

Folketinget — Europaudvalget

Christiansborg, den 11. maj 2007

Folketingets repræsentant ved EU

Til

udvalgets medlemmer og stedfortrædere

Forfatningsudvalgets formand har udarbejdet et forslag til en ny traktat

Resumé

Formanden for Europa-Parlamentets Forfatningsudvalg har udarbejdet en erstatning for Forfatningstraktaten, som han har bedt de nationale parlamenter diskutere. Traktaten fjerner betegnelsen "forfatningstraktat" men forsøger at bevare samtlige ændringer af EU's nuværende traktater, som blev vedtaget i Konventet og den efterfølgende regeringskonference.

Notatet indeholder desuden en oversigt over kommende møder i Forfatningsudvalget.

Formanden for Europa-Parlamentets Forfatningsudvalg, tyskeren Jo Leinen (PSE), har udarbejdet en samlede tekst til en ny traktat, som han har bedt om at få omdelt i de nationale parlamenter. Leinen ønsker, at forslaget skal danne rammerne for en ny debat om Forfatningstraktatens videre skæbne.

Forslaget er udarbejdet sammen med professor Roland Bieber fra Jean-Monnet Centeret ved Lausanne Universitet.

Leinens forslag opdeler traktaten i to dele – en grundlæggende traktat, og en traktat om EU's politikker. Betegnelsen "forfatningstraktat" er dermed blevet fjernet fra teksten. Det skal dog bemærkes, at samtlige nyskabelser fra Forfatningstraktaten er blevet bevaret i teksten.

Teksten er i overensstemmelse med Forfatningsudvalgets betænkning om køreplanen for forfatningsprocessen¹, idet indholdet "er baseret på Forfatningstraktatens indhold, dog præsenteret i en anden form, som tager hensyn til de vanskeligheder, der er opstået i visse medlemsstater".

Deltagelse i Forfatningsudvalgets møder

I forbindelse med mødet mellem de danske medlemmer af Europa-Parlamentet og Folketingets Europaudvalg, der fandt sted den 20. april 2007, blev muligheden for Europaudvalgets medlemmers deltagelse i Europa-Parlamentets Forfatningsudvalg diskuteret.

Det kan hermed orienteres, at Europa-Parlamentets formand sendte et brev til Folketingets formand den 28. oktober 2004, hvor medlemmer af de nationale parlamenter blev opfordret til at indgå i en dialog med Forfatningsudvalgets medlemmer om Forfatningstraktaten, gennem aktiv deltagelse i udvalgets møder.

Forfatningsudvalgets sekretariat har meddelt Folketingets repræsentant, at såfremt medlemmer af Europaudvalget har et konkret ønske om at deltage i et kommende møde i Forfatningsudvalget, vil sekretariatet gerne tage kontakte til Forfatningsudvalgets formænd for at aftale et formelt besøg i udvalget. Det er blevet bekræftet, at udvalgets invitation stadig er gældende.

Da udvalgets møder ellers er åbne, er der naturligvis altid mulighed for at overvære et møde i Forfatningsudvalget uden taleret.

Det kan orienteres, at Forfatningsudvalget – til dets møde den 26. - 27. juni 2007 – planlægger at drøfte resultaterne af det kommende møde i Det Europæiske Rådsmøde (21. - 22. juni), hvor tidsplanen for Forfatningstraktaten forventes at blive vedtaget.

¹ Om køreplanen for Unionens forfatningsproces – udarbejdet af Enrique Barón Crespo og Elmar Brok:
http://www.europarl.europa.eu/meetdocs/2004_2009/documents/pr/662/662727/662727da.pdf

Foreløbig oversigt over kommende møder i Forfatningsudvalget*

Dato	Tidspunkt	Sted
21/05/2007	Kl. 19.00	Strasbourg, mødelokale: LOW N1.3
07/06/2007	Kl. 15.00	Bruxelles, mødelokale: A3G-2
25/06/2007	Kl. 09.00	Bruxelles, mødelokale: P5B001
26/06/2007	Kl. 15.00	Bruxelles, mødelokale: P5B001
16/07/2007	Kl. 15.00	Bruxelles, mødelokale: A3G-3
17/07/2007	Kl. 09.00	Bruxelles, mødelokale: A5G-2

*Der tages forbehold for evt. ændringer i møderækken. En opdateret mødeoversigt er tilgængelig på følgende side:

<http://www.europarl.europa.eu/activities/expert/committees/meetings.do?committee=2364&language=DA>

Med venlig hilsen

Mongin Forrest
(11168)

Jo Leinen

Member of the European Parliament

Proposal for a solution of the constitutional crisis

- 1. EUROPEAN FUNDAMENTAL TREATY**
- 2. TREATY ON THE POLICIES OF THE EU**

Protocols:

European Charter of Fundamental Rights
Climate Protection-Policy of the EU
Social Europe



Parliamentary Group
of the Party of European
Socialists

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**Fundamental Treaty of the European Union
and
Treaty on the Policies of the European Union**

Proposal for a solution to the Constitutional crisis

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Member of the European Parliament**

**In cooperation with:
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The Jean Monnet Chair of European Law
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Brussels, 10. May 2007

The solution to the Constitutional crisis

A Fundamental Treaty

Treaty on the Policies

Three protocols

The biggest challenge the European Union is confronted with at present is how to solve its Constitutional crisis. 18 EU countries, i.e. two thirds of the member states, have already ratified the Constitution. In 2 member states, referendums were held in which the citizens rejected the draft treaty. To solve the ratification crisis, the best way forward is to simplify the treaty and divide it into a “Fundamental Treaty of the European Union” (hereafter referred to as the Fundamental Treaty), and a “Treaty on the Policies of the European Union” (hereafter referred to as the Treaty on the Policies). Protocols can be annexed so as to help integrate such issues as the fight against climate change and make these treaties more acceptable to European citizens.

During the referendums in France and the Netherlands, two fundamental criticisms were raised. The original Constitution was perceived as being too complex and too wide-ranging. In addition, the name “European Constitution” caused concerns among people fearing the loss of their national identities and increasing the fear of a European Super State. Both issues can be solved:

- The fundamental provisions on the values, objectives, institutions and competences of the EU (Parts I and IV of the European Constitutional Treaty) will be summed up in a shorter and easily understandable “Fundamental Treaty of the European Union”, which will only include 70 articles.

- The Charter of Fundamental Rights (Part II of the Constitutional Treaty) will be made legally binding by means of a relevant article in the Fundamental Treaty (Art. 9), with the full text of the Charter becoming a protocol.
- The Union's policies (Part III of the Constitutional Treaty) will be defined in a separate "Treaty on the Policies of the European Union", which will be however intrinsically linked to the Fundamental Treaty. It will be based on the Nice Treaty but amended in the light of the new provisions of Part III of the Constitution.

Since the signing of the "Treaty establishing a Constitution for Europe" in October 2004 in Rome, decisions on tackling climate changes have been taken in the EU and thus a new leaf has been turned regarding the future of EU policies. The intergovernmental conference has to integrate climate change policy into the treaties. I suggest the addition of a "Protocol on Climate Change" as an annex to the Treaty on the Policies.

The draft constitutional treaty also raised another important concern, not only in the framework of the referendum in France but also in the discussions in other member states: according to its critics, the text did not sufficiently emphasise the social dimension of the EU. The intergovernmental conference has to address this issue. Either it should choose to present the progress and innovations introduced in the Constitutional Treaty on social aspects in a clearer manner in a declaration on the "Social Europe", or more substance should be given to European social policy in a new "Social Protocol".

Jo Leinen

Note: The present paper only contains the text of the Fundamental Treaty, with some explanatory notes on the Treaty on the Policies, the protocols and the changes to the EC Treaty. For the full proposal on a "Treaty on the Policies of the European Union" as well as on a model-Treaty for amending the current EC Treaty, please refer to my website: www.joleinen.de.

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Fundamental Treaty of the European Union
(Fundamental Treaty)

A) Explanatory note

The proposed text for the Fundamental Treaty is made up of a Preamble and 70 articles. These emerge from the Preamble as well as Articles 1 to 60 (Part I) and 437 to 448 (Part IV) of the Constitutional Treaty. The articles remain unchanged, except for some minor formal adjustments – *which appear in italics*. These adjustments are necessary in order to divide the Constitution into a Fundamental Treaty, a Treaty on the Policies and the protocols. For instance, Article 9, paragraph 1 is phrased in a way that it still refers to the Charter of Fundamental Rights, but corresponds to the new structure. Accordingly all references to Part III of the Constitutional Treaty are replaced by a mention to the Treaty on the Policies.

Moreover, Article 61 (Art. 437 of the Constitutional Treaty) has been changed, since the EC Treaty will not be repealed but adapted to the structure and content of Part III of the Constitutional Treaty and transformed into a "Treaty on the Policies of the European Union". The EU Treaty will however be repealed and replaced with the proposed Fundamental Treaty, since the latter encompasses most of the provisions of the former.

The rules on the simplified revision procedure of the original Part III of the Constitution (Articles 444 and 445) are transferred to the Treaty on the Policies, since these only concern the provisions contained in it (see Article 325 of the act, Part I, point 3).

B) Text

PREAMBLE

DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,

BELIEVING that Europe, reunited after bitter experiences, intends to continue along the path of civilisation, progress and prosperity, for the good of all its inhabitants, including the weakest and most deprived; that it wishes to remain a continent open to culture, learning and social progress; and that it wishes to deepen the democratic and transparent nature of its public life, and to strive for peace, justice and solidarity throughout the world,

CONVINCED that, while remaining proud of their own national identities and history, the peoples of Europe are determined to transcend their former divisions and, united ever more closely, to forge a common destiny,

CONVINCED that, thus 'United in diversity', Europe offers them the best chance of pursuing, with due regard for the rights of each individual and in awareness of their responsibilities towards future generations and the Earth, the great venture which makes of it a special area of human hope,

DETERMINED to continue the work accomplished within the framework of the Treaties establishing the European Communities and the Treaty on European Union, by ensuring the continuity of the Community acquis,

GRATEFUL to the members of the European Convention for having prepared the draft of this *Fundamental Treaty of the European Union* on behalf of the citizens and States of Europe,

HAVE DESIGNATED AS THEIR PLENIPOTENTIARIES: ...

WHO, having exchanged their full powers, found in good and due form, have agreed as follows:

TITLE I

DEFINITION AND OBJECTIVES OF THE UNION

Article 1

Establishment of the Union

(1) Reflecting the will of the citizens and States of Europe to build a common future, this *Fundamental Treaty of the European Union (Fundamental Treaty)* establishes the European Union, on which the Member States confer competences to attain objectives they have in common. The Union shall coordinate the policies by which the Member States aim to achieve these objectives, and shall exercise on a Community basis the competences they confer on it.

(2) The Union shall be open to all European States which respect its values and are committed to promoting them together.

Article 2

The Union's values

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article 3

The Union's objectives

(1) The Union's aim is to promote peace, its values and the well-being of its peoples.

(2) The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, and an internal market where competition is free and undistorted.

(3) The Union shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

(4) In its relations with the wider world, the Union shall uphold and promote its values and interests. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

(5) The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the *Fundamental Treaty*.

Article 4

Fundamental freedoms and non-discrimination

(1) The free movement of persons, services, goods and capital, and freedom of establishment shall be guaranteed within and by the Union, in accordance with the *Fundamental Treaty*.

(2) Within the scope of the *Fundamental Treaty*, and without prejudice to any of its specific provisions, any discrimination on grounds of nationality shall be prohibited.

Article 5

Relations between the Union and the Member States

(1) The union shall respect the equality of Member States before the *Fundamental Treaty* as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security.

(2) Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the *Fundamental Treaty*.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the *Fundamental Treaty* or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

Article 6

Union law

The *Fundamental Treaty* and law adopted by the institutions of the Union in exercising competences conferred on it shall have primacy over the law of the Member States.

Article 7

Legal personality

The Union shall have legal personality.

Article 8

The symbols of the Union

The flag of the Union shall be a circle of twelve golden stars on a blue background.

The anthem of the Union shall be based on the 'Ode to Joy' from the Ninth Symphony by Ludwig van Beethoven.

The motto of the Union shall be: 'United in diversity'.

The currency of the Union shall be the euro.

Europe day shall be celebrated on 9 May throughout the Union.

TITLE II

FUNDAMENTAL RIGHTS AND CITIZENSHIP OF THE UNION

Article 9

Fundamental rights

(1) The Union shall recognise the rights, freedoms and principles set out in *the Protocol "Charter of Fundamental Rights", annexed to the Fundamental Treaty*.

(2) The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the *Fundamental Treaty*.

(3) Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

Article 10

Citizenship of the Union

(1) Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship and shall not replace it.

(2) Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the *Fundamental Treaty*. They shall have:

(a) the right to move and reside freely within the territory of the Member States;

(b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;

(c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;

(d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the *Fundamental Treaty's* languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the *Fundamental Treaty* and by the measures adopted thereunder.

TITLE III

UNION COMPETENCES

Article 11

Fundamental principles

(1) The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.

(2) Under the principle of conferral, the Union shall act within the limits of the competences conferred upon it by the Member States in the *Fundamental Treaty* to attain the objectives set out in the *Fundamental Treaty*. Competences not conferred upon the Union in the *Fundamental Treaty* remain with the Member States.

(3) Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments shall ensure compliance with that principle in accordance with the procedure set out in that Protocol.

(4) Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the *Fundamental Treaty*.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

Article 12

Categories of competence

(1) When the *Fundamental Treaty* confers on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.

(2) When the *Fundamental Treaty* confers on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised, or has decided to cease exercising, its competence.

(3) The Member States shall coordinate their economic and employment policies within arrangements as determined by *the Treaty on the Policies of the European Union, hereinafter referred to as Treaty on the Policies*, which the Union shall have competence to provide.

(4) The Union shall have competence to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.

(5) In certain areas and under the conditions laid down in the *Fundamental Treaty*, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

Legally binding acts of the Union adopted on the basis of the provisions in *the Treaty on the Policies* relating to these areas shall not entail harmonisation of Member States' laws or regulations.

(6) The scope of and arrangements for exercising the Union's competences shall be determined by the provisions relating to each area in *the Treaty on the Policies*.

Article 13

Areas of exclusive competence

(1) The Union shall have exclusive competence in the following areas:

- (a) customs union;
- (b) the establishing of the competition rules necessary for the functioning of the internal market;
- (c) monetary policy for the Member States whose currency is the Euro;
- (d) the conservation of marine biological resources under the common fisheries policy;
- (e) common commercial policy.

(2) The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or insofar as its conclusion may affect common rules or alter their scope.

Article 14

Areas of shared competence

- (1) The Union shall share competence with the Member States where the *Fundamental Treaty* confers on it a competence which does not relate to the areas referred to in Articles 13 and 17.
- (2) Shared competence between the Union and the Member States applies in the following principal areas:
- (a) internal market;
 - (b) social policy, for the aspects defined in *the Treaty on the Policies* ;
 - (c) economic, social and territorial cohesion;
 - (d) agriculture and fisheries, excluding the conservation of marine biological resources;
 - (e) environment;
 - (f) consumer protection;
 - (g) transport;
 - (h) trans-European networks;
 - (i) energy;
 - (j) area of freedom, security and justice;
 - (k) common safety concerns in public health matters, for the aspects defined in *the Treaty on the Policies* .
- (3) In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.
- (4) In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

Article 15

The coordination of economic and employment policies

- (1) The Member States shall coordinate their economic policies within the Union. To this end, the Council of Ministers shall adopt measures, in particular broad guidelines for these policies.

Specific provisions shall apply to those Member States whose currency is the Euro.

- (2) The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.
- (3) The Union may take initiatives to ensure coordination of Member States' social policies.

Article 16

The common foreign and security policy

(1) The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

(2) Member States shall actively and unreservedly support the Union's common foreign and security policy in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area. They shall refrain from action contrary to the Union's interests or likely to impair its effectiveness.

Article 17

Areas of supporting, coordinating or complementary action

The Union shall have competence to carry out supporting, coordinating or complementary action.

The areas of such action shall, at European level, be:

- (a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;
- (e) education, youth, sport and vocational training;
- (f) civil protection;
- (g) administrative cooperation.

Article 18

Flexibility clause

(1) If action by the Union should prove necessary, within the framework of the policies defined in *the Treaty on the Policies*, to attain one of the objectives set out in the *Fundamental Treaty*, and the *Fundamental Treaty* has not provided the necessary powers, the Council of Ministers, acting unanimously on a proposal from the European Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures.

(2) Using the procedure for monitoring the subsidiarity principle referred to in Article 11(3), the European Commission shall draw national Parliaments' attention to proposals based on this Article.

(3) Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the *Fundamental Treaty* excludes such harmonisation.

TITLE IV THE UNION'S INSTITUTIONS AND BODIES

CHAPTER I THE INSTITUTIONAL FRAMEWORK

Article 19

The Union's institutions

- (1) The Union shall have an institutional framework which shall aim to:
- promote its values,
 - advance its objectives,
 - serve its interests, those of its citizens and those of the Member States,
 - ensure the consistency, effectiveness and continuity of its policies and actions.

This institutional framework comprises:

- The European Parliament,
- The European Council,
- The Council of Ministers (hereinafter referred to as the ‘Council’),
- The European Commission (hereinafter referred to as the ‘Commission’),
- The Court of Justice of the European Union.

(2) Each institution shall act within the limits of the powers conferred on it in the *Fundamental Treaty*, and in conformity with the procedures and conditions set out in it. The institutions shall practise mutual sincere cooperation.

(3) *The composition and the authority of the Union's institutions are defined in this article and in the Treaty on the Policies.*

Article 20

The European Parliament

(1) The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the *Fundamental Treaty*. It shall elect the President of the Commission.

(2) The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a European decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.

(3) The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.

(4) The European Parliament shall elect its President and its officers from among its members.

Article 21

The European Council

(1) The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.

(2) The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The Union Minister for Foreign Affairs shall take part in its work.

(3) The European Council shall meet quarterly, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.

(4) Except where the *Fundamental Treaty* provides otherwise, decisions of the European Council shall be taken by consensus.

Article 22

The European Council President

(1) The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end his or her term of office in accordance with the same procedure.

(2) The President of the European Council:

(a) shall chair it and drive forward its work;

(b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;

(c) shall endeavour to facilitate cohesion and consensus within the European Council;

(d) shall present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his or her level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the Union Minister for Foreign Affairs.

(3) The President of the European Council shall not hold a national office.

Article 23

The Council of Ministers

- (1) The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the *Fundamental Treaty*.
- (2) The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
- (3) The Council shall act by a qualified majority except where the *Fundamental Treaty* provides otherwise.

Article 24

Configurations of the Council of Ministers

- (1) The Council shall meet in different configurations.
- (2) The General Affairs Council shall ensure consistency in the work of the different Council configurations.
It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.
- (3) The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.
- (4) The European Council shall adopt by a qualified majority a European decision establishing the list of other Council configurations.
- (5) A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.
- (6) The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.
- (7) The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established by a European decision of the European Council. The European Council shall act by a qualified majority.

Article 25

Definition of qualified majority within the European Council and the Council

- (1) A qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.
A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

(2) By way of derogation from paragraph 1, when the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.

(3) Paragraphs 1 and 2 shall apply to the European Council when it is acting by a qualified majority.

(4) Within the European Council, its President and the President of the Commission shall not take part in the vote.

Article 26

The European Commission

(1) The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the *Fundamental Treaty*, and measures adopted by the institutions pursuant to the *Fundamental Treaty*. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the *Fundamental Treaty*. With the exception of the common foreign and security policy, and other cases provided for in the *Fundamental Treaty*, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

(2) Union legislative acts may be adopted only on the basis of a Commission proposal, except where the *Fundamental Treaty* provides otherwise. Other acts shall be adopted on the basis of a Commission proposal where the *Fundamental Treaty* so provides.

(3) The Commission's term of office shall be five years.

(4) The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

(5) The first Commission appointed under the provisions of the *Fundamental Treaty* shall consist of one national of each Member State, including its President and the Union Minister for Foreign Affairs who shall be one of its Vice-Presidents.

(6) As from the end of the term of office of the Commission referred to in paragraph 5, the Commission shall consist of a number of members, including its President and the Union Minister for Foreign Affairs, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be selected from among the nationals of the Member States on the basis of a system of equal rotation between the Member States. This system shall be established by a European decision adopted unanimously by the European Council and on the basis of the following principles:

(a) Member states shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the commission; consequently,

the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;

(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States.

(7) In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 28(2), the members of the Commission shall neither seek nor take instructions from any government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

(8) The Commission, as a body, shall be responsible to the European Parliament. In accordance with *Article 227 of the Treaty on the Policies*, the European Parliament may vote on a censure motion on the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the Union Minister for Foreign Affairs shall resign from the duties that he or she carries out in the Commission.

Article 27

The President of the European Commission

(1) Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he or she does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

(2) The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in Article 26 (4) and (6), second subparagraph.

The President, the Union Minister for Foreign Affairs and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

(3) The President of the Commission shall:

(a) lay down guidelines within which the Commission is to work;

(b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;

(c) appoint Vice-Presidents, other than the Union Minister for Foreign Affairs, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The Union Minister for Foreign Affairs shall resign, in accordance with the procedure set out in article 28(1), if the President so requests.

Article 28

The Union Minister for Foreign Affairs

- (1) The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the Union Minister for Foreign Affairs. The European Council may end his or her term of office by the same procedure.
- (2) The Union Minister for Foreign Affairs shall conduct the Union's common foreign and security policy. He or she shall contribute by his or her proposals to the development of that policy, which he or she shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.
- (3) The Union Minister for Foreign Affairs shall preside over the Foreign Affairs Council.
- (4) The Union Minister for Foreign Affairs shall be one of the Vice-Presidents of the Commission. He or she shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the Union Minister for Foreign Affairs shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.

Article 29

The Court of Justice of the European Union

- (1) The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the *Fundamental Treaty* the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

- (2) The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General.

The General Court shall include at least one judge per Member State.

The Judges and the Advocates-General of the Court of Justice and the Judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in *Articles 242 and 243 of the Treaty on the Policies*. They shall be appointed by common accord of the governments of the Member States for six years. Retiring Judges and Advocates-General may be reappointed.

- (3) The Court of Justice of the European Union shall in accordance with *the Treaty on the Policies*:

- (a) rule on actions brought by a Member State, an institution or a natural or legal person;
- (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;
- (c) rule in other cases provided for in the *Fundamental Treaty*.

CHAPTER II
THE OTHER UNION INSTITUTIONS AND ADVISORY BODIES

Article 30

The European Central Bank

(1) The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks. The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.

(2) The European System of Central Banks shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the European System of Central Banks shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives. It shall conduct other Central Bank tasks in accordance with *the Treaty on the Policies* and the Statute of the European System of Central Banks and of the European Central Bank.

(3) The European Central Bank is an institution. It shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

(4) The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with *Articles 72 to 79 and Article 83 of the Treaty on the Policies*, and with the conditions laid down in the Statute of the European System of Central Banks and of the European Central Bank. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.

(5) Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.

(6) The decision-making organs of the European Central Bank, their composition and operating methods are set out in *Articles 269 and 270 of the Treaty on the Policies*, as well as in the Statute of the European System of Central Banks and of the European Central Bank.

Article 31

The Court of Auditors

(1) The Court of Auditors is an institution. It shall carry out the Union's audit.

(2) It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.

(3) It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.

Article 32

The Union's advisory bodies

- (1) The European Parliament, the Council and the Commission shall be assisted by a Committee of the Regions and an Economic and Social Committee, exercising advisory functions.
- (2) The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.
- (3) The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socioeconomic, civic, professional and cultural areas.
- (4) The members of the Committee of the Regions and the Economic and Social Committee shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.
- (5) Rules governing the composition of these Committees, the designation of their members, their powers and their operations are set out in *Articles 273 to 279 of the Treaty on the Policies*.

The rules referred to in paragraphs 2 and 3 governing the nature of their composition shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt European decisions to that end.

TITLE V

EXERCISE OF UNION COMPETENCE

CHAPTER I

COMMON PROVISIONS

Article 33

The legal acts of the Union

- (1) To exercise the Union's competences the institutions shall use as legal instruments, in accordance with *the Treaty on the Policies*, European laws, European framework laws, European regulations, European decisions, recommendations and opinions.

A European law shall be a legislative act of general application. It shall be binding in its entirety and directly applicable in all Member States.

A European framework law shall be a legislative act binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European regulation shall be a non-legislative act of general application for the implementation of legislative acts and of certain provisions of the *Fundamental Treaty*. It may either be binding in its entirety and directly applicable in all Member States, or be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A European decision shall be a non-legislative act, binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

(2) When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question.

Article 34

Legislative acts

(1) European laws and framework laws shall be adopted, on the basis of proposals from the Commission, jointly by the European Parliament and the Council under the ordinary legislative procedure as set out in *Article 238 of the Treaty on the Policies*. If the two institutions cannot reach agreement on an act, it shall not be adopted.

(2) In the specific cases provided for in the *Fundamental Treaty*, European laws and framework laws shall be adopted by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, in accordance with special legislative procedures.

(3) In the specific cases provided for in the *Fundamental Treaty*, European laws and framework laws may be adopted at the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

Article 35

Non-legislative acts

(1) The European Council shall adopt European decisions in the cases provided for in the *Fundamental Treaty*.

(2) The Council and the Commission, in particular in the cases referred to in Articles 36 and 37, and the European Central Bank in the specific cases provided for in the *Fundamental Treaty*, shall adopt European regulations and decisions.

(3) The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the *Fundamental Treaty* provides that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act.

The Commission, and the European Central Bank in the specific cases provided for in the *Fundamental Treaty*, shall adopt recommendations.

Article 36

Delegated European regulations

(1) European laws and framework laws may delegate to the Commission the power to adopt delegated European regulations to supplement or amend certain non-essential elements of the law or framework law.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the European laws and framework laws. The essential elements of an area shall be reserved for the European law or framework law and accordingly shall not be the subject of a delegation of power.

(2) European laws and framework laws shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated European regulation may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the European law or framework law.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

Article 37

Implementing acts

(1) Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

(2) Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Article 40, on the Council.

(3) For the purposes of paragraph 2, European laws shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

(4) Union implementing acts shall take the form of European implementing regulations or European implementing decisions.

Article 38

Principles common to the Union's legal acts

(1) Where the *Fundamental Treaty* does not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality referred to in Article 11.

(2) Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the *Fundamental Treaty*.

Article 39

Publication and entry into force

(1) European laws and framework laws adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

In other cases they shall be signed by the President of the institution which adopted them.

European laws and framework laws shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following their publication.

(2) European regulations, and European decisions which do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

European regulations, and European decisions when the latter do not specify to whom they are addressed, shall be published in the Official Journal of the European Union and shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

(3) European decisions other than those referred to in paragraph 2 shall be notified to those to whom they are addressed and shall take effect upon such notification.

CHAPTER II
SPECIFIC PROVISIONS

Article 40

Specific provisions relating to the common foreign and security policy

(1) The European Union shall conduct a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.

(2) The European Council shall identify the Union's strategic interests and determine the objectives of its common foreign and security policy. The Council shall frame this policy within the framework of the strategic guidelines established by the European Council and in accordance with *the Treaty on the Policies*.

(3) The European Council and the Council shall adopt the necessary European decisions.

(4) The common foreign and security policy shall be put into effect by the Union Minister for Foreign Affairs and by the Member States, using national and Union resources.

(5) Member States shall consult one another within the European Council and the Council on any foreign and security policy issue which is of general interest in order to determine a common approach. Before undertaking any action on the international scene or any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.

(6) European decisions relating to the common foreign and security policy shall be adopted by the European Council and the Council unanimously, except in the cases referred to in *the Treaty on the Policies*. The European Council and the Council shall act on an initiative from a Member State, on a proposal from the Union Minister for Foreign Affairs or on a proposal from that Minister with the Commission's support. European laws and framework laws shall be excluded.

(7) The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority in cases other than those referred to in *the Treaty on the Policies*.

(8) The European Parliament shall be regularly consulted on the main aspects and basic choices of the common foreign and security policy. It shall be kept informed of how it evolves.

Article 41

Specific provisions relating to the common security and defence policy

(1) The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civil and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.

(2) The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

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

(3) Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. An Agency in the field of defence capabilities development, research, acquisition and armaments (European Defence Agency) shall be established to identify operational requirements, to promote measures to satisfy those requirements, to contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, to participate in defining a European capabilities and armaments policy, and to assist the Council in evaluating the improvement of military capabilities.

(4) European decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the Union Minister for Foreign Affairs or an initiative from a Member State. The Union Minister for Foreign Affairs may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

(5) The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by *Article 197 of the Treaty on the Policies*.

(6) Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by *Article 199 of the Treaty on the Policies*. It shall not affect the provisions of *Article 196 of the Treaty on the Policies*.

(7) If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.

(8) The European Parliament shall be regularly consulted on the main aspects and basic choices of the common security and defence policy. It shall be kept informed of how it evolves.

Article 42

Specific provisions relating to the area of freedom, security and justice

(1) The Union shall constitute an area of freedom, security and justice:

(a) by adopting European laws and framework laws intended, where necessary, to approximate laws and regulations of the Member States in the areas referred to in *the Treaty on the Policies*;

(b) by promoting mutual confidence between the competent authorities of the Member States, in particular on the basis of mutual recognition of judicial and extrajudicial decisions;

(c) by operational cooperation between the competent authorities of the Member States, including the police, customs and other services specialising in the prevention and detection of criminal offences.

(2) National Parliaments may, within the framework of the area of freedom, security and justice, participate in the evaluation mechanisms provided for in *Article 147 of the Treaty on the Policies*. They shall be involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with *Article 163 and Article 160 of the Treaty on the Policies*.

(3) Member States shall have a right of initiative in the field of police and judicial cooperation in criminal matters, in accordance with *Article 151 of the Treaty on the Policies*.

Article 43

Solidarity clause

(1) The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

- (a) — prevent the terrorist threat in the territory of the Member States;
— protect democratic institutions and the civilian population from any terrorist attack;
— assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
- (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

(2) The detailed arrangements for implementing this Article are set out in *Article 216 of the Treaty on the Policies*.

CHAPTER III

ENHANCED COOPERATION

Article 44

Enhanced cooperation

(1) Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the *Fundamental Treaty*, subject to the limits and in accordance with the procedures laid down in this Article and in the *Articles 303 to 310 of the Treaty on the Policies*.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with *Article 305 of the Treaty on the Policies*.

(2) The European decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least one third of the Member States participate in it. The Council shall act in accordance with the procedure laid down in *Article 306 of the Treaty on the Policies*.

(3) All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

By way of derogation from the third and fourth subparagraphs, where the Council does not act on a proposal from the Commission or from the Union Minister for Foreign Affairs, the required qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

(4) Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the *acquis* which has to be accepted by candidate States for accession to the Union.

TITLE VI THE DEMOCRATIC LIFE OF THE UNION

Article 45

The principle of democratic equality

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.

Article 46

The principle of representative democracy

(1) The functioning of the Union shall be founded on representative democracy.

(2) Citizens are directly represented at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

(3) Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.

(4) Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

Article 47

The principle of participatory democracy

- (1) The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
- (2) The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.
- (3) The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.
- (4) Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the *Fundamental Treaty*. European laws shall determine the provisions for the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which such citizens must come.

Article 48

The social partners and autonomous social dialogue

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.

Article 49

The European Ombudsman

A European Ombudsman elected by the European Parliament shall receive, examine and report on complaints about maladministration in the activities of the Union institutions, bodies, offices or agencies, under the conditions laid down in the *Fundamental Treaty*. The European Ombudsman shall be completely independent in the performance of his or her duties.

Article 50

Transparency of the proceedings of Union institutions, bodies, offices and agencies

- (1) In order to promote good governance and ensure the participation of civil society, the Union institutions, bodies, offices and agencies shall conduct their work as openly as possible.
- (2) The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.

(3) Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State shall have, under the conditions laid down in *the Treaty on the Policies*, a right of access to documents of the Union institutions, bodies, offices and agencies, whatever their medium.

European laws shall lay down the general principles and limits which, on grounds of public or private interest, govern the right of access to such documents.

(4) Each institution, body, office or agency shall determine in its own rules of procedure specific provisions regarding access to its documents, in accordance with the European laws referred to in paragraph 3.

Article 51

Protection of personal data

(1) Everyone has the right to the protection of personal data concerning him or her.

(2) European laws or framework laws shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

Article 52

Status of churches and non-confessional organisations

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

(2) The Union equally respects the status under national law of philosophical and non-confessional organisations.

(3) Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

TITLE VII

THE UNION'S FINANCES

Article 53

Budgetary and financial principles

(1) All items of Union revenue and expenditure shall be included in estimates drawn up for each financial year and shall be shown in the Union's budget, in accordance with *the Treaty on the Policies*.

(2) The revenue and expenditure shown in the budget shall be in balance.

(3) The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the European law referred to in *Article 299 of the Treaty on the Policies*.

(4) The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the European law referred to in *Article 299 of the Treaty on the Policies*, except in cases for which that law provides.

(5) With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in *Article 299 of the Treaty on the Policies*.

(6) The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

(7) The Union and the Member States, in accordance with *Article 302 of the Treaty on the Policies*, shall counter fraud and any other illegal activities affecting the financial interests of the Union.

Article 54

The Union's own resources

(1) The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

(2) Without prejudice to other revenue, the Union's budget shall be financed wholly from its own resources.

(3) A European law of the Council shall lay down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. The Council shall act unanimously after consulting the European Parliament. That law shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

(4) A European law of the Council shall lay down implementing measures of the Union's own resources system insofar as this is provided for in the European law adopted on the basis of paragraph 3. The Council shall act after obtaining the consent of the European Parliament.

Article 55

The multiannual financial framework

(1) The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources. It shall determine the amounts of the annual ceilings of appropriations for commitments by category of expenditure in accordance with *Article 289 of the Treaty on the Policies*.

(2) A European law of the Council shall lay down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

- (3) The annual budget of the Union shall comply with the multiannual financial framework.
- (4) The European Council may, unanimously, adopt a European decision authorising the Council to act by a qualified majority when adopting the European law of the Council referred to in paragraph 2.

Article 56

The Union's budget

A European law shall establish the Union's annual budget in accordance with *Article 291 of the Treaty on the Policies*.

TITLE VIII

THE UNION AND ITS NEIGHBOURS

Article 57

The Union and its neighbours

- (1) The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.
- (2) For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

TITLE IX

UNION MEMBERSHIP

Article 58

Conditions of eligibility and procedure for accession to the Union

- (1) The Union shall be open to all European States which respect the values referred to in Article 2, and are committed to promoting them together.
- (2) Any European State which wishes to become a member of the Union shall address its application to the Council. The European Parliament and national Parliaments shall be notified of this application. The Council shall act unanimously after consulting the Commission and after obtaining the consent of the European Parliament, which shall act by a majority of its component members.

The conditions and arrangements for admission shall be the subject of an agreement between the Member States and the candidate State. That agreement shall be subject to ratification by each contracting State, in accordance with its respective constitutional requirements.

Article 59

Suspension of certain rights resulting from Union membership

(1) On the reasoned initiative of one third of the Member States or the reasoned initiative of the European Parliament or on a proposal from the Commission, the Council may adopt a European decision determining that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2. The Council shall act by a majority of four fifths of its members after obtaining the consent of the European Parliament.

Before making such a determination, the Council shall hear the Member State in question and, acting in accordance with the same procedure, may address recommendations to that State.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

(2) The European Council, on the initiative of one third of the Member States or on a proposal from the Commission, may adopt a European decision determining the existence of a serious and persistent breach by a Member State of the values mentioned in Article 2, after inviting the Member State in question to submit its observations. The European Council shall act unanimously after obtaining the consent of the European Parliament.

(3) Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may adopt a European decision suspending certain of the rights deriving from the application of the *Fundamental Treaty* to the Member State in question, including the voting rights of the member of the Council representing that State. The Council shall take into account the possible consequences of such a suspension for the rights and obligations of natural and legal persons.

In any case, that State shall continue to be bound by its obligations under the *Fundamental Treaty*.

(4) The Council, acting by a qualified majority, may adopt a European decision varying or revoking measures adopted under paragraph 3 in response to changes in the situation which led to their being imposed.

(5) For the purposes of this Article, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2. Abstentions by members present in person or represented shall not prevent the adoption of European decisions referred to in paragraph 2.

For the adoption of the European decisions referred to in paragraphs 3 and 4, a qualified majority shall be defined as at least 72 % of the members of the Council, representing the participating Member States, comprising at least 65 % of the population of these States.

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3, the Council acts by a qualified majority on the basis of a provision of the *Fundamental Treaty*, that qualified majority shall be defined as in the second subparagraph, or, where the Council acts on a proposal from the Commission or from the Union Minister for Foreign Affairs, as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States. In the latter case, a blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained.

(6) For the purposes of this Article, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component members.

Article 60

Voluntary withdrawal from the Union

(1) Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

(2) A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with *Article 212 of the Treaty on the Policies*. It shall be concluded by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

(3) The *Fundamental Treaty* shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

(4) For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in European decisions concerning it.

A qualified majority shall be defined as at least 72 % of the members of the Council, representing the participating Member States, comprising at least 65 % of the population of these States.

(5) If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 58.

TITLE X

GENERAL AND FINAL PROVISIONS

Article 61

Changes to and repeal of earlier Treaties

(1) The Treaty on European Union and the acts and treaties having supplemented or amended it are repealed on the very day the *Fundamental Treaty* comes into force.

(2) *The Treaty establishing the European Community and the acts and treaties having supplemented or amended it will be replaced by the Treaty on the Policies.*

Article 62

Succession and legal continuity

(1) The European Union established by this Treaty shall be the successor to the European Union established by the Treaty on European Union and to the European Community.

(2) Until new provisions have been adopted in implementation of this Treaty or until the end of their term of office, the institutions, bodies, offices and agencies existing on the date of the entry into force of this Treaty shall, subject to Article 63, exercise their powers within the meaning of this Treaty in their composition on that date.

(3) The acts of the institutions, bodies, offices and agencies adopted on the basis of the treaties and acts repealed by Article 61 shall remain in force. Their legal effects shall be preserved until those acts are repealed, annulled or amended in implementation of this Treaty. The same shall apply to agreements concluded between Member States on the basis of the treaties and acts repealed by Article 61.

The other components of the *acquis* of the Community and of the Union existing at the time of the entry into force of this Treaty, in particular the interinstitutional agreements, decisions and agreements arrived at by the Representatives of the Governments of the Member States, meeting within the Council, the agreements concluded by the Member States on the functioning of the Union or of the Community or linked to action by the Union or by the Community, the declarations, including those made in the context of intergovernmental conferences, as well as the resolutions or other positions adopted by the European Council or the Council and those relating to the Union or to the Community adopted by common accord by the Member States, shall also be preserved until they have been deleted or amended.

(4) The case-law of the Court of Justice of the European Communities and of the Court of First Instance on the interpretation and application of the treaties and acts repealed by Article 61, as well as of the acts and conventions adopted for their application, shall remain, *mutatis mutandis*, the source of interpretation of Union law and in particular of the comparable provisions of the *Fundamental Treaty*.

(5) Continuity in administrative and legal procedures commenced prior to the date of entry into force of this Treaty shall be ensured in compliance with the *Fundamental Treaty*. The institutions, bodies, offices and agencies responsible for those procedures shall take all appropriate measures to that effect.

Article 63

Transitional provisions relating to certain institutions

The transitional provisions relating to the composition of the European Parliament, to the definition of a qualified majority in the European Council and in the Council, including those cases where not all members of the European Council or Council vote, and to the composition of the Commission, including the Union Minister for Foreign Affairs, shall be laid down in the Protocol on the transitional provisions relating to the institutions and bodies of the Union.

Article 64

Scope

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

(2) This Treaty shall apply to Guadeloupe, French Guiana, Martinique, Réunion, the Azores, Madeira and the Canary Islands in accordance with Article 311 of the *Treaty on the Policies*.

(3) The special arrangements for association set out in Title IV of the *Treaty on the Policies* shall apply to the overseas countries and territories listed in Annex II.

This Treaty shall not apply to overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in that list.

(4) This Treaty shall apply to the European territories for whose external relations a Member State is responsible.

(5) This Treaty shall apply to the Åland Islands with the derogations which originally appeared in the Treaty referred to in the *Treaty on the Accession of the Austrian Republic, the Finnish Republic and the Swedish Kingdom* and which have been incorporated in Section 5 of Title V of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

(6) Notwithstanding paragraphs 1 to 5:

(a) this Treaty shall not apply to the Faeroe Islands;

(b) this Treaty shall apply to Akrotiri and Dhekelia, the sovereign base areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, only to the extent necessary to ensure the implementation of the arrangements originally provided for in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, annexed to the Act of Accession which is an integral part of the Treaty referred to in the *Treaty on the Accession of the Czech Republic, the Estonian Republic, the Cypriot Republic, the Latvian Republic, the Lithuanian Republic, the Hungarian Republic, the Maltese Republic, the Polish Republic, the Slovenian Republic, and the Slovak Republic*, and which have been incorporated in Title III of Part II of the Protocol on the Treaty and Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;

(c) this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands originally set out in the Treaty referred to *in the Treaty on the Accession of the Danish Kingdom, Ireland and the United Kingdom Great Britain and Northern Ireland* and which have been incorporated in Section 3 of Title II of the Protocol on the Treaties and Acts of Accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland, of the Hellenic Republic, of the Kingdom of Spain and the Portuguese Republic, and of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

(7) The European Council may, on the initiative of the Member State concerned, adopt a European decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 2 and 3. The European Council shall act unanimously after consulting the Commission.

Article 65

Regional unions

This Treaty shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the said Treaty.

Article 66

Protocols and Annexes

The Protocols and Annexes to this Treaty shall form an integral part thereof.

Article 67

Ordinary revision procedure

(1) The government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of this Treaty. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

(2) If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament and of the Commission. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in paragraph 3.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

(3) A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to this Treaty.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

(4) If, two years after the signature of the treaty amending this Treaty, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.

Article 68

Duration

This Treaty is concluded for an unlimited period.

Article 69

Ratification and entry into force

1. This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. This Treaty shall enter *into force on the first* day of the second month following the deposit of the instrument of ratification by the last signatory State to take this step.

Article 70

Authentic texts and translations

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

2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.

IN WITNESS WHEREOF, the undersigned plenipotentiaries have signed this Treaty.

Protocol I: The Charter of Fundamental Rights of the European Union

Explanatory note:

Some member states have reservations about integrating the full text of the Charter of Fundamental Rights with its own preamble into the text of the treaty. Therefore the Charter will not be incorporated in the Fundamental Treaty, but it will be added separately as a protocol. Thus the Fundamental Treaty remains short and concise while preserving the binding nature of the Charter enshrined in the Constitutional Treaty. In order to add the Charter as a protocol, some minor technical changes are needed to the text and a new numbering system needs to be introduced.

Treaty on the Policies of the European Union
(Treaty on the Policies)

A) Explanatory note

1. The basic reasoning behind the present proposal is that Part III of the Constitution should become a separate treaty as such. To achieve this the EC treaty is used as a starting point since it contains most of the provisions of Part III of the Constitutional Treaty as drafted in 2004. The new treaty will be called “Treaty on the Policies of the European Union”. Changes within the Treaty on the Policies compared to the EC Treaty are the following:
 - The title of the original EC Treaty has been changed, since its objective is no longer to establish a Community but rather to deal with items related to the political fields introduced by the new Fundamental Treaty and the functioning of the Union.
 - The terminology (institutions, acts, procedures) has been changed so as to adapt it to the Fundamental Treaty and for the sake of consistency between the latter and the Treaty on the Policies.
 - The provisions of the present EU Treaty concerning the Common Foreign and Security Policy (CFSP) and Police and Judicial Co-operation in Criminal Matters are integrated into the Treaty on the Policies. The wording of the Constitutional Treaty has been used.
 - The other provisions of the EC Treaty, its layout (order, numbering and subheadings) have been either changed or repealed according to the content of Part III of the Constitutional Treaty.
2. The present proposal makes it possible to preserve the essence of the Constitutional Treaty agreed in 2004 while pointing out that most of the provisions included in Part III of the Constitutional Treaty are already part of the Nice Treaty and have therefore already been ratified by the member states.
3. The Constitutional Treaty is a single treaty made up of four parts, and it completely repeals and replaces the existing treaties. Conversely, the present proposal foresees a split-up into a Fundamental Treaty and a Treaty on the Policies. The two are linked to one another and can only come into force jointly. Annexes can be added to these

treaties, either in the form of protocols or as a statement about issues such as climate change and Social Europe.

4. The following changes to the EC Treaty are necessary:

- Editorial changes have been taken into account (e.g.: Articles 39, 44 and 84 of the EC Treaty and the corresponding articles III-133, III-137 and III-165).
- Sometimes, in order to change the EC Treaty into a “Treaty on the Policies of the European Union”, a renumbering of single paragraphs was required or whole articles needed to be changed into paragraphs in other articles and vice versa.
- Unlike in the Constitutional Treaty in Article IV-437, the existing treaties cannot simply be repealed. Therefore new articles are necessary to regulate the consequences of the introduction of the Fundamental Treaty and the Treaty on the Policies for the existing treaties, with the exception of the EC Treaty. It therefore follows that:
 - o The treaties amending the EC Treaty (such as Amsterdam) remain in force. The same goes for the changes to the Euratom Treaty, which is also maintained.
 - o On the other hand, those parts of the EU Treaty that reappear in the Fundamental Treaty are repealed (see Article 4 paragraph 1 of the proposed Treaty amending the EC Treaty): these are titles I, V, VI, VII and Articles 48 and 49 of the EU Treaty.
- As for the accession treaties, the method foreseen in Article IV-437 paragraph 2 of the Constitutional treaty will be used (see Art. 4 paragraph 2 of our proposal).
- Protocol 36 of the Constitutional Treaty entails all necessary changes to the Euratom Treaty. The content of this protocol is integrated in Article 3 of the proposed Treaty amending the EC Treaty.
- Annexes I and II of the EC Treaty will become part of the Treaty on the Policies. In order to take into account the new numbering, the wording of the titles will be adjusted. This change is a direct consequence of Art. 2 of the proposed Treaty amending the EC Treaty (Renumbering).
- The Fundamental Treaty and the Treaty on the Policies are drafted as a single legal document and have to be ratified and come into force as one.

B) Text

TITLE I PROVISIONS OF GENERAL APPLICATION

Article 1

This Treaty specifies the Politics and the Functioning of the European Union have been established by the Fundamental Treaty of the European Union, hereinafter referred to as "Fundamental Treaty".

Article 2

The Union shall ensure consistency between the policies and activities referred to in this Part, taking all of its objectives into account and in accordance with the principle of conferral of powers.

Article 3

In all the activities referred to in this *Treaty*, the Union shall aim to eliminate inequalities, and to promote equality, between women and men.

Article 4

In defining and implementing the policies and actions referred to in this *Treaty*, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

Article 5

In defining and implementing the policies and activities referred to in this *Treaty*, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 6

Environmental protection requirements must be integrated into the definition and implementation of the policies and activities referred to in this *Treaty*, in particular with a view to promoting sustainable development.

Article 7

Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.

Article 8

In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the requirements of animal welfare, while respecting the legislative or administrative provisions and customs of Member States relating in particular to religious rites, cultural traditions and regional heritage.

Article 9

Without prejudice to *Article 5 of the Fundamental Treaty as well as Articles 53, 54 and 125 of this Treaty* and given the place occupied by services of general economic interest as services to which all in the Union attribute value as well as their role in promoting its social and territorial cohesion, the Union and the Member States, each within their respective competences and within the scope of application of the Constitution, shall take care that such services operate on the basis of principles and conditions, in particular economic and financial conditions, which enable them to fulfil their missions. European laws shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Constitution, to provide, to commission and to fund such services.

[...]

Explanatory notes on the Annexes to the Treaty on the Policies of the European Union

A) Explanatory note to Protocol I: Climate change in Europe

Climate change will be the biggest challenge for the EU for the next decades. The Constitutional Treaty does not go deeply enough into this political question. Also in light of the decisions taken by the Heads of State and Government at the EU Summit in March 2007, this political deficit should be solved by means of a protocol on climate change.

In that protocol the EU must commit itself to defining a vision for a sustainable energy system on the basis of renewable energy and emission-free energy storage, such as hydrogen. Climate policy should be defined as an important task for the EU, and the protocol should set the overall policy objectives and the measures to be taken.

B) Explanatory note to Protocol II: A Social Europe

Many of the Constitution's opponents raised the criticism that the EU is too market-oriented, and that the Constitution would by no means contribute to the development of a social EU. In the protocol on a Social Europe the contradictions between the first and the third part of the Constitutional Treaty (respectively the Fundamental Treaty and the Treaty on the Policies) could be solved. For instance, the principle of full employment and the recognition of the importance of the social market economy could be anchored in both treaties thanks to the protocol. Such a protocol would make it possible to define new objectives for the Union's policies, such as:

- The introduction of social minimum standards, for instance a European-wide minimum wage
- A better coordination of the economic, monetary and social policies, especially in the Eurozone
- A reform of the Growth and Stability Pact, in order to guarantee the equal pursuit of both the objectives of stability and growth.

Annexes

Annex I: Table of equivalence of the EC Treaty and the Treaty on the Policies of the European Union

EC-Treaty	Treaty on the Policies
Preamble (repealed)	-
Art. 1 (repealed)	-
Art. 1 a	Art. 1
Art. 2 (repealed)	-
Art. 2 a	Art. 2
Art. 3 § 1 (repealed)	-
Art. 3 § 2	Art. 3
Art. 4	Art. 64
Art. 4 a (new)	Art. 4
Art. 5 (repealed)	-
Art. 5 a (new)	Art. 5
Art. 6	Art. 6
Art. 7 (repealed)	-
Art. 8 (repealed)	-
Art. 9 (repealed)	-
Art. 10 (repealed)	-
Art. 11 (repealed)	-
Art. 11A (repealed)	-
Art. 11 a	Art. 8
Art. 12	Art. 10
Art. 13	Art. 11
Art. 14	Art. 17
Art. 15	Art. 17 § 4
Art. 16	Art. 9
Art. 17 (repealed)	-
Art. 18 § 1 (repealed)	-
Art. 18 § 2 and 3	Art. 12 § 1 and 2
Art. 19	Art. 13
Art. 20	Art. 14
Art. 21	Art. 15
Art. 22	Art. 16
Art. 23	Art. 38 § 1 and 2

EC-Treaty	Treaty on the Policies
Art. 24	Art. 38 § 3
Art. 25	Art. 38 § 4
Art. 26	Art. 38 § 5
Art. 27	Art. 38 § 6
Art. 28	Art. 40
Art. 29 (repealed)	-
Art. 30	Art. 41
Art. 31	Art. 42
[...]	
Art. 39	Art. 20
Art. 40	Art. 21
Art. 41	Art. 22
Art. 42	Art. 23
Art. 43	Art. 24
Art. 44	Art. 25
Art. 45	Art. 26
Art. 46	Art. 27
Art. 47 § 1	Art. 28 § 1
Art. 47 § 3	Art. 28 § 2
Art. 48	Art. 29
Art. 49	Art. 31
Art. 50	Art. 32
Art. 51	Art. 33
Art. 52	Art. 34
Art. 53	Art. 35
Art. 54	Art. 36
Art. 55	Art. 37
Art. 56	Art. 43
Art. 57	Art. 44
Art. 58	Art. 45
Art. 59	Art. 46
Art. 60 (repealed)	-
Art. 60 a	Art. 47

Annex II: Structure of the Treaty on the Policies of the European Union – Titles, Chapters, Sections and Subsections

Title I: Provisions of General Application

Art.1; Art.2; Art.3; Art.4; Art.5; Art.6; Art.7; Art.8; Art.9;

Title II: Non-Discrimination and Citizenship

Art. 10; Art.11; Art.12; Art.13; Art.14; Art.15; Art.16;

Title III: Internal Policies and Action

Chapter I: Internal Market

Section 1: Establishment and functioning of the internal market

Art. 17; Art. 18; Art. 19

Section 2: Free movement of persons and services

Subsection 1: Workers

Art. 20; Art. 21; Art. 22; Art. 23

Subsection 2: Freedom of establishment

Art. 24; Art. 25; Art. 26; Art. 27; Art. 28; Art. 29; Art. 30

Subsection 3: Freedom to provide services

Art. 31; Art. 32; Art. 33; Art. 34; Art. 35; Art. 36; Art. 37

Section 3: Free movement of goods

Subsection 1: Customs union

Art. 38

Subsection 2: Customs cooperation

Art. 39

Subsection 3 — Prohibition of quantitative restrictions

Art. 40; Art. 41; Art. 42

Section 4 — Capital and payments

Art. 43; Art. 44; Art. 45; Art. 46; Art. 47

[...]

Jo Leinen

Member of the European Parliament

Proposal for a solution of the constitutional crisis



- 1. EUROPEAN FUNDAMENTAL TREATY**
- 2. TREATY ON THE POLICIES OF THE EU**

Protocols:

European Charter of Fundamental Rights
Climate Protection-Policy of the EU
Social Europe