

PROTOCOLS

A. PROTOCOL ANNEXED TO THE TREATY ON EUROPEAN UNION AND TO THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES

Protocol on the enlargement of the European Union

THE HIGH CONTRACTING PARTIES

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaties establishing the European Communities:

Article 1

Repeal of the Protocol on the institutions

The Protocol on the institutions with the prospect of enlargement of the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities, is hereby repealed.

Article 2

Provisions concerning the European Parliament

1. On 1 January 2004 and with effect from the start of the 2004-2009 term, in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community, the first subparagraph shall be replaced by the following:

‘The number of representatives elected in each Member State shall be as follows:

Belgium	22
Denmark	13
Germany	99
Greece	22
Spain	50
France	72
Ireland	12
Italy	72
Luxembourg	6
Netherlands	25
Austria	17
Portugal	22
Finland	13
Sweden	18
United Kingdom	72

2. Subject to paragraph 3, the total number of representatives in the European Parliament for the 2004-2009 term shall be equal to the number of representatives specified in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community plus the number of representatives of the new Member States resulting from the accession treaties signed by 1 January 2004 at the latest.

3. If the total number of members referred to in paragraph 2 is less than 732, a pro rata correction shall be applied to the number of representatives to be elected in each Member State, so that the total number is as close as possible to 732, without such a correction leading to the number of representatives to be elected in each Member State being higher than that provided for in Article 190(2) of the Treaty establishing the European Community and in Article 108(2) of the Treaty establishing the European Atomic Energy Community for the 1999-2004 term.

The Council shall adopt a decision to that effect.

4. By way of derogation from the second paragraph of Article 189 of the Treaty establishing the European Community and from the second paragraph of Article 107 of the Treaty establishing the European Atomic Energy Community, in the event of the entry into force of accession treaties after the adoption of the Council decision provided for in the second subparagraph of paragraph 3 of this Article, the number of members of the European Parliament may temporarily exceed 732 for the period for which that decision applies. The same correction as that referred to in the first subparagraph of paragraph 3 of this Article shall be applied to the number of representatives to be elected in the Member States in question.

Article 3

Provisions concerning the weighting of votes in the Council

1. On 1 January 2005:

(a) in Article 205 of the Treaty establishing the European Community and in Article 118 of the Treaty establishing the European Atomic Energy Community:

(i) paragraph 2 shall be replaced by the following:

'2. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as follows:

Belgium	12
Denmark	7
Germany	29
Greece	12
Spain	27
France	29
Ireland	7
Italy	29
Luxembourg	4
Netherlands	13
Austria	10
Portugal	12
Finland	7
Sweden	10
United Kingdom	29

Acts of the Council shall require for their adoption at least 169 votes in favour cast by a majority of the members where this Treaty requires them to be adopted on a proposal from the Commission.

In other cases, for their adoption acts of the Council shall require at least 169 votes in favour, cast by at least two-thirds of the members.'

(ii) the following paragraph 4 shall be added:

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

(b) In Article 23(2) of the Treaty on European Union, the third subparagraph shall be replaced by the following text:

'The votes of the members of the Council shall be weighted in accordance with Article 205(2) of the Treaty establishing the European Community. For their adoption, decisions shall require at least 169 votes in favour cast by at least two-thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.'

(c) In Article 34 of the Treaty on European Union, paragraph 3 shall be replaced by the following:

'3. Where the Council is required to act by a qualified majority, the votes of its members shall be weighted as laid down in Article 205(2) of the Treaty establishing the European Community, and for their adoption acts of the Council shall require at least 169 votes in favour, cast by at least two-thirds of the members. When a decision is to be adopted by the Council by a qualified majority, a member of the Council may request verification that the Member States constituting the qualified majority represent at least 62 % of the total population of the Union. If that condition is shown not to have been met, the decision in question shall not be adopted.'

2. At the time of each accession, the threshold referred to in the second subparagraph of Article 205(2) of the Treaty establishing the European Community and in the second subparagraph of Article 118(2) of the Treaty establishing the European Atomic Energy Community shall be calculated in such a way that the qualified majority threshold expressed in votes does not exceed the threshold resulting from the table in the Declaration on the enlargement of the European Union, included in the Final Act of the Conference which adopted the Treaty of Nice.

Article 4

Provisions concerning the Commission

1. On 1 January 2005 and with effect from when the first Commission following that date takes up its duties, Article 213(1) of the Treaty establishing the European Community and Article 126(1) of the Treaty establishing the European Atomic Energy Community shall be replaced by the following:

'1. The Members of the Commission shall be chosen on the grounds of their general competence and their independence shall be beyond doubt.

The Commission shall include one national of each of the Member States.

The number of Members of the Commission may be altered by the Council, acting unanimously.'

2. When the Union consists of 27 Member States, Article 213(1) of the Treaty establishing the European Community and Article 126(1) of the Treaty establishing the European Atomic Energy Community shall be replaced by the following:

‘1. The Members of the Commission shall be chosen on the grounds of their general competence and their independence shall be beyond doubt.

The number of Members of the Commission shall be less than the number of Member States. The Members of the Commission shall be chosen according to a rotation system based on the principle of equality, the implementing arrangements for which shall be adopted by the Council, acting unanimously.

The number of Members of the Commission shall be set by the Council, acting unanimously.’

This amendment shall apply as from the date on which the first Commission following the date of accession of the twenty-seventh Member State of the Union takes up its duties.

3. The Council, acting unanimously after signing the treaty of accession of the twenty-seventh Member State of the Union, shall adopt:

- the number of Members of the Commission;
- the implementing arrangements for a rotation system based on the principle of equality containing all the criteria and rules necessary for determining the composition of successive colleges automatically 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 college shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States of the Union.

4. Any State which accedes to the Union shall be entitled, at the time of its accession, to have one of its nationals as a Member of the Commission until paragraph 2 applies.

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

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

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

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

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

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

18. Declaration on the Court of Auditors

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

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

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

20. Declaration on the enlargement of the European Union ⁽¹⁾

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

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

1. THE EUROPEAN PARLIAMENT

Member States	EP seats
Germany	99
United Kingdom	72
France	72
Italy	72
Spain	50
Poland	50
Romania	33
Netherlands	25
Greece	22
Czech Republic	20
Belgium	22
Hungary	20
Portugal	22
Sweden	18
Bulgaria	17
Austria	17
Slovakia	13
Denmark	13
Finland	13
Ireland	12
Lithuania	12
Latvia	8
Slovenia	7
Estonia	6
Cyprus	6
Luxembourg	6
Malta	5
Total	732

2. THE WEIGHTING OF VOTES IN THE COUNCIL

Members of the Council	Weighted votes
Germany	29
United Kingdom	29
France	29
Italy	29
Spain	27
Poland	27
Romania	14
Netherlands	13
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	10
Bulgaria	10
Austria	10
Slovakia	7
Denmark	7
Finland	7
Ireland	7
Lithuania	7
Latvia	4
Slovenia	4
Estonia	4
Cyprus	4
Luxembourg	4
Malta	3
Total	345

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

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

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

3. THE ECONOMIC AND SOCIAL COMMITTEE

Member States	Members
Germany	24
United Kingdom	24
France	24
Italy	24
Spain	21
Poland	21
Romania	15
Netherlands	12
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	12
Bulgaria	12
Austria	12
Slovakia	9
Denmark	9
Finland	9
Ireland	9
Lithuania	9
Latvia	7
Slovenia	7
Estonia	7
Cyprus	6
Luxembourg	6
Malta	5
Total	344

4. THE COMMITTEE OF THE REGIONS

Member States	Members
Germany	24
United Kingdom	24
France	24
Italy	24
Spain	21
Poland	21
Romania	15
Netherlands	12
Greece	12
Czech Republic	12
Belgium	12
Hungary	12
Portugal	12
Sweden	12
Bulgaria	12
Austria	12
Slovakia	9
Denmark	9
Finland	9
Ireland	9
Lithuania	9
Latvia	7
Slovenia	7
Estonia	7
Cyprus	6
Luxembourg	6
Malta	5
Total	344

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

Insofar as all the candidate countries listed in the Declaration on the enlargement of the European Union have not yet acceded to the Union when the new vote weightings take effect (1 January 2005), the threshold for a qualified majority will move, according to the pace of accessions, from a percentage below the current one to a maximum of 73,4 %. When all the candidate countries mentioned above have acceded, the blocking minority, in a Union of 27, will be raised to 91 votes, and the qualified majority threshold resulting from the table given in the Declaration on enlargement of the European Union will be automatically adjusted accordingly.

22. Declaration on the venue for European Councils

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

23. Declaration on the future of the Union

1. Important reforms have been decided in Nice. The Conference welcomes the successful conclusion of the Conference of Representatives of the Governments of the Member States and commits the Member States to pursue the early ratification of the Treaty of Nice.
2. It agrees that the conclusion of the Conference of Representatives of the Governments of the Member States opens the way for enlargement of the European Union and underlines that, with ratification of the Treaty of Nice, the European Union will have completed the institutional changes necessary for the accession of new Member States.
3. Having thus opened the way to enlargement, the Conference calls for a deeper and wider debate about the future of the European Union. In 2001, the Swedish and Belgian Presidencies, in cooperation with the Commission and involving the European Parliament, will encourage wide-ranging discussions with all interested parties: representatives of national parliaments and all those reflecting public opinion, namely political, economic and university circles, representatives of civil society, etc. The candidate States will be associated with this process in ways to be defined.
4. Following a report to be drawn up for the European Council in Göteborg in June 2001, the European Council, at its meeting in Laeken/Brussels in December 2001, will agree on a declaration containing appropriate initiatives for the continuation of this process.
5. The process should address, inter alia, the following questions:
 - how to establish and monitor a more precise delimitation of powers between the European Union and the Member States, reflecting the principle of subsidiarity;
 - the status of the Charter of Fundamental Rights of the European Union, proclaimed in Nice, in accordance with the conclusions of the European Council in Cologne;

- a simplification of the Treaties with a view to making them clearer and better understood without changing their meaning;
 - the role of national parliaments in the European architecture.
6. Addressing the abovementioned issues, the Conference recognises the need to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, in order to bring them closer to the citizens of the Member States.
 7. After these preparatory steps, the Conference agrees that a new Conference of the Representatives of the Governments of the Member States will be convened in 2004, to address the abovementioned items with a view to making corresponding changes to the Treaties.
 8. The Conference of Member States shall not constitute any form of obstacle or pre-condition to the enlargement process. Moreover, those candidate States which have concluded accession negotiations with the Union will be invited to participate in the Conference. Those candidate States which have not concluded their accession negotiations will be invited as observers.

24. Declaration on Article 2 of the Protocol on the financial consequences of the expiry of the ECSC Treaty and on the research fund for coal and steel

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