary for the control of organisms that are harmful to human or animal health or that cause damage to natural or manufactured products. They include such diverse groups of products as wood preservatives, insecticides, water biocides and disinfectants.

Following a discussion, the Permanent Representatives Committee was instructed to examine the proposal.

## INTEGRATED PREVENTION AND REDUCTION OF POLLUTION

The Council noted the Commission's presentation of a proposal for a framework Directive on integrated prevention and reduction of pollution from industrial installations with a high impact on the environment.

This new approach, based on the best technology available, stipulates limit values for emissions from industrial installations and provides for the issue of licences.

Following an exchange of views, the Council instructed the Permanent Representatives Committee to begin examining the proposal.

PRESS RELEASE

8911/93 (Presse 160)

1690th Council meeting

- RESEARCH -

Luxembourg, 11 October 1993

President:

Mr Jean-Maurice DEHOUSSE

Minister for Science Policy and Scientific  
and Cultural Institutions of the  
Kingdom of Belgium

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium:

Mr Jean-Maurice DEHOUSSE Minister for Science Policy and Scientific and Cultural Institutions  
Mr Luc VAN den BRANDE Chairman of the Flemish Community Executive

Denmark:

Mr Svend BERGSTEIN Minister for Research and Technology  
Mr Knud LARSEN State Secretary, Minister of Research and Technology

Germany:

Mr Paul KRÜGER Federal Minister for Research and Technology

Greece:

Mr Jean CORANTIS Deputy Permanent Representative

Spain:

Mr Elias FERERES State Secretary for the Universities and Research

France:

Mr François FILLON Minister for Higher Education and Research

Ireland:

Mr Seamus BRENNAN Minister for Science and Technology

Italy:

Mr Umberto COLOMBO Minister for Scientific Research

Luxembourg:

Mr Marc FISCHBACH Minister for Education

Netherlands:

Mr J.E. ANDRIESEN Minister for Economic Affairs

Portugal:

Mr Luis VALENTE DE OLIVEIRA Minister for Territorial Planning and Management  
Mr Manuel FERNANDES THOMAZ State Secretary for Science and Technology

United Kingdom:

Mr David DAVIS Parliamentary Under-Secretary of State, Office of Public Service and Science

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Commission:

Mr Antonio RUBERTI Vice-President

**4TH FRAMEWORK PROGRAMME OF ACTIVITIES IN THE FIELD OF RESEARCH,  
TECHNOLOGICAL DEVELOPMENT AND DEMONSTRATION (1994-1998)**

The Council discussed in great depth the proposals for the 4th framework programme (FP) of activities in the field of research, technological development and demonstration (1994-1998). The discussion enabled it to arrive at general guidelines on the basis of which informal talks with the European Parliament could be continued with a view to adoption of a Council common position (under Article 130i of the Treaty on European Union) by the end of the year.

The Commission had submitted its formal proposals on 17 June 1993 and the European Parliament should be delivering its Opinion on them at its November part-session.

It should be pointed out that decisions are awaited on two proposals, one for the 4th EEC FP and the other for a framework programme of Community activities in the field of research and training for Euratom. With the entry into force of the Treaty on European Union, the EEC programme is to be adopted on the basis and under the procedures of the new Treaty, whereas the Euratom programme will be adopted under the Euratom Treaty.

Pending agreement on the overall amount to be allocated to the 4th RTD framework programme, the Commission's proposal of ECU 13 100 million was seen by a large majority of delegations as a realistic figure, while some delegations would prefer a lower figure or were still undecided, on account of the uncertain economic and budgetary conditions.

As regards the breakdown of the overall figure, the discussion enabled delegations to narrow the gap between their positions so that some general tendencies emerged. In the light of delegations' positions, the Presidency will be able to continue the informal dialogue with the European Parliament.

A consensus was also found on the number of specific programmes, to be 18, subject to further discussions on the number of specific programmes for the Joint Research Centre (1 nuclear and 1 non-nuclear).

The Council instructed the Permanent Representatives Committee to continue with proceedings on the points still outstanding.

## MISCELLANEOUS DECISIONS

### Right of residence for students

The Council adopted the common position on the Directive on the right of residence for students. Its adoption became necessary as a result of the judgment handed down by the Court of Justice on 7 July 1992 in Case C-295/90 annulling Directive 90/366/EEC on the right of residence. In its judgment, the Court ruled that the effects of the annulled Directive should be maintained until the entry into force of a new Directive on the appropriate legal basis, Article 7 of the EEC Treaty rather than Article 235.

The common position just adopted replicates in the main the content of the annulled Directive. It lays down that Member States are to recognize the right of residence for any student who is a national of a Member State and who does not enjoy that right under other provisions of Community law, and for the student's spouse and their dependent children, where the student assures the relevant national authority that he has sufficient resources to avoid becoming a burden on the social assistance system of the host Member State during their period of residence, provided that the student is enrolled in a recognized educational establishment for the principal purpose of following a vocational training course there and that they are covered by sickness insurance in respect of all risks in the host Member State.

### Customs union

The Council adopted Regulations:

- amending Regulation (EEC) No 3914/92 opening and providing for the administration of Community tariff quotas for certain industrial products (2nd series 1993), and
- opening and providing for the administration of Community tariff quotas for certain agricultural and industrial products (4th series 1993).

PRESS RELEASE

8912/93 (Presse 161)

1691st Council meeting

LABOUR AND SOCIAL AFFAIRS

Luxembourg, 12 October 1993

President: Mme Miet SMET

Minister for Employment and Labour of the  
Kingdom of Belgium

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium:

Ms Miet SMET Minister for Employment and Labour

Denmark:

Ms Jytte ANDERSEN Minister for Labour  
Mr Henrik HASSENKAM State Secretary for Labour

Germany:

Mr Horst GÜNTHER Parliamentary State Secretary,  
Federal Ministry of Labour and Social  
Affairs

Greece:

Mr Jean CORANTIS Deputy Permanent Representative

Spain:

Mr José Antonio GRIÑAN Minister for Labour and Social  
Security

France:

Mr Michel GIRAUD Minister for Labour, Employment and  
Vocational Training

Ireland:

Ms Mary O'ROURKE Minister of State (Labour Affairs)

Italy:

Mr Gino GIUGNI Minister for Employment and Social  
Security

Luxembourg:

Mr Jean-Claude JUNCKER Minister for Labour  
Ms Mady DELVAUX-STEHRES Secretary of State for Social Security

Netherlands:

Mr Bert DE VRIES Minister for Employment and Social  
Security

Portugal:

Mr José DA SILVA PENEDA Minister for Employment and Social  
Security

United Kingdom:

Mr David HUNT Secretary of State for Employment  
Mr Michael FORSYTH Minister of State for Employment

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Commission :

Mr Pádraig FLYNN Member

## PROTECTION OF YOUNG PEOPLE AT WORK

The Council reached agreement on the common position concerning the Directive on the protection of young people at work.

It instructed the Permanent Representatives Committee to have the text finalized for formal adoption at a future Council meeting.

The Directive provides that the Member States shall:

- take the necessary measures to prohibit work by children;
  
- ensure that work by adolescents is strictly regulated and protected under the conditions set by the Directive.

The Directive is based on Article 118a of the EEC Treaty. It applies to anyone under the age of 18 who has an employment contract or an employment relationship defined by the law in force in a Member State and/or governed by the law in force in a Member State.

The Directive defines the following groups of young people:

- child: any young person of less than 15 years of age or who is still subject to compulsory full-time schooling under national law;
  
- adolescent: any young person of at least 15 years of age but less than 18 years of age who is no longer subject to compulsory full-time schooling under national law.

The first aim of the Directive is to prohibit work by children.

However, the Directive allows Member States, under certain conditions, to make provision to the effect that the prohibition on work by children does not apply to:

- children pursuing cultural, artistic, sports or advertising activities so long as prior

authorization has been given by the competent authority in individual cases;

- children of at least 14 years of age working under a combined work/training scheme or an in-plant work-experience scheme, provided that such work is done in accordance with the conditions laid down by the competent authority;
- children of at least 14 years of age performing light work other than that referred to in the first indent; light work may, however, be performed by children of 13 years of age for a limited number of hours per week in the case of categories of work determined by national legislation.

"Light work" means all work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed:

- is not likely to be harmful to the safety, health or development of young people, and
- is not such as to be harmful to their attendance at school, their participation in vocational guidance or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

The Directive contains provisions concerning:

- general obligations on employers, such as protecting the health and safety of young people, assessing the hazards to young people in connection with their work, assessing and monitoring the health of young people, informing young people and the legal representatives of children about possible risks to health and safety;
- work which young people are not allowed to perform, e.g. work which is beyond their physical or psychological capacity; work involving harmful exposure to dangerous agents.

It also contains detailed provisions on the following points:

- working time
- night work
- rest periods
- annual rest

- annual holidays
- breaks.

The United Kingdom will have the option of not applying certain provisions of the Directive concerning adolescents for a period of four years from the date on which the Directive takes effect. The Commission will submit a report on the effects of this transitional provision, and on the basis of that report the Council will decide, by the procedures laid down in the Treaty, whether the provision should be extended.

#### EUROPEAN WORKS COUNCILS

The Council discussed the last remaining points concerning the draft Directive put forward by the Presidency (8709/93 SOC 255).

In conclusion:

- the President noted that most delegations broadly agreed to the draft;
- the Council noted that on 1 November 1993 the Commission would commence the procedure laid down in the Protocol on Social Policy annexed to the Treaty on European Union, taking into account the Presidency's draft Directive and the comments made on it at today's Council meeting.

#### GREEN PAPER ON SOCIAL POLICY

The Commissioner, Mr FLYNN, reported to the Council on progress on the Green Paper on social policy which the Commission was preparing.

## FIGHT AGAINST SOCIAL EXCLUSION

The Commission presented to the Council its proposal for a Decision concerning a medium-term action programme to combat social exclusion and promote solidarity (1994-1999).

On 18 July 1989 the Council adopted for the period 1.7.1989 - 30.6.1994 a medium-term Community Action Programme concerning the economic and social integration of the economically and socially less privileged groups in society.

The new multiannual programme seeks to intensify the efforts already being made to combat social exclusion. It has the following aims:

- to help formulate preventive and corrective measures at local and national (or regional) level by means of pilot projects;
- to support the creation and development of transnational networks of partnership projects;
- to conduct an information, co-ordination, evaluation and exchange of experience operation at Community level;
- to encourage experimentation and analysis and the best innovatory models of action, in terms of both content and organization;
- to study the mechanisms of social exclusion;
- to provide information on the programme and disseminate its results.

The Council instructed the Permanent Representatives Committee to examine the Commission's proposal and report back as soon as possible.

## NON-STANDARD EMPLOYMENT

The Council held a policy debate on the following questions, which the Presidency had put to it in order to further the discussions on this subject:

1. Advisability of making provision for different treatment for the following types of work:

- (a) part-time work,
- (b) fixed-term work,
- (c) temporary work.

2. Advisability of establishing the following 4 principles:

- (a) proportionality of remuneration,
- (b) social protection,
- (c) inclusion of the workers concerned in the calculation of the threshold for the constitution of workers' representative bodies,
- (d) briefing of the representative bodies on the use of the 3 types of work concerned.

3. Advisability of laying down detailed rules, conditions or exceptions as regards the implementation of these principles.

The Council concluded by instructing the Permanent Representatives Committee to continue the discussions.

## MISCELLANEOUS DECISIONS IN THE FIELD OF LABOUR AND SOCIAL AFFAIRS

### Protection of workers from risks related to exposure to biological agents at work

Following the common position adopted on 10 May 1993 and the completion of the co-operation procedure with the European Parliament, the Council adopted a Directive amending Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC).

The biological agents covered (bacteria and the like, viruses, parasites and fungi) are classified according to the risk of infection they present, and details are given where necessary of their potential toxin and allergy risk.

The text contains a recommended code of practice on the vaccination of workers exposed to biological agents for which effective vaccines exist.

Directive 90/679/EEC provides that in the case of any activity likely to involve a risk of exposure to biological agents, the nature, degree and duration of workers' exposure must be determined in order to make it possible to assess any risk to workers' health or safety and to lay down the measures to be taken.

## OTHER DECISIONS

### Textiles

The Council adopted a Regulation on common rules for imports of certain textile products from third countries.

The Regulation lays down common rules and procedures for administering the Community limits on imports, systems of surveillance, safeguard measures and administrative provisions which appear in the bilateral agreements, protocols and other arrangements concluded with third countries, including the new provisions necessitated by the completion of the internal market.

In line with the Council Resolution on the quality of drafting of Community legislation, the proposal also seeks to simplify the Community's internal legal texts in this area in order to make them as clear and as comprehensible as possible.

### Fisheries

Following the agreement reached at the Fisheries Council meeting on 24 and 25 June 1993 (see Press Release 7466/93 - Presse 113), the Council adopted a Regulation establishing a control system applicable to the Common Fisheries Policy (CFP).

The Regulation is intended to replace Regulation No 2241/87 as from 1 January 1994. It establishes a Community system involving, inter alia, provisions for the technical control of:

- measures for the conservation and management of resources,
- structural measures,
- measures on the common organization of the markets,

as well as provisions concerning the effectiveness of the sanctions to be applied in the event of non-compliance with these measures.

This system forms part of the CFP as revised by the basic Regulation No 3760/92 and will apply to all fishing and related activities in the territory and the maritime waters under the sovereignty or jurisdiction of Member States, including activities carried on by vessels which fly the flag of a third country or which are registered in a third country, and the activities of Community fishing vessels operating in third-country waters or on the high seas.

**COUNCIL OF THE EUROPEAN COMMUNITIES**

1692nd meeting of the Council

- Agriculture -

Luxembourg, 18-19 October 1993

The official press release was unavailable. A summary of the meeting has been reproduced from the Bulletin of the European Communities, No. 10-1993.

## 1692nd meeting

1.6.13. Agriculture (Luxembourg, 18 and 19 October).

**Previous meeting:** Bull. EC 9-1993, point 1.6.8

**President:** Mr Bourgeois, Belgian Minister for Agriculture.

**Commission:** Mr Steichen.

### *Main item*

Bananas: negotiating Directives approved by a qualified majority; German, Dutch and Belgian delegations voted against (→ point 1.2.138).

### *Other business*

- Agri-monetary system: examined.
- Support for producers of certain arable crops: discussed.
- Implementation of the Memorandum of understanding on oilseeds: general discussion.
- Uruguay Round — agricultural aspects: exchange of views.
  
- Community plant variety rights: examined.
- Supplementary and amending budget No 1/93: draft adopted by a qualified majority; Italian delegation voted against.

## *Fresh fruit and vegetables*

1.2.138. Council Decision authorizing the Commission to open negotiations on bananas under Article XXVIII of the GATT.

**Commission recommendation:** Bull. EC 6-1993, point 1.2.193

*Adopted on 19 October.*

Bull. EC 10-1993

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**COUNCIL OF THE EUROPEAN COMMUNITIES**

1693rd meeting of the Council

- Fisheries -

Luxembourg, 20 October 1993

The official press release was unavailable. A summary of the meeting has been reproduced from the Bulletin of the European Communities, No. 10-1993.

## 1693rd meeting

1.6.14. Fisheries (Luxembourg, 20 October).

**Previous meeting:** Bull. EC 6-1993, point 1.6.11

*President:* Mr Bourgeois, Belgian Minister for Agriculture.

*Commission:* Mr Paleokrassas.

### *Main item*

State of the market in fishery products and terms governing direct landings by vessels from third countries: conclusions adopted (→ point 1.2.163).

### *Other business*

Arrangements for the accession of Spain and Portugal as regards the fisheries sector: Commission proposal for a Regulation presented and discussed.

Community system of fishing licences: Commission proposal for a Regulation presented and discussed.

Databases in the fisheries sector: Commission report examined.

Community structural assistance in the fisheries sector: exchange of views.

Irish memorandum on the fisheries sector: Commission report presented.

1.2.163. Council conclusions on the market situation for fishery products and the requirements applying to direct landings by third-country vessels.

*Adopted on 20 October.* The Council noted that exceptional conditions still affected the market, reaffirmed the need to reconcile the legitimate interests of the interdependent activities of production and processing, and stated its awareness that the entry into force of the Treaty establishing the European Economic Area could have important implications since certain EFTA countries were primary suppliers to the Community.

The Council requested the Commission to examine whether improvements were required in the effectiveness of existing mechanisms for fraud and health control and collection and return of market data and, given the fragile market situation, to monitor developments closely for each species and maintain to the end of the year, with any adjustments required, the control arrangements for direct landings and the temporary minimum import price rules.

There was no record of a 1694th meeting.

PRESS RELEASE

9281/93 (Presse 170)

1695th Council meeting

**ECONOMIC AND FINANCIAL QUESTIONS**

Luxembourg, 25 October 1993

President: Mr Philippe MAYSTADT,  
Minister for Finance  
of the Kingdom of Belgium

The Governments of the Member States and the Commission of the European Communities were represented as follows:

Belgium:

Mr Philippe MAYSTADT Minister for Finance

Denmark:

Mrs Marianne JELVED Minister for Economic Affairs

Germany:

Mr Johann EEKHOFF State Secretary for Economic Affairs  
Mr Gert HALLER State Secretary for Economic Affairs  
Mr Franz-Christoph ZEITLER State Secretary for Finance

Greece:

Mr Georges ROMAIOS Undersecretary, National Economy

Spain:

Mr Pedro SOLBES MIRA Minister for Economic Affairs and Finance  
Mr Alfredo PASTOR BODMER State Secretary for Economic Affairs and Finance

France:

Mr Edmond ALPHANDERY Minister for Economic Affairs

Ireland:

Ms Eithne FITZGERALD Minister of State at the Department of Finance

Italy:

Mr Piero BARUCCI Minister for the Treasury

Luxembourg:

Mr Jean-Claude JUNCKER Minister for Finance

Netherlands:

Mr Marius VAN AMELSVOORT State Secretary for Finance

Portugal:

Mr Jorge BRAGA DE MACEDO Minister for Finance  
Mr José BRAZ State Secretary for the Treasury

United Kingdom:

Mr Kenneth CLARKE Chancellor of the Exchequer

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Commission:

Mr Jacques DELORS President  
Mr Henning CHRISTOPHERSEN Vice-President  
Mr Raniero VANNI d'ARCHIRAFI Member  
Ms Christiane SCRIVENER Member

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The following also attended:

Sir Brian UNWIN President of the EIB  
Sir Nigel WICKS Chairman of the Monetary Committee  
Mr François MONIER Chairman of the Economic Policy Committee

## DEALING WITH BUDGET BALANCES

The Council adopted a statement on the solution of the problem of dealing with budget balances and instructed its President to forward it to the European Parliament.

## PREPARATION FOR THE 2nd STAGE OF EMU

The Council reached political agreement on a series of seven draft texts containing the secondary legislation for the 2nd stage of EMU.

As soon as the Treaty on European Union enters into force on 1 November, the drafts submitted by the Commission will become formal proposals subject, as appropriate, to the co-operation procedure (Article 189c of the Treaty for the texts on monetary financing and privileged access) or consultation with the European Parliament (for the other texts).

The Council wanted these procedures with the European Parliament to be brought to a conclusion as quickly as possible so that it could adopt the texts by the end of the year, with a view to entry into force on 1 January 1994.

The main features of the seven draft texts are as follows:

- Prohibition on privileged access to financial institutions for the government sector

The draft Regulation is designed to establish, amongst other things, the following principles concerning the prohibition on privileged access laid down in Article 104a of the Treaty:

- = privileged access is deemed to cover not only any obligation on financial institutions to acquire or hold public debt, but also any tax or financial advantages which might be

conferred on those financial institutions in order to encourage them to acquire or hold that debt;

- = obligations to fund social housing are not regarded as privileged access provided that the same terms are applied to the public and private sectors.

- Prohibition on monetary financing by Central Banks

The aim of this draft Regulation is to spell out definitions for application of the prohibition on any monetary financing of the public sector by Central Banks which is laid down in Article 104(1) of the Treaty. Amongst other things, the text makes an exemption for securities acquired by Central Banks from the public sector to ensure the conversion into negotiable securities under market conditions of claims acquired before 1 January 1994. Such conversion is also felt to be desirable if the monetary policy of the future European Central Bank is to have the requisite flexibility.

- Excessive deficit procedure

In accordance with Article 104c(14) of the Treaty, this draft Regulation is designed to lay down detailed rules and definitions for the application of the provisions of the Protocol on the excessive deficit procedure. It confirms that the terms "government deficit" and "government debt" are to be defined according to the European System of Integrated Economic Accounts (ESA), while specifying that:

- = amounts outstanding in the government debt from the financing of public undertakings will be the subject of a separate presentation;
- = for short-term trade credit, only that represented by financial instruments will be taken into account.

- Key for the financial resources of the EMI (European Monetary Institute)

The draft Decision is designed to specify the statistical sources which will supply the parameters used to calculate each Central Bank's share in the European Monetary Institute's resources and, at a later stage, in the capital of the European Central Bank.

In practice, this means each Member State's share in the population of the Community and in Community Gross Domestic Product, each of which will be halved for the purposes of the key.

- Consultation of the EMI on draft legislation

Under Article 109f(6) of the Treaty, Member States must consult the European Monetary Institute on any draft legislative provision within its field of competence. The draft Decision is intended to lay down detailed rules for this consultation procedure, both as regards its scope and the time limits to be observed.

- Taxation and privileges and immunities of EMI officials

These draft Regulations are designed to extend application of the tax for the benefit of the EC to EMI staff, and to extend the privileges and immunities of EC officials and other servants to such staff.

## GROWTH AND EMPLOYMENT

In the run-up to the extraordinary European Council on 29 October, the Council took stock of progress made since the Edinburgh European Council in implementing the growth initiative, at both Community and national level. Vice-President Christophersen presented a note on the subject from the Commission.

In this connection, the Council noted that the Member States would do all they could to complete national ratification procedures for the European Investment Fund by the end of the year, so that it could become operational from the beginning of 1994.

The Council also took note of a paper from the Commission dated 20 October on the

feasibility of recourse, under the EIB's temporary lending facility, to a Community initiative programme for granting interest subsidies to SMEs.

Lastly, the Council heard a report from the Chairman of the EIB on the Bank's operation of the temporary lending facility, and discussed broadening its scope in order to generate sufficient investment volume to have a significant effect on the economy.

In conclusion, it was agreed that the Council President would brief the President of the European Council on the outcome of the day's discussions.

#### NOMINATION OF THE PRESIDENT OF THE EUROPEAN MONETARY INSTITUTE

The Council gave its opinion in favour of the recommendation from the Committee of Governors of the Central Banks to the Heads of State and Government that Baron Alexandre Lamfalussy, currently General Manager of the Bank for International Settlements, be appointed President of the European Monetary Institute.

## UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN TRANSFERABLE SECURITIES (UCITS)

The Council held an initial discussion on the scope of a new Directive aimed at amending the 1985 UCITS Directive. The Commission proposal is designed to supplement the 1985 Directive in several respects, in particular by extending its scope to cover UCITS investing in the units of other UCITS and funds investing solely in bank deposits (cash funds).

At the close of the discussion, the Council instructed the Permanent Representatives Committee to continue work on the subject in the light of the forthcoming European Parliament Opinion and of further particulars to be supplied by the Commission.

## TAXATION OF SAVINGS

The Council held an exchange of views on this matter, after hearing a statement by its President drawing attention, *inter alia*, to the consequences of the fact that there was no minimum harmonization of savings taxation.

In conclusion, it asked the *ad hoc* Working Party to continue its discussions on the subject without giving precedence at Community level to withholding tax or to a return-based system.

## TAXATION OF ROAD TRANSPORT

The Council adopted a Directive on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures. The Directive was adopted at the same time as the Regulation on road haulage cabotage (see Miscellaneous decisions - page I).

It will be remembered that the Transport Council of 28 September registered its agreement on the drafts of the two texts, further to the political agreement reached on 19 June 1993 (see press release 7345/93 Presse 107 for the contents of the Directive).

At this meeting the Council and the Commission agreed on the following statement:

"During a transitional period from 1 January 1995 to 31 December 1997:

- Member States whose tax rates on 1 January 1995 are twice the minimum rates or more may lower their tax rates to twice the minimum rates;
- Member States whose tax rates on 1 January 1995 are less than twice the minimum rates may not reduce their tax rates as a rule, unless these reductions are offset by new charges imposed on the transport sector in such a way that the overall competitive situation in the sector is unchanged. The only exemption that may nevertheless be allowed will be for certain specific categories of lorry."

#### TRAVELLERS' ALLOWANCES

The Council reached political agreement on:

- raising allowances for travellers from third countries from ECU 45 to ECU 175 (and from ECU 23 to 90 for adolescents) and the limits on tax-free purchases in intra-Community travel from ECU 45 to 90; this latter figure could be subject to review in 1995;

- allowing Germany to be exempt from application of the new third-country allowances until 1997 in respect of travellers coming from third countries, other than EFTA countries, within which Germany has a common border, and entering German territory by a land border or by a coastal sea route;
- allowing Spain to apply, until 31 December 2000, an allowance of ECU 600 for imports of goods by travellers from the Canary Islands, Ceuta and Melilla entering Spanish tax territory.

#### OPERATION OF THE NEW INDIRECT TAXATION SCHEMES

The Council heard a statement from Ms Scrivener on the operation of the new indirect taxation schemes since 1 January 1993. Concluding her statement, Ms Scrivener announced that in the next few weeks the Commission would be submitting a written report taking initial stock of six to nine months of operation of the indirect taxation schemes. The Council requested the ad hoc Working Party of Senior Officials responsible for considering indirect taxation questions to study the report.

#### FINANCIAL ASSISTANCE TO MOLDAVIA AND BELARUS

The Council raised the question of a Community contribution to financial aid for Moldavia and Belarus and asked the Monetary Committee and the Permanent Representatives Committee to continue examining the question.

## MISCELLANEOUS DECISIONS

(adopted unanimously and without debate, unless stated otherwise)

### Exemptions from the 6th VAT Directive

The Council adopted nine Decisions authorizing Belgium, Denmark, France, Ireland, Italy, Luxembourg, Netherlands, Portugal and the United Kingdom to apply a measure derogating from Articles 2(1) and 17 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes.

The measure is designed to simplify the current rules of the transitional VAT arrangements applicable to certain repairs and domestic goods transport services which are causing difficulties for undertakings, particularly as regards the tax refund provided for by the 8th and 13th VAT Directives.

In point of fact, the territoriality principle as applied to these services, requiring them to be taxed in the place where they are physically carried out, has the effect of obliging taxable persons who are not in the territory of the Member State where the services were performed to pay the VAT in that country and then apply for a refund under the 8th or 13th Directive. The resulting proliferation of applications for refund is hampering the freedom to provide services within the single market.

### Transport

The Council adopted a Regulation laying down the conditions under which non-resident carriers may operate road haulage services within a Member State (road haulage cabotage) following the agreement of principle registered by the Council on 19 June 1993 (see press release 7345/93 Presse 107).

With adoption of this Regulation, which comes, as planned, at the same time as that of the Directive harmonizing the taxation of road transport, a further step has been taken towards completion of the internal market in the transport sector.

The definitive cabotage arrangements for road haulage are scheduled to enter into force on 1 July 1998. Prior to that, between 1 January 1994 and 30 June 1998, there will be a phasing-in period during which each Member State will have to allow non-resident carriers to carry out domestic haulage on a temporary basis without making them subject to national quantitative restrictions on access to the market, provided that such haulage operations are carried out in the framework of a Community cabotage authorization and quota system.

On 1 January 1994, the Community cabotage quota will comprise 30 000 cabotage authorizations lasting two months. It will be increased annually by 30%, starting on 1 January 1995.

The definitive cabotage arrangements, which will come into force on 1 July 1998, will involve the generalized admission of duly qualified carriers established in one Member State, on a temporary basis and without quantitative restrictions, to domestic road haulage services in another Member State.

#### Relations with the ACP

The Council adopted a Regulation prohibiting the supply of certain goods to UNITA. As from 7 October 1993, the Regulation prohibits:

- the sale or supply of petroleum and petroleum products, whether or not originating in the Community, in the territory of Angola through points of entry other than the airports of Luanda and Katumbela (Benguela province) and the ports of Luanda, Malongo (Cabinda province), Lobito (Benguela province) and Namibe (Namibe province);
- any activity the object or effect of which is, directly or indirectly, to promote sale or supply transactions.

#### Anti-dumping measures

Following the review of Decision 87/66/EEC accepting undertakings given in connection with imports of binder and baler twine originating in Brazil and Mexico, the Council took note of a draft Decision renewing the above measures submitted by the Commission on 7 September 1993, and noted that there was no qualified majority within the Council "to decide otherwise" within the meaning of the basic Regulation.

#### Deposit-guarantee schemes

Following the agreement of principle reached at its meeting on 13 September (see press release 8233/93 Presse 135), the Council, acting by a qualified majority and with the German delegation voting against, formally adopted its common position on the Directive on deposit-guarantee schemes.

#### Consumer protection

With the German delegation abstaining, the Council adopted a Decision concerning the institution of a Community system for the exchange of information in respect of certain products which may jeopardize consumers' health or safety.

The Decision is applicable until 29 June 1994, the date on which the notification procedure provided for by Directive 92/59/EEC on general product safety will be introduced.

The Decision is ancillary to the removal of technical controls at internal frontiers and does not pre-determine the arrangements for administrative co-operation under implementation of the internal market.

The system is based on notification to the Commission by the Member States of any regulations, laws or administrative measures they adopt to prevent, restrict or attach particular conditions to the marketing or use within their territory of a product batch, on the grounds that it does not comply with the relevant Community or national rules and might jeopardize the health or safety of consumers when used in normal and foreseeable conditions.

On receipt of the information, and after holding consultations with the parties concerned if necessary, the Commission will forward it to the competent authorities of the other Member States.

The enacting terms apply to products intended for use by consumers, except products intended exclusively for professional use. It does not apply to the following products, which are already subject to specific Community notification procedures: agricultural products, foodstuffs, cosmetics, tobacco products, materials and articles intended to come into contact with foodstuffs, medicines, medical devices including means of in vitro diagnosis and plant-health products.

#### Environment

The Council adopted a Decision concerning the conclusion of the Convention on Biological Diversity signed by the Community on 13 June 1992 at the UNCED in Rio de Janeiro.

The objectives of the Convention are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by suitable funding.

In adopting this Decision, the Council considered, amongst other things, that the Community and its Member States should participate in international efforts in this area, particularly by encouraging the conservation and sustainable use of biological diversity and in attaining agreed rules on utilization and sharing the benefits which are generated.

PRESS RELEASE

9282/93 (Presse 171)

1696th meeting of the Council

- GENERAL AFFAIRS -

Luxembourg, 25 and 26 October 1993

President: Mr Willy CLAES  
Minister for Foreign Affairs  
of the Kingdom of Belgium

The Governments of the Member States and the Commission of the European Communities were represented as follows:

**Belgium:**

Mr Willy CLAES

Minister for Foreign Affairs

**Denmark:**Mr Niels HELVEG PETERSEN  
Mr Jorgen ØSTRØM MØLLERMinister for Foreign Affairs  
State Secretary for Foreign Affairs**Germany:**Mr Klaus KINKEL  
Ms Ursula SEILER-ALBRINGFederal Minister for Foreign Affairs  
Minister of State, Foreign Affairs**Greece:**Mr Theodoros PANGALOS  
Mr Georges ROMAÏOSDeputy Minister for Foreign Affairs  
State Secretary for the National Economy**Spain:**Mr Javier SOLANA  
Mr Carlos WESTENDORPMinister for Foreign Affairs  
State Secretary for Relations with the European Communities**France:**

Mr Alain JUPPE

Minister for Foreign Affairs

**Ireland:**Mr Dick SPRING  
Mr Tom KITTMinister for Foreign Affairs  
Minister of State at the Department of the Taoiseach  
with special responsibility for European Affairs**Italy:**Mr Beniamino ANDREATTA  
Mr Paolo BARATTA  
Mr Carmelo AZZARAMinister for Foreign Affairs  
Minister for Foreign Trade  
State Secretary for Foreign Affairs**Luxembourg:**

Mr Jacques POOS

Minister for Foreign Affairs

**Netherlands:**Ms Yvonne VAN ROOY  
Mr Piet DANKERTMinister for Foreign Trade  
State Secretary for Foreign Affairs**Portugal:**Mr José Manuel DURAO BARROSO  
Mr Vitor MARTINSMinister for Foreign Affairs  
State Secretary for European Affairs**United Kingdom:**

Mr Douglas HURD

Secretary of State for Foreign and Commonwealth Affairs

Mr David HEATHCOAT-AMORY

Minister of State, Foreign and Commonwealth Office

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**Commission:**Mr Jacques DELORS  
Sir Leon BRITTAN  
Mr João DE DEUS PINHEIRO  
Mr Hans VAN DEN BROEKPresident  
Vice-President  
Member  
Member

INTERINSTITUTIONAL CONFERENCE – LUXEMBOURG, 25 OCTOBER 1993

At an interinstitutional conference held in Luxembourg at the invitation of the President of the Council, attended by:

- a delegation from the European Parliament, led by the President, Mr Egon Klepsch,
- the Council, under the Presidency of Mr Willy Claes
- the Commission, represented by Mr João de Deus Pinheiro,

the following documents <sup>(1)</sup> were approved, subject to completion of the internal procedures peculiar to each Institution:

- an interinstitutional Declaration on democracy, transparency and subsidiarity;
- a draft interinstitutional Agreement on procedures for implementing the principle of subsidiarity;
- a draft Decision of the European Parliament laying down the regulations and general conditions governing the performance of the Ombudsman's duties;
- a text on arrangements for the proceedings of the Conciliation Committee under Article 189b of the Treaty (co-decision procedure).

The interinstitutional Declaration on democracy, transparency and subsidiarity initialled today will be signed at the European Council meeting in Brussels on 29 October 1993.

Those attending the conference stressed the importance of the outcome attained, which demonstrated the desire of the Institutions of the European Union to come closer to the citizens of Europe and to strengthen democracy and the transparency of the Institutions.

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<sup>(1)</sup> The texts in question are set out in the annex.

PREPARATION FOR THE EUROPEAN COUNCIL MEETING ON 29 OCTOBER 1993

The Council prepared the likely topics for discussion at the extraordinary European Council meeting on Friday of that week, viz:

- implementation of the Treaty on the Union;
- enlargement of the Community;
- growth and employment in the Community.

(It should be noted that the preparation of the European Council's discussion of the question of the seats to be established for certain Community bodies and agencies – in particular for the EMU – is being dealt with by the President of the European Council).

Implementation of the Treaty on the Union

For its discussion of this first topic, the Council had before it a report summarizing the progress to date in preparing the necessary or desirable provisions for implementing the Maastricht Treaty.

The proceedings covered in particular the following chapters:

- Democracy, transparency and subsidiarity (in this context see in particular the outcome of the Interinstitutional conference on 25 October, as set out in this Press Release: on page 3 and pages 8 and 9 of the Annex);
- Citizenship (political agreement was reached on 4 October on the provisions regarding the right to vote and to stand as a candidate in elections to the European Parliament);
- Economic and monetary union (see the outcome of the ECO/FIN Council on 25 October in Press Release 9281/93 Presse 170, pages 3-5);
- From political co-operation to the CFSP – On this subject, the Presidency document highlights six aspects of particular importance in the pursuit of the objectives of the Union as set out in the

Treaty on European Union, viz:

- = the development of an active policy in the pursuit of the interest of the Union;
- = unity and consistency in its external action;
- = inclusion of all matters related to the security of the Union;
- = decisions of the Union committing Member States;
- = unity in the presentation of the Union's policy to the outside world and prominence of the Union as an actor on the international scene;
- = efficiency in the decision-making procedure.

The document stresses that two elements are essential in the pursuit of these objectives:

- = the "single institutional framework";
- = the effective mobilization of the resources of the Member States and the Community in a joint effort to promote the objectives of the Union.

Four annexes to the Presidency document also contain a number of practical measures which will be implemented as from the entry into force of the Union Treaty with respect to CFSP instruments and bodies, its relations with the European Parliament and with the WEU.

As regards one of the most significant innovations under the CFSP: joint action – the Council recommended that, on 29 October, the European Council signify a number of areas which should be the subject of priority joint action.

- The area of Justice and Home Affairs – In this area too the Presidency document makes provision, on the basis of what has hitherto been achieved under the major work programmes such as the Palma report (1989), the Trevi action programme (1990), the European Plan to Combat Drugs (1989) and the programmes concerning asylum and immigration (Maastricht, 1991), for integration within the single institutional system of the Union, with the resulting improvement

in the effectiveness of co-operation, an increase in transparency and democratic control.

Following its discussions, the Council endorsed the Presidency document and agreed to forward it to the European Council.

#### Enlargement

The inclusion of the enlargement issue on the European Council's programme of work should allow it *inter alia* to take stock of the progress being made in the negotiations and to give an impetus to their continuation.

#### Growth and employment

In this area, the European Council will be informed, on the basis of the ECO/FIN Council's proceedings, of developments with the implementation of the growth initiative both Community-wide and nationally and on the progress of the Commission's proceedings on the White Paper. These dossiers will form the centrepiece of the European Council's discussions on 10 and 11 December this year.

## URUGUAY ROUND

The Council heard an oral report from the Commission on the current state of the Uruguay Round negotiations and comments by delegations.

In the light of its conclusions on 20 September and 4 October, which it confirmed, the Council stressed the importance of achieving significant progress at an early date in the negotiations being held in Geneva and appealed to the other partners to the negotiations to make a practical contribution in the form of appropriate offers, to speeding up the negotiating process which was necessary if they were to be concluded by the deadline.

The Council will hold an in-depth exchange of view at its next meeting on 8 and 9 November on the basis of a written report from the Commission with a view to discussing the guidelines for the final phase of the negotiations.

## FORMER YUGOSLAVIA

Lord Owen reported to the Ministers on his information tour of the capitals. The Ministers exchanged views on the situation in the former Yugoslavia and the prospects for negotiation. They firmly condemned the attacks on humanitarian convoys and deplored the ensuing loss of life. They took note of the decision of the United Nations authorities to suspend humanitarian aid supplies to Central Bosnia. They agreed to return to this question at the extraordinary European Council meeting on 29 October.

## PEACE PROCESS IN THE MIDDLE EAST

The President of the Council reported on his recent visit to Tunis and his talks with Mr Arafat. The Ministers prepared for the meeting they would be holding with Mr Arafat on 8 November. They agreed to stress at that meeting the efforts the Community and its Member States had made to support the peace process and to highlight the need for effective and speedy aid for the Palestinian institutions to be set up in the Occupied Territories.

INTERINSTITUTIONAL DECLARATION ON DEMOCRACY, TRANSPARENCY AND SUBSIDIARITY

1. The European Parliament, the Council and the Commission, as Institutions of the European Union will, within the framework of the legislative procedure, respect in full the democratic principles on which the systems of government of the Member States are based and they reaffirm their attachment to the implementation of transparency by the Institutions.
2. As soon as Parliament has adopted its resolution on the annual legislative programme proposed by the Commission, the Council will state its position on the programme in a declaration and undertake to implement as soon as possible the provisions to which it attaches priority, on the basis of formal Commission proposals and in compliance with the procedures laid down by the Treaties.
3. In order to increase the transparency of the Community, the Institutions recall the measures which they have already taken in this direction:

The European Parliament, in amending its Rules of Procedure on 15 September 1993, has confirmed the public nature of meetings of its Committees and of its plenary sittings.

The Council has agreed to take steps to:

- open some of its debates to the public;
- publish records and explanations of its voting;
- publish the common positions which it adopts under the procedures laid down in Articles 189b and 189c, and the statement of reasons accompanying them;
- improve information for the press and the public on its work and decisions;
- improve general information on its role and activities;
- simplify and consolidate Community legislation in co-operation with the other Institutions;
- provide access to its archives.

The Commission has already taken or is in the process of taking the following measures:

- wider consultations before presenting proposals, in particular publication of Green or White Papers on the topics listed in the 1993 legislative programme;
- flagging in the legislative programme of upcoming proposals which would appear to be suitable for wide-ranging preliminary consultations;
- introduction of a notification procedure, consisting of the publication in the Official Journal of a brief summary of any measure planned by the Commission, with the setting of a deadline by which interested parties may submit their comments;
- publication of work programmes and legislative programmes in the Official Journal to publicize action planned by the Commission;
- finalization of the work programme by October with a view to enhancing openness;
- publication in the legislative programme of plans for the consolidation of Community legislation;

- provision of easier public access to documents held by the Commission with effect from 1 January 1994;
  - improving knowledge of existing databases and their accessibility, including improving the existing relay network;
  - publication each week in the Official Journal of lists of documents on general topics; wider public access to documents on specific topics;
  - preparation of an interinstitutional yearbook giving details of each institution's organization chart;
  - faster publication of Commission documents in all Community languages;
  - adoption of a new information and communication policy occupying a larger place in Commission activities; enhanced co-ordination of information activities both inside and outside the Commission;
  - adoption of additional measures to facilitate the general public's understanding of Commission business, in particular by making available the necessary resources and equipment to provide a suitable response to requests from the media;
  - improvement in the treatment of telephone, mail and personal contacts between citizens and the Commission;
  - promotion of the establishment of self-regulation by special interest groups by asking them to draft a code of conduct and a directory;
  - creation by the Commission of a database on special interest groups as an instrument for use by the general public and by Community officials.
4. for reference: Interinstitutional Agreement on procedures for implementing the principle of subsidiarity.
  5. for reference: Draft Decision of the European Parliament laying down the regulations and general conditions governing the performance of the Ombudsman's duties.
  6. for reference: Arrangements for the proceedings of the Conciliation Committee under Article 189b.
  7. The three Institutions will adopt all these texts in accordance with their internal procedures.

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The agreements established at the Interinstitutional Conference on 25 October 1993 are aimed at implementing the Treaty on European Union and at strengthening the democratic, transparent nature of the European Union. They may be added to or amended by common agreement at the initiative of any of the three Institutions.

Done at Luxembourg, 25 October 1993

For the European Parliament

For the Council

For the Commission

Draft INTERINSTITUTIONAL AGREEMENT  
between the European Parliament, the Council and the Commission  
on procedures for implementing the  
PRINCIPLE OF SUBSIDIARITY

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION,

Having regard to the Treaty on European Union signed in Maastricht on 7 February 1992, and in particular Article B thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 3b thereof, as resulting from the Treaty on European Union,

Having regard to the conclusions of the European Council, meeting in Edinburgh, concerning subsidiarity, transparency and democracy;

Have agreed on the following measures:

I. GENERAL PROVISIONS

1. *The purpose of the procedures for implementing the principle of subsidiarity shall be to govern the manner in which the powers assigned to the Community institutions by the Treaties, in order to enable them to achieve the objectives laid down by the Treaties, are exercised.*
2. *Such procedures shall not call into question the *acquis communautaire*, the provisions of the Treaties concerning the powers conferred on the institutions or the institutional balance.*

II. PROCEDURES

1. *In exercising its right of initiative, the Commission shall take into account the principle of subsidiarity and show that it has been observed. The European Parliament and the Council shall do likewise, in exercising the powers conferred on them by Articles 138b and 152 respectively of the Treaty establishing the European Community.*
2. *The explanatory memorandum for any Commission proposal shall include a justification of the proposal under the principle of subsidiarity.*
3. *Any amendment which may be made to the Commission's text, whether by the European Parliament or the Council, must, if it entails more extensive or intensive intervention by the Community, be accompanied by a justification under the principle of subsidiarity and Article 3b.*
4. *The three institutions shall, under their internal procedures, regularly check that action envisaged complies with the provisions concerning subsidiarity as regards both the choice of legal instruments and the content of a proposal. Such checks must form an integral part of the substantive examination.*

III. REVIEW OF COMPLIANCE WITH THE PRINCIPLE OF SUBSIDIARITY

1. *Compliance with the principle of subsidiarity shall be reviewed under the normal Community process, in accordance with the rules laid down by the Treaties.*
2. *The Commission shall draw up an annual report for the European Parliament and the Council on compliance with the principle of subsidiarity. The European Parliament shall hold a public debate on that report, with the participation of the Council and the Commission.*

## IV. FINAL PROVISIONS

1. In the event of general difficulties concerning the application of this Agreement, the President of the European Parliament, the President of the Council or the President of the Commission may request that an interinstitutional conference be convened in order to overcome such difficulties or to supplement or amend this Agreement.
  2. This Interinstitutional Agreement shall apply as from the entry into force of the Treaty on European Union.
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DRAFT  
DECISION OF THE EUROPEAN PARLIAMENT ON  
THE REGULATIONS AND GENERAL CONDITIONS  
GOVERNING THE PERFORMANCE OF THE OMBUDSMAN'S DUTIES

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THE EUROPEAN PARLIAMENT,

Having regard to the Treaties establishing the European Communities, and in particular Article 138e(4) of the Treaty establishing the European Community, Article 20d(4) of the Treaty establishing the European Coal and Steel Community and Article 107d(4) of the Treaty establishing the European Atomic Energy Community,

Having regard to the opinion of the Commission,

Having regard to the Council's approval,

Whereas the regulations and general conditions governing the performance of the Ombudsman's duties should be laid down, in compliance with the provisions of the Treaties establishing the European Communities;

Whereas the conditions under which a complaint may be referred to the Ombudsman should be established as well as the relationship between the performance of the duties of Ombudsman and legal or administrative proceedings;

Whereas the Ombudsman, who may also act on his own initiative, must have access to all the elements required for the performance of his duties; whereas to that end Community institutions and bodies are obliged to supply the Ombudsman, at his request, with any information which he requests of them, unless there are duly substantiated grounds for secrecy, and without prejudice to the Ombudsman's obligation not to divulge such information; whereas the Member States' authorities are obliged to provide the Ombudsman with all necessary information save where such information is covered by rules or regulations on secrecy or by provisions preventing its being communicated; whereas if the Ombudsman finds that the assistance requested is not forthcoming, he shall inform the European Parliament, which shall make appropriate representations;

Whereas it is necessary to lay down the procedures to be followed where the Ombudsman's enquiries reveal cases of maladministration; whereas provision should also be made for the submission of a comprehensive report by the Ombudsman to the European Parliament at the end of each annual session;

Whereas the Ombudsman and his staff are obliged to treat in confidence any information which they have acquired in the course of their duties; whereas the Ombudsman is, however, obliged to inform the competent authorities of facts which he considers might relate to criminal law and which have come to his attention in the course of his enquiries;

Whereas provision should be made for the possibility of co-operation between the Ombudsman and authorities of the same type in certain Member States, in compliance with the national laws applicable;

Whereas it is for the European Parliament to appoint the Ombudsman at the beginning of its mandate and for the duration thereof, choosing him from among persons who are Union citizens and offer every requisite guarantee of independence and competence;

Whereas conditions should be laid down for the cessation of the Ombudsman's duties;

Whereas the Ombudsman must perform his duties with complete independence and give a solemn undertaking before the Court of Justice of the European Communities that he will do so when taking up his duties; whereas activities incompatible with the duties of Ombudsman should be laid down as should the remuneration, privileges and immunities of the Ombudsman;

Whereas provisions should be laid down regarding the officials and servants of the Ombudsman's secretariat which will assist him and the budget thereof; whereas the seat of the Ombudsman should be that of the European Parliament;

Whereas it is for the Ombudsman to adopt the implementing provisions for this Decision; whereas furthermore certain transitional provisions should be laid down for the first Ombudsman to be appointed after the entry into force of the Treaty on European Union,

HAS DECIDED AS FOLLOWS:

#### Article 1

1. The regulations and general conditions governing the performance of the Ombudsman's duties shall be as laid down by this Decision in accordance with Article 138e(4) of the Treaty establishing the European Community, Article 20d(4) of the Treaty establishing the European Coal and Steel Community and Article 107d(4) of the Treaty establishing the European Atomic Energy Community.
2. The Ombudsman shall perform his duties in accordance with the powers conferred on the Community institutions and bodies by the Treaties.
3. The Ombudsman may not intervene in cases before courts or question the soundness of a court's ruling.

#### Article 2

1. Within the framework of the aforementioned Treaties and the conditions laid down therein, the Ombudsman shall help to uncover maladministration in the activities of the Community institutions and bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role, and make recommendations with a view to putting an end to it. No action by any other authority or person may be the subject of a complaint to the Ombudsman.
2. Any citizen of the Union or any natural or legal person residing or having his registered office in a Member State of the Union may, directly or through a Member of the European Parliament, refer a complaint to the Ombudsman in respect of an instance of maladministration in the activities of Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role. The Ombudsman shall inform the institution or body concerned as soon as a complaint is referred to him.
3. The complaint must allow the person lodging the complaint and the object of the complaint to be identified; the person lodging the complaint may request that his complaint remain confidential.
4. A complaint shall be made within two years of the date on which the facts on which it is based came to the attention of the person lodging the complaint and must be preceded by the appropriate administrative approaches to the institutions and bodies concerned.
5. The Ombudsman may advise the person lodging the complaint to address it to another authority.
6. Complaints submitted to the Ombudsman shall not affect time limits for appeals in administrative or judicial proceedings.

7. When the Ombudsman, because of legal proceedings in progress or concluded concerning the facts which have been put forward, has to declare a complaint inadmissible or terminate consideration of it, the outcome of any enquiries he has carried out up to that point shall be filed definitively.

8. No complaint may be made to the Ombudsman that concerns work relationships between the Community institutions and bodies and their officials and other servants unless all the possibilities for the submission of internal administrative requests and complaints, in particular the procedures referred to in Article 90(1) and (2) of the Staff Regulations, have been exhausted by the person concerned and the time limits for replies by the authority thus petitioned have expired.

9. The Ombudsman shall as soon as possible inform the person lodging the complaint of the action he has taken on it.

### Article 3

1. The Ombudsman shall, on his own initiative or following a complaint, conduct all the enquiries which he considers justified to clarify any suspected maladministration in the activities of Community institutions and bodies. He shall inform the institution or body concerned of such action, which may submit any useful comment to him.

2. The Community institutions and bodies shall be obliged to supply the Ombudsman with any information he has requested of them and give him access to the files concerned. They may refuse only on duly substantiated grounds of secrecy.

They shall give access to documents originating in a Member State and classed as secret by law or regulation only where that Member State has given its prior agreement.

They shall give access to other documents originating in a Member State after having informed the Member State concerned. In both cases, in accordance with Article 4, the Ombudsman may not divulge the content of such documents.

Officials and other servants of Community institutions and bodies must testify at the request of the Ombudsman; they shall speak on behalf of and in accordance with instructions from their administrations and shall continue to be bound by their duty of professional secrecy.

3. The Member States' authorities shall be obliged to provide the Ombudsman, whenever he may so request, via the Permanent Representations of the Member States to the European Communities, with any information that may help to clarify instances of maladministration by Community institutions or bodies unless such information is covered by laws or regulations on secrecy or by provisions preventing its being communicated. Nonetheless, in the latter case, the Member State concerned may allow the Ombudsman to have this information provided that he undertakes not to divulge it.

4. If the assistance which he requests is not forthcoming, the Ombudsman shall inform the European Parliament, which shall make appropriate representations.

5. As far as possible, the Ombudsman shall seek a solution with the institution or body concerned to eliminate the instance of maladministration and satisfy the complaint.

6. If the Ombudsman finds there has been maladministration, he shall inform the institution or body concerned, where appropriate making draft recommendations. The institution or body so informed shall send the Ombudsman a detailed opinion within three months.

7. The Ombudsman shall then send a report to the European Parliament and to the institution or body concerned. He may make recommendations in his report. The person lodging the complaint shall be informed by the Ombudsman of the outcome of the inquiries, of the opinion expressed by the institution or body concerned and of any recommendations made by the Ombudsman.

8. At the end of each annual session the Ombudsman shall submit to the European Parliament a report on the outcome of his inquiries.

#### Article 4

1. The Ombudsman and his staff, to whom Article 214 of the Treaty establishing the European Community, Article 47(2) of the Treaty establishing the European Coal and Steel Community and Article 194 of the Treaty establishing the European Atomic Energy Community shall apply, shall be required not to divulge information or documents which they obtain in the course of their inquiries. They shall also be required to treat in confidence any information which could harm the person lodging the complaint or any other person involved, without prejudice to paragraph 2.

2. If, in the course of inquiries, he learns of facts which he considers might relate to criminal law, the Ombudsman shall immediately notify the competent national authorities via the Permanent Representations of the Member States to the European Communities and, if appropriate, the Community institution with authority over the official or servant concerned, which may apply the second paragraph of Article 18 of the Protocol on the Privileges and Immunities of the European Communities. The Ombudsman may also inform the Community institution or body concerned of the facts calling into question the conduct of a member of their staff from a disciplinary point of view.

#### Article 5

Insofar as it may help to make his enquiries more efficient and better safeguard the rights and interests of persons who make complaints to him, the Ombudsman may co-operate with authorities of the same type in certain Member States provided he complies with the national law applicable. The Ombudsman may not by this means demand to see documents to which he would not have access under Article 3.

#### Article 6

1. The Ombudsman shall be appointed by the European Parliament after each election to the European Parliament for the duration of its mandate. He shall be eligible for reappointment.

2. The Ombudsman shall be chosen from among persons who are Union citizens, have full civil and political rights, offer every guarantee of independence, and meet the conditions required for the exercise of the highest judicial office in their country or have the acknowledged competence and experience to undertake the duties of Ombudsman.

#### Article 7

1. The Ombudsman shall cease to exercise his duties either at the end of his term of office or on his resignation or dismissal.

2. Save in the event of his dismissal, the Ombudsman shall remain in office until his successor has been appointed.

3. In the event of early cessation of duties, a successor shall be appointed within three months of the

office's falling vacant for the remainder of the parliamentary term.

#### Article 8

An Ombudsman who no longer fulfils the conditions required for the performance of his duties or is guilty of serious misconduct may be dismissed by the Court of Justice of the European Communities at the request of the European Parliament.

#### Article 9

1. The Ombudsman shall perform his duties with complete independence, in the general interest of the Communities and of the citizens of the Union. In the performance of his duties he shall neither seek nor accept instructions from any government or other body. He shall refrain from any act incompatible with the nature of his duties.

2. When taking up his duties, the Ombudsman shall give a solemn undertaking before the Court of Justice of the European Communities that he will perform his duties with complete independence and impartiality and that during and after his term of office he will respect the obligations arising therefrom, in particular his duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments or benefits.

#### Article 10

1. During his term of office, the Ombudsman may not engage in any political or administrative duties, or any other occupation, whether gainful or not.

2. The Ombudsman shall have the same rank in terms of remuneration, allowances and pension as a judge at the Court of Justice of the European Communities.

3. Articles 12 to 15 and Article 18 of the Protocol on the Privileges and Immunities of the European Communities shall apply to the Ombudsman and to the officials and servants of his secretariat.

#### Article 11

1. The Ombudsman shall be assisted by a secretariat, the principal officer of which he shall appoint.

2. The officials and servants of the Ombudsman's secretariat shall be subject to the rules and regulations applicable to officials and other servants of the European Communities. Their number shall be adopted each year as part of the budgetary procedure. <sup>(2)</sup>

3. Officials of the European Communities and of the Member States appointed to the Ombudsman's secretariat shall be seconded in the interests of the service and guaranteed automatic reinstatement in their institution of origin.

4. In matters concerning his staff, the Ombudsman shall have the same status as the institutions within the meaning of Article 1 of the Staff Regulations of Officials of the European Communities.

#### Article 12

The Ombudsman's budget shall be annexed to section I (Parliament) of the general budget of

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<sup>(2)</sup> A joint statement by the three institutions will set out guiding principles for the number of officials employed by the Ombudsman and the status as temporary or contract staff of those carrying out enquiries.

the European Communities.

Article 13

The seat of the Ombudsman shall be that of the European Parliament. <sup>(3)</sup>

Article 14

The Ombudsman shall adopt the implementing provisions for this Decision.

Article 15

The first Ombudsman to be appointed after the entry into force on the Treaty on European Union shall be appointed for the remainder of the parliamentary term.

Article 16

The European Parliament shall make provision in its budget for the staff and material facilities required by the first Ombudsman to perform his duties as soon as he is appointed.

Article 17

This Decision shall be published in the Official Journal of the European Communities. It shall enter into force on the date of its publication.

For the European Parliament,

(s.) Egon KLEPSCH

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<sup>(3)</sup> See Decision taken by common agreement between the Representatives of the Governments of the Member States on the location of the seats of the institutions and of certain bodies and departments of the European Communities (OJ C 341, 23.12.1992, p. 1).

ARTICLE 189bPHASE PRECEDING THE ADOPTION OF A COMMON POSITION BY THE COUNCIL

Current practice under the co-operation procedure generally, particularly in the most sensitive cases, involves talks between the Council Presidency, the Commission and the Chairmen or/and the rapporteurs of the relevant committees of the European Parliament. The institutions confirm that this practice should continue and could be developed under the procedure provided for in Article 189b of the Treaty establishing the European Community.

ARRANGEMENTS FOR THE PROCEEDINGS  
OF THE CONCILIATION COMMITTEE UNDER ARTICLE 189b

1. The Committee shall be convened by the President of the Council with the agreement of the President of the European Parliament and with due regard to the provisions of the Treaty.
2. The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.
3. The Committee shall be chaired jointly by the President of the European Parliament and the President of the Council.

Committee meetings shall be chaired alternately by each co-Chairman.

The dates and the agendas for the Committee's meetings shall be set jointly by the co-Chairmen.

4. The Committee shall have available to it the Commission proposal, the Council's common position and the amendments approved by the European Parliament.
5. The co-Chairmen may draw up joint texts for submission to the Committee; they may submit reports to the Committee or propose to it that rapporteurs be appointed.
6. If the Committee agrees to a joint text which has not yet undergone legal/linguistic finalization, the draft text shall be submitted to the co-Chairmen for formal approval after such finalization.
7. The co-Chairmen shall approve the minutes of Committee meetings.
8. The outcome of votes and, where appropriate, explanations of vote, taken within each delegation on the Conciliation Committee, shall be forwarded to the Committee.
9. The co-Chairmen shall see to it that the joint texts approved by the Committee are forwarded forthwith to the European Parliament and to the Council.
10. The General Secretariat of the Council and the General Secretariat of the European Parliament shall act jointly as the Committee's Secretariat, in association with the General Secretariat of the Commission.
11. Joint texts shall be finalized by the Legal/linguistic Experts of the Council and of the European Parliament.

12. The Committee shall meet alternately at the premises of the European Parliament and the Council.
  13. While abiding by the Treaty provisions regarding time limits, the Council shall, as far as possible, take into account the requirements of the European Parliament's schedule.
  14. The above points may also apply to the Conciliation Committee when it operates on the basis of Article 189b(2), with due regard to the provisions of that Article of the Treaty.
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