II

*(Acts whose publication is not obligatory)*

# COUNCIL

## COUNCIL DECISION
## of 6 December 1993
## adopting the Council's Rules of Procedure

(93/662/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 151 (3) thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 30 (3) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 121 (3) thereof,

HAS DECIDED AS FOLLOWS:

*Sole Article*

The Rules of Procedure of the Council of 24 July 1979, as amended on 20 July 1987, shall be replaced by the following, which shall enter into force on 7 December 1993:

### 'RULES OF PROCEDURE OF THE COUNCIL

*Article 1*

1. The Council shall meet when convened by its President on his own initiative or at the request of one of its members or of the Commission.

2. The President shall make known the dates which he envisages for meetings of the Council during his period of office as President, seven months before the beginning thereof.

3. In accordance with the Decision taken by common agreement between the Representatives of the Governments of the Member States on 12 December 1992 on the basis of the relevant Articles of the Treaties establishing the European Communities, the Council shall have its seat in Brussels. During the months of April, June and October, the Council shall hold its meetings in Luxembourg.

In exceptional circumstances and for duly substantiated reasons, the Council, acting unanimously, may decide to hold a meeting elsewhere.

*Article 2*

1. The President shall draw up the provisional agenda for each meeting. The agenda shall be sent to the other members of the Council and to the Commission at least 14 days before the beginning of the meeting.

2. The provisional agenda shall contain the items in respect of which a request for inclusion on the agenda, together with any documents relating thereto, has been received by the General Secretariat from a member of the Council or from the Commission at least 16 days before the beginning of that meeting.

The provisional agenda shall also indicate the items on which the Presidency, a member of the Council or the Commission may request a vote.

3. Only items in respect of which the documents have been sent to the members of the Council and to the Commission at the latest by the date on which the provisional agenda is sent may be placed on that agenda.

4. The General Secretariat shall transmit to the members of the Council and to the Commission requests for the inclusion of items in the agenda, documents and indications concerning voting relating thereto in respect of which the time limits specified above were not respected.

5. The agenda shall be adopted by the Council at the beginning of each meeting. The inclusion in the agenda of an item other than those appearing on the provisional agenda shall require unanimity in the Council. Items entered in this way may be put to the vote.

6. The provisional agenda shall be divided into Part A and Part B. Items for which approval of the Council is possible without discussion shall be included in Part A, but this does not exclude the possibility of any member of the Council or of the Commission expressing an opinion at the time of the approval of these items and having statements included in the minutes.

7. However, an "A" item shall be withdrawn from the agenda, unless the Council decides otherwise, if a position on an "A" item might lead to further discussion thereof or if a member of the Council or the Commission so requests.

*Article 3*

Subject to the provisions of Article 7 on the delegation of voting rights, a member of the Council who is prevented from attending a meeting may arrange to be represented.

*Article 4*

1. Meetings of the Council shall not be public except in the cases referred to in Article 6.

2. The Commission shall be invited to take part in meetings of the Council. The Council may, however, decide to deliberate without the presence of the Commission.

3. The members of the Council and of the Commission may be accompanied by officials who assist them. The number of such officials may be laid down by the Council.

The names and functions of such officials shall be notified in advance to the Secretary-General.

4. Admission to meetings of the Council shall be subject to the production of a pass.

*Article 5*

1. Without prejudice to Article 7 (5) and other applicable provisions, the deliberations of the Council shall be covered by the obligation of professional secrecy, except in so far as the Council decides otherwise.

Where the record of a vote in Council is made public in accordance with Article 7 (5), the explanations of vote made when the vote was taken shall also be made public at the request of the Council members concerned, with due regard for these Rules of Procedure, legal certainty and the interests of the Council.

2. The Council may authorize the production of a copy or an extract from its minutes for use in legal proceedings.

*Article 6*

1. The Council shall hold policy debates on the six-monthly work programme submitted by the Presidency and, if appropriate, on the Commission's annual work programme. These debates shall be the subject of public retransmission by audiovisual means.

2. The Council may decide unanimously and on a case-by-case basis that some of its other debates are to be the subject retransmission by audiovisual means, in particular where they concern an important issue affecting the interests of the Union or an important new legislative proposal. To that end, it shall be for the Presidency, any member of the Council, or the Commission to propose issues or specific subjects for such a debate.

*Article 7*

1. The Council shall vote on the initiative of its President.

The President shall, furthermore, be required to open a voting procedure on the initiative of a member of the Council or of the Commission, provided that a majority of the Council's members so decides.

2. The members of the Council shall vote in the order of the Member States laid down in Article 27 of the Treaty establishing the European Coal and Steel Community (ECSC), Article 146 of the Treaty establishing the European Community (EC) and Article 116 of the Treaty establishing the European Atomic Energy Community (EAEC), beginning with the member who, according to that order, follows the member holding the office of President.

3. Delegation of the right to vote may only be made to another member of the Council.

4. The presence of six members of the Council is required to enable the Council to vote.

5. The record of the votes shall be made public:

— when the Council is acting as legislator within the meaning of the term given in the Annex to these Rules of Procedure, unless the Council decides otherwise. This rule shall apply when the Council adopts a common position pursuant to Article 189b or 189c of the Treaty establishing the European Community,

— when they are cast by the members of the Council or their representatives on the Conciliation Committee set up by Article 189b of the Treaty establishing the European Community,

— when the Council acts pursuant to Titles V and VI of the Treaty on European Union by a unanimous Council decision taken at the request of one of its members,

— in other cases, by Council decision taken at the request of one of its members.

*Article 8*

1. Acts of the Council on an urgent matter may be adopted by a written vote where the Council or the Committee of Permanent Representatives of the Member States (Coreper) referred to in Article 30 of the ECSC Treaty, Article 151 of the EC Treaty and Article 121 of the EAEC Treaty, unanimously decides to use that procedure. In special circumstances, the President may also propose the use of that procedure; in such a case, written votes may be used where all members of the Council agree to that procedure.

2. Furthermore, agreement by the Commission to the use of that procedure shall be required where the written vote is on a matter which the Commission has brought before the Council.

3. A summary of acts adopted by the written procedure shall be drawn up every month.

4. On the initiative of the Presidency, the Council may also act for the purpose of implementing the common foreign and security policy by means of the simplified written procedure (Coreu). In that case the proposal shall be deemed to be adopted at the end of the period laid down by the Presidency depending on the urgency of the matter, except where a member of the Council objects.

5. The General Secretariat shall establish that the written procedures have been completed.

*Article 9*

1. Minutes of each meeting shall be drawn up and, when approved, shall be signed by the President-in-Office at the time of such approval and by the Secretary-General.

The minutes shall as a general rule indicate in respect of each item on the agenda:

— the documents submitted to the Council,

— the decisions taken or the conclusions reached by the Council,

— the statements made by the Council and those whose entry has been requested by a member of the Council or the Commission.

2. The draft minutes shall be drawn up by the General Secretariat within 15 days and submitted to the Council for approval.

3. Prior to such approval any member of the Council, or the Commission, may request that more details be inserted in the minutes regarding any item on the agenda.

4. The texts referred to in Article 10 shall be annexed to the minutes.

*Article 10*

1. Except as otherwise decided unanimously by the Council on grounds of urgency, the Council shall deliberate and take decisions only on the basis of documents and drafts drawn up in the languages specified in the rules in force governing languages.

2. Any member of the Council may oppose discussion if the texts of any proposed amendments are not drawn up in such of the languages referred to in paragraph 1 as he may specify.

*Article 11*

The text of the acts adopted by the Council and that of the acts adopted jointly by the European Parliament and the Council shall be signed by the President-in-Office at the time of their adoption and by the Secretary-General. The Secretary-General may delegate his signature to Directors-General of the General Secretariat.

*Article 12*

Regulations adopted jointly by the European Parliament and the Council as well as Council regulations shall include in their title the word "Regulation", as followed by a serial number, by the date of their adoption and by an indication of their subject matter.

*Article 13*

Regulations adopted jointly by the European Parliament and the Council as well as Council regulations shall contain the following:

(a) "The European Parliament and the Council of the European Union" or "The Council of the European Union" as appropriate;

(b) a reference to the provisions under which the Regulation is adopted, preceded by the words "Having regard to";

(c) a citation containing a reference to proposals submitted and opinions obtained and to consultations held;

(d) a statement of the reasons on which the Regulation is based, introduced by the word "Whereas";

(e) the phrase "have adopted this Regulation" or the phrase "has adopted this Regulation", as appropriate, followed by the body of the Regulation.

*Article 14*

1. Regulations shall be divided into Articles, if appropriate grouped into chapters and sections.

2. The last Article of a Regulation shall fix the date of entry into force, where that date is before or after the 20th day following publication.

3. The last Article of a Regulation shall be followed by:

— "This Regulation shall be binding in its entirety and directly applicable in all Member States.",

— "Done at ...", followed by the date on which the Regulation was adopted, and

— in the case of:

(a) a Regulation adopted jointly by the European Parliament and the Council, the formula:

"For the European Parliament The President" "For the Council The President",

followed by the name of the President of the European Parliament and of the President-in-Office of the Council when the Regulation is adopted;

(b) a Council Regulation, the following formula:

"For the Council
The President",

followed by the name of the President-in-Office of the Council at the time when the Regulation is adopted.

*Article 15*

The acts referred to in Article 191 (1) of the EC Treaty and the acts of the Council referred to in Article 191 (2) thereof and in the first paragraph of Article 163 of the EAEC Treaty shall be published in the Official Journal by the Secretary-General. Common positions adopted by the Council in accordance with the procedures referred to in Articles 189b and 189c of the EC Treaty, and the reasons underlying those common positions, shall be published under the same conditions.

*Article 16*

Directives and decisions adopted jointly by the European Parliament and the Council, and directives and decisions of the Council, shall include in their titles the word "Directive" or "Decision".

Recommendations made and opinions delivered by the Council shall include in their titles the word 'recommendation' or 'opinion'.

The provisions relating to Regulations set out in Articles 13 and 14 shall apply *mutatis mutandis*, subject to the relevant provisions of the Treaty, to directives and decisions.

*Article 17*

1. Common positions within the meaning of Article J.2 and joint action within the meaning of Article J.3 of the Treaty on European Union shall bear one of the following headings, as appropriate:

— "Common position defined by the Council on the basis of Article J.2 of the Treaty on European Union";

— "Joint action adopted by the Council on the basis of Article J.3 of the Treaty on European Union".

2. Joint positions, joint action and conventions within the meaning of Article K.3 (2) of the Treaty on European Union shall bear one of the following headings, as appropriate:

— "Joint position defined by the Council on the basis of Article K.3 of the Treaty on European Union",

— "Joint action adopted by the Council on the basis of Article K.3 of the Treaty on European Union",

— "Convention drawn up on the basis of Article K.3 of the Treaty on European Union".

*Article 18*

1. The Secretary-General shall notify Council directives other than those referred to in Article 191 (2) of the EC Treaty and Council decisions and recommendations to their addressees. He shall also notify the joint action adopted or the common positions or joint positions defined on the basis of Articles J.2, J.3 or K.3 of the Treaty on European Union. He may entrust to Directors-General of the General Secretariat the task of attending to such notification on his behalf.

2. The Secretary-General or a Director-General acting on his behalf shall send authentic copies of Council Directives other than those referred to in Article 191 (2) of the EC Treaty and Council decisions and recommendations to the Governments of the Member States and to the Commission.

3. The decision to publish in the Official Journal the common positions and joint positions defined and the joint action adopted on the basis of Articles J.2, J.3 and K.3 of the Treaty on European Union and the measures implementing joint action and any measures implementing the conventions referred to in paragraph 4 shall in each case be taken by the Council acting unanimously when the said instruments are adopted.

4. Conventions drawn up by the Council in accordance with Article K.3 (2) of the Treaty on European Union, shall be published in the Official Journal.

Reference shall be made in the Official Journal to the entry into force of such conventions.

5. The Council shall decide unanimously whether the following should be published in the Official Journal by the Secretary-General :

— directives other than those referred to in Article 191 (1) and (2) of the EC Treaty, Council decisions and recommendations,

— conventions signed between the Member States.

6. Where an agreement concluded between the Communities and one or more States or international organizations sets up a body vested with powers of decision, the Council shall decide, when such an agreement is concluded, whether decisions to be taken by that body should be published in the Official Journal.

*Article 19* (1)

1. The Permanent Representatives Committee (Coreper) shall prepare the work of the Council and shall carry out the tasks assigned to it by the Council. All items on the agenda for a Council meeting shall be examined in advance by Coreper unless the Council decides otherwise. Coreper shall endeavour to reach agreement at its level to be submitted to the Council for adoption. It shall ensure adequate presentation of the dossiers to the Council. In the event of an emergency, the Council, acting unanimously, may decide to settle the matter without prior examination.

2. Committees or working parties may be set up by, or with the approval of, Coreper with a view to carrying out certain preparatory work or studies defined in advance.

(1) These provisions are without prejudice to the role of the Monetary Committee as resulting from Article 109c of the EC Treaty and existing Council decisions relating to it.

3. Coreper shall be presided over, depending on the items on the agenda, by the Permanent Representative or the Deputy Permanent Representative of the Member State which holds the Presidency of the Council. Unless the Council decides otherwise, the various committees provided for in the Treaties shall also be presided over by a delegate of that Member State. The same shall apply to the committees and working parties referred to in paragraph 2, unless Coreper decides otherwise. For the preparation of meetings of Council compositions meeting once every six months and held during the first half of this period, the meetings of committees other than Coreper, and those of working parties held during the preceding six months may be chaired by a delegate of the Member State whose turn it is to chair the said Council meetings.

*Article 20* (1)

Notwithstanding the other provisions of these Rules of Procedure, the Presidency shall organize the meetings of the various committees and working parties so that their reports are availabe before the Coreper meetings at which they are to be examined.

*Article 21*

1. The Council shall be assisted by a General Secretariat under the direction of a Secretary-General. The Secretary-General shall be appointed by the Council acting unanimously.

2. The Council shall determine the organization of the General Secretariat.

Under its authority the Secretary-General shall take all the measures necessary to ensure the smooth running of the General Secretariat.

3. The Secretary-General shall submit to the Council the draft estimate of the expenditure of the Council in sufficient time to ensure that the time limits laid down by the financial provisions are met.

4. In accordance with the provisions of the Financial Regulation referred to in Article 78h of the ECSC Treaty, in Article 209 of the EC Treaty and in Article 183 of the EAEC Treaty, the Secretary-General shall administer the funds placed at the disposal of the Council.

*Article 22*

The detailed arrangements for public access to Council documents disclosure of which is without serious or prejudicial consequences shall be adopted by the Council.

*Article 23*

The rules on security shall be adopted by the Council.

*Article 24*

In the event of the Secretary-General of the Council being designated as depositary of an agreement concluded between the Community and one or more States or international organizations, of a convention concluded between Member States or of a convention drawn up pursuant to Article K.3 of the Treaty on European Union, the acts of ratification, acceptance or approval of those agreements or conventions shall be deposited at the address of the Council.

In such instances the Secretary-General shall perform all the duties of a depositary of a treaty and shall also ensure that the dates of entry into force of such agreements or conventions are published in the Official Journal.

*Article 25*

1. Subject to special procedures, the Council may be represented by the Presidency or by any other of its members before the European Parliament or its committees. The Council may also be represented before those committees by its Secretary-General or by senior officials of the General Secretariat acting on instructions from the Presidency.

2. The Council may also present its views to the European Parliament by means of a written statement.

*Article 26*

Correspondence to the Council shall be sent to the President at the address of the Council.'

Done at Brussels, 6 December 1993.

*For the Council*

*The President*

W. CLAES

*ANNEX*

The Council acts as legislator within the meaning of the first indent of Article 7 (5) when it adopts rules which are legally binding in or for the Member States whether by means of regulations, directives or decisions, on the basis of the relevant provisions of the Treaties, in particular on the basis of Article 43 of the Treaty establishing the European Community or in the framework of the procedures in Article 189b and Article 189c of that Treaty, with the exception of discussions leading to the adoption of internal measures, administrative or budgetary acts, acts concerning inter-institutional or international relations or non-binding acts such as conclusions, recommendations or resolutions. Votes shall not be made public in the case of discussions leading to indicative votes or the adoption of preparatory acts.

## Statements for the Council minutes

(a) *Re Article 2 (1) and (2)*

'The President will endeavour to ensure that, in principle, the provisional agenda for each Council meeting devoted to implementation of the provisions of Title VI of the Treaty on European Union, and the documentation relating to the items on that agenda, are received by the members of the Council at least 21 days before the beginning of the meeting'.

(b) *Re Article 2*

'The Council is aware that common foreign and security policy matters must be dealt with quickly and effectively; taking into account existing practice, which the Council undertakes to continue to follow, the rules under Article 2 do not prevent that requirement being met'.

(c) *Re Article 6 (1)*

'Policy debates on the six-monthly work programme submitted by the Presidency and, if appropriate, on the Commission's work programme will be held in the General Affairs Council and the Economic and Financial Affairs Council. It is for the Presidency to set the timetable'.

(d) *Re Article 6 (2)*

'It is for Coreper to prepare any debates which might be the subject of public retransmission'.

(e) *Re Article 8*

'The Council agrees to consider the desirability of introducing into the Rules of Procedure provision for the use of a simplified written procedure where the Council acts under Title VI of the Treaty on European Union'.

(f) *Re Articles 13 and 16*

'The Council notes the undertaking given by the Commission in the Presidency conclusions of the Edinburgh European Council to justify in a recital in each of its proposals the relevance of the proposal with regard to the principle of subsidiarity'.

(g) *Re Article 15*

'The reasons underlying common positions will be submitted to Coreper and the Council before being published'.

(h) *Re Article 20*

'Working party reports and other documents serving as a basis for Coreper's proceedings should be sent to the Member States in time for them to be examined'.