

INFORMATION NOTE

from : Praesidium

to : The Convention

Subject : Remit of the working party of experts nominated by the Legal Services

At its meeting on 29 January 2003, the Praesidium agreed to ask the Legal Services of the European Parliament, the Council and the Commission to nominate experts to help the Praesidium make technical adjustments for insertion in Part Two of the Constitutional Treaty.

Members of the Convention will find attached:

- in Annex A, the remit as forwarded to the three Legal Services,
- in Annex B, the indicative table prepared by the Convention Secretariat giving an initial idea of what will happen to the provisions of the current Treaties (TEC and TEU).

THE EUROPEAN CONVENTION

Brussels, 29 January 2003

DEPUTY SECRETARY-GENERAL

**Remit of the working party of experts
nominated by the legal services of the three institutions**

1. The Convention has agreed that when its discussions are complete, a single constitutional Treaty, based on an amalgamation of the TEC and the TEU, should be forwarded to the European Council. It is still considering whether to incorporate the EURATOM Treaty into the new Treaty as well.
2. Working on the idea of a single constitutional treaty replacing the TEC and the TEU, the Praesidium last October submitted to the Convention a preliminary draft for the structure of the new treaty, which met with wide support. That preliminary draft now constitutes the starting point for our discussions (CONV 369/02).
3. The Praesidium is in the course of drawing up the articles of the first, "fundamental", part of the treaty, which it will submit to the plenary in sections from the end of January. At the same time, the Praesidium would like work on the second part of the constitutional treaty to press ahead. The Convention Secretariat has already done the groundwork: it has identified what should be done about the various provisions in the TEC and the TEU in the preliminary draft constitutional treaty and about the outline positions which are already emerging from the Convention's discussions (see document annexed hereto). This preliminary work has enabled the various provisions to be classed in four categories:
 - (i) provisions which should remain unchanged (except for numbering and references);
 - (ii) provisions which can already be amended in the light of consensus within the Convention;
 - (iii) provisions which are to be deleted as a result of the Convention's proceedings, or because they have become obsolete;
 - (iv) provisions in need of thorough overhaul (and which must therefore be drafted by the Praesidium) or amendments requiring the Praesidium to decide on preliminary questions on which there is no consensual guidance for the time being.

4. The Praesidium requests a working party of experts nominated by the legal services of the three institutions to take on the task of preparing the texts of the second part of the treaty in respect of provisions in the second and third of these categories, in the light of the following guidance:
- the amendments to be made are primarily the result of the findings of the Working Group on the simplification of legislative procedures and instruments, which were favourably received by the Convention (CONV 424/02). The Working Group found that:
 - qualified-majority voting in Council should be generalised to all cases where the codecision procedure applies (page 14 of the document);
 - the cooperation procedure should be abolished and replaced either by the codecision procedure or by the consultation procedure (simple opinion) (page 16);
 - certain assent procedures should be replaced by codecision (page 17).
- It also found that:
- the name of the legislative instruments should be changed except in cases where a substantive decision is required (page 6);
 - the reference to Article 251 should be replaced by an explicit reference to the codecision procedure (page 15);
 - the EP and the Council should be placed on an equal footing when reference is made to the codecision procedure (page 15);
 - the noun and adjective "Community" should be adapted to the name of the new entity (for the purpose of this exercise, the name "European Union" is maintained).
- the working party should also harmonise the terminology used in the various legal bases to define the decision-making process within the Council (see CONV 424/02, page 7);
 - the working party should also delete those articles designated for deletion or which are obsolete, and is asked to notify the Praesidium, via the Convention Secretariat, of any other such provisions it identifies;

- the working party is also asked to inform the Praesidium, via the Convention Secretariat, of any suggestions for further technical simplification which it considers advisable, such as instances of the merger of certain provisions into a single article, provided that this does not involve substantive amendments. If the working party considers that more wide-ranging simplification may be envisaged, it will submit the matter to the Praesidium, via the Convention Secretariat, in order to obtain instructions.
 - it is clear that the preliminary draft structure of the treaty continues to be indicative. The working party of experts would thus be able, where it sees fit, to suggest different groupings in the second part, or even the addition of a section, a title or a new part (for example, identifying the right place for the provisions on the Overseas Countries and Territories, or adding in the second part a section on citizenship to contain the legal bases not included in the first part).
5. The working party of experts will not make any other amendments, in particular regarding decision-making procedures on which no consensus has emerged within the Convention and which have not yet been resolved by the Praesidium. This particularly concerns the question of whether qualified-majority voting may also be extended to cover procedures other than codecision and whether the codecision procedure should be extended to the adoption of any legislative act (and what exceptions should be made in one case or the other).
6. The working party of experts is asked to submit the outcome of this initial phase of its work to the Praesidium, via the Convention Secretariat, by the end of February. It is understood that whenever the working party encounters difficulties or has questions, it will turn to the Secretary-General of the Convention for guidance. The Secretary-General of the Convention will, if need be, put these questions to the Praesidium. Members of the Convention Secretariat will attend meetings of the working party of experts.
7. Following this initial phase, the Praesidium may decide to assign the working party of experts further work depending on the issues that have been resolved in the meanwhile.
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PART TWO :
UNION POLICIES AND THEIR IMPLEMENTATION

<u>ARCHITECTURE OF THE TREATY</u>				
<u>A. POLICIES AND INTERNAL ACTION</u>	ARTICLES UNCHANGED ¹	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
A1. INTERNAL MARKET				
I. Free movement of persons and services				
1. Workers	<ul style="list-style-type: none"> ▪ Art. 41 	<ul style="list-style-type: none"> ▪ Art. 39: word "Community" ▪ Art. 40 ▪ Art. 42 <p><i>Designation of codecision procedure</i></p> <ul style="list-style-type: none"> ▪ Art. 42, last paragraph: <i>General application of qualified majority voting for codecision (Amato Report)</i> 		

¹ Even those articles which remain unchanged will need to be "tidied up" and remembered.

2. Freedom of establishment	<ul style="list-style-type: none"> ▪ Art. 43 ▪ Art. 44 (except para. 1) ▪ Art. 45 ▪ Art. 46, par. 1 ▪ Art. 47, par. 3 	<ul style="list-style-type: none"> ▪ Art. 44(1) ▪ Art. 46(2) ▪ Art. 47(1) and (2) ▪ Art. 48 <p><i>Designation of codecision procedure and ref. to "Community"</i></p> <ul style="list-style-type: none"> ▪ Art. 47(2): <i>General application of qualified majority voting for codecision (Amato report)</i> 		
3. Freedom to provide services	<ul style="list-style-type: none"> ▪ Arts. 50, 51 ▪ Arts. 54, 55 	<ul style="list-style-type: none"> ▪ Art. 49 : ref to "Community" ▪ Art. 52, 53 : ref.to "directives" 		
4. Visas, asylum and immigration and other policies related to the movement of persons				<ul style="list-style-type: none"> ▪ Art.61 (partly obsolete) ▪ Art.62 ▪ Art.63 ▪ Art.64 ▪ Art.65 ▪ Art.66 ▪ Arts.67, 69 (question of situation of UK, Ireland and Denmark; to be changed?) ▪ Art.68

II. Free movement of goods	<ul style="list-style-type: none"> ▪ Art. 23 ▪ Art. 24 	<ul style="list-style-type: none"> ▪ Art. 23(1): <i>ref. to "Community"</i> 		
1. Customs union	<ul style="list-style-type: none"> ▪ Arts. 25, 26 	<ul style="list-style-type: none"> ▪ Art. 27 : <i>ref. to "Community"</i> 		
2. Prohibition of quantitative restrictions.	<ul style="list-style-type: none"> ▪ Art. 28 to 31 			
III. Capital and payments	<ul style="list-style-type: none"> ▪ Art. 56 ▪ Art. 57(1) ▪ Art. 58 ▪ Art. 59 ▪ Art. 60, par. 2 	<ul style="list-style-type: none"> ▪ Art. 57, par. 2 : <i>ref. to "Community law"</i> ▪ Art. 60, par. 1 : <i>ref. to "Community"</i> 		
III a TAX PROVISIONS	<ul style="list-style-type: none"> ▪ Arts. 90 to 93 			
IV. Harmonisation of legislation	<ul style="list-style-type: none"> ▪ Arts. 96, 97 	<ul style="list-style-type: none"> ▪ Art. 94 : <i>maintenance of concept of "common" market"?</i> ▪ Art. 95 : <i>ref. to "directives"</i> 		<ul style="list-style-type: none"> ▪ Art. 94 : <i>consolidation with Art. 95?</i>

A2 ECONOMIC AND MONETARY POLICY	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
<i>I. Economic policy?</i>	<ul style="list-style-type: none"> ▪ Art. 100(1) ▪ Art. 101(2) 	<ul style="list-style-type: none"> ▪ Art. 98 ▪ Art 99 ▪ Art 100(2) ▪ Art. 101(1) ▪ Art. 102(1) ▪ Art. 103(1) ▪ Art. 104 (excessive deficit procedure) <p><i>Re. to "Community" (noun and adjective) (Art. 100(2))</i></p> <ul style="list-style-type: none"> ▪ Art. 99(5): <i>change of procedure: codecision (Amato report)</i> ▪ Art. 102(2): <i>change of procedure: simple opinion (Amato report)</i> ▪ Art. 103(2) <i>change of procedure: simple opinion (Amato report)</i> 		<ul style="list-style-type: none"> ▪ Art. 99(2) : <i>change of BEPG adoption procedure?</i> ▪ Art. 99(4): change of procedure for adopting recommendation/ <i>warning?</i> ▪ Art. 104(6) to (14): <i>change of procedures? ECOFIN Council composed solely of members of euro zone?</i> <p>[To be reviewed depending on the recommendations of the Hänsch report - Working Group on Economic Governance]</p>

<p>II. Monetary policy?</p> <p><i>Articles 107 to 109 and 112 to 115: see section D of Part Two "The functioning of the Union"</i></p> <p><i>Art. 110 : see. Art. 24 of the Constitutional Treaty</i></p> <p><i>Art. 111 : see section B of Part Two "External action"</i></p> <p><i>See also protocols concerning the EMU</i></p>		<ul style="list-style-type: none"> ▪ Arts.105, 106 : <i>ref. to "Community"</i> ▪ Art. 106(2): <i>change of procedure : codecision (Amato report)</i> 		<ul style="list-style-type: none"> ▪ Art. 105(6): <i>change of procedure? codecision? (Amato report)</i>
<p>IV. Transitional provisions</p>	<ul style="list-style-type: none"> ▪ Arts. 119, 120:continue to apply to the Member States with a derogation (see Art 122(6)) 		<ul style="list-style-type: none"> ▪ [Art. 116 (stages) : delete ▪ Art. 117 (EMI): delete (<i>but take account of Art.44 of the ESCB Statute: need for similar provision in Art. 114(4)?</i>) ▪ Art. 118 : delete ▪ Art. 121 to 124 (participation in EUM): partial repeal?] ¹ 	

¹ This work requires prior checking.

A3. POLICIES IN OTHER SPECIFIC AREAS	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
<i>I. Citizenship of the Union</i>	<ul style="list-style-type: none"> Art. 20, second sentence (diplomatic protection) Art. 22 (new rights) 	<ul style="list-style-type: none"> Art. 18(2) and (3) <i>Re. to "Community" and designation of codecision procedure</i> Art. 19(1) and (2) (voting and eligibility rights): see Art.5 of the Constitutional Treaty; merger of these two paras.? Art. 194 (petition to the EP): <i>section D or here?</i> 		
I. a 1.1.1. Competition rules	<ul style="list-style-type: none"> Art.85 	<ul style="list-style-type: none"> Art. 81: replace "common market" by "internal market"; Art. 82:(idem); Art.86(1)replace "Treaty" by "Constitution"; delete the references to the Articles Art.86(2): idem; replace "Community" by "Union"; Art. 86(3) : change of instrument Art.87(1): replace "Treaty" by "Constitution" and "common market" by "internal market"; 	<ul style="list-style-type: none"> Art.87(2): reference to Germany prior to reunification – obsolete? 	<ul style="list-style-type: none"> Art. 83: amendment of the "regulation" and "directive" instruments Art.84 ¹ Art.89: instrument

¹ The possible deletion of this article would require thorough examination.

		<ul style="list-style-type: none"> ▪ Art.87(3): idem ▪ Art.88(1): idem ▪ Art.88(2): idem 		
II. Social policy (without prejudice to the recommendations of Working Group XI on Social Europe)	<ul style="list-style-type: none"> ▪ Art.137(6) ▪ Art.139 ▪ Art.140 ▪ Art.141(1), (2) and (4) ▪ Art.144 ▪ Art.145 ▪ Art.147 	<ul style="list-style-type: none"> ▪ Art.137(1): idem ▪ Art.137(2): change "directives" and codecision wording ▪ Art.137(3): adoption procedure ▪ Art.137(4): word "directive" ▪ Art.137(5): word "Treaty" ▪ Art.138: word "Community" ▪ Art.141(3): amendment of codecision working ▪ Art.143: word "Community" ▪ Art.146: word "Community" ▪ Art.148: codecision wording 		<ul style="list-style-type: none"> ▪ Art.136: addition of Charter?

III. Economic and social cohesion		<ul style="list-style-type: none"> ▪ Art.158 : replace the word "Community" ▪ Art.159:(idem) ▪ Art.160:(idem) ▪ Art.161: <i>change from assent to codecision (Amato report).</i> ▪ Art.162: codecision wording 		
IV. Agriculture and fisheries	<ul style="list-style-type: none"> ▪ Art.33 ▪ Art.35 ▪ Art.36 ▪ Art.38 	<ul style="list-style-type: none"> ▪ Art.32 : words "common market" ▪ Art.34 : word "Community" 	<ul style="list-style-type: none"> ▪ Art. 37(1) (obsolete) 	<ul style="list-style-type: none"> ▪ Art.37(2) to (4): word "Community" instruments
V. Environment	<ul style="list-style-type: none"> ▪ Art.176 	<ul style="list-style-type: none"> ▪ Art.174: word "Community" ▪ Art.175 		
VI. Consumer protection		<ul style="list-style-type: none"> ▪ Art.153: word "Community"; codecision procedure wording 		
VII. Transport	<ul style="list-style-type: none"> ▪ Art.70 ▪ Art.71,par.2 ▪ Art.73 ▪ Art.74 ▪ Art.77 ▪ Art.79 ▪ Art.80 	<ul style="list-style-type: none"> ▪ Art.71,par.1: codecision procedure wording; ▪ Art.75: word "Community" ▪ Art.76: idem 		<ul style="list-style-type: none"> ▪ Art.78 (to be retained)? ▪ Art.72 (date)
VIII. Trans-European networks		<ul style="list-style-type: none"> ▪ Art.154 : word "Community" ▪ Art.155: idem ▪ Art.156 : codecision procedure wording 		

<p>IX. Research and technological development</p>	<ul style="list-style-type: none"> ▪ Art.167 ▪ Art.173 	<ul style="list-style-type: none"> ▪ Art.163: word "Community" ▪ Art.164: idem ▪ Art.165: idem ▪ Art.166: idem + codecision wording ▪ Art.168: idem ▪ Art.169: idem ▪ Art.170: idem ▪ Art.171: idem ▪ Art.172 : codecision procedure wording 		
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A4. INTERNAL SECURITY	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
			<ul style="list-style-type: none"> Art.41 TEU 	<ul style="list-style-type: none"> Articles 29 to 42 TEU are to be worked on, in the light of the proceedings of WG X and of the discussions at the plenary session on 5 and 6 December 2002. Art.29 TEU Art.30 TEU Art.31 TEU Art.32 TEU Art.33 TEU Art.34 TEU Art. 35 TEU (delete except for 35(5)?) Art.36 TEU Art.37 TUE (to be reviewed also on the basis of Art. 18 and section VI of the preliminary draft Constitutional Treaty), Art.38 TEU(sole provision on international agreements) Art.39 TEU Art.40 TEU(enhanced cooperation; see Art. 32 of the preliminary draft Constitutional Treaty) Art. 46 TEU

A5. AREAS WHERE THE UNION MAY TAKE SUPPORTING ACTION	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
I. Employment (subject to the recommendations of Working Group XI on Social Policy)	▪ Art.130	<ul style="list-style-type: none"> ▪ Art.125: word "Community" ▪ Art.126: idem ▪ Art.127: idem ▪ Art.128 : idem ▪ Art.129 : codecision procedure wording 		
II. Public health		<ul style="list-style-type: none"> ▪ Art.152: word "Community" + codecision procedure wording 		
III. Industry		<ul style="list-style-type: none"> ▪ Art.157 		
IV. Culture		<ul style="list-style-type: none"> ▪ Art.151() to (:) word "Community" ▪ Art.151(5): general application of qualified majority for codecision procedure (Amato report). 		
V. Education, professional training, youth		<ul style="list-style-type: none"> ▪ Art.149: word "Community" + codecision procedure wording ▪ Art. 150: idem 		

B. <u>EXTERNAL ACTION</u>	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
	NEW (Article on the principles and objectives of external action)			
I. Commercial policy	▪ Art. 134 TEC	▪ Art. 132 TEC:(reference to "Community", instruments)		▪ Art. 131 TEC(partially; objectives and principles of external action in a new article) ▪ Art. 133 TEC
II. Development cooperation	▪ Art. 179(2) TCE	▪ Art. 178 TEC: "Community" + ref. to a new article concerning the objectives and principles of external action in a single article ▪ Art. 179() TEC: ref. to a new article concerning the objectives and principles of external action in a single article ▪ Art. 180 TEC: reference to "Community")		▪ Art. 177 TEC(definition of the objectives and principles of external action in a single article) ▪ Art. 179(3) TEC (if EDF to be incorporated in the budget (?)) ▪ Art. 181a (1) (new article on principles and objectives)
III. External aspects of policies covered in Chapters A 1 to A 4	NEW (Article explaining the Union's external competence in areas of internal competence)			

IV. Common foreign and security policy				
1. Foreign policy	<ul style="list-style-type: none"> ▪ Art. 16 TEU ▪ Art. 27 TEU 	<ul style="list-style-type: none"> ▪ Art. 301 TEC: reference to "Community") 		<ul style="list-style-type: none"> ▪ Art. 11 TEU (see Article 13 of the new Treaty and new article on the objectives and principles of external action) ¹ ▪ Art. 12 (last indent) TEU ▪ Art. 13(2) TEU (mechanism/procedure for defining detailed objectives) ▪ Art. 13(3) TEU (if specific role for the person exercising the function of HR) ▪ Art. 14 TEU (specific role for the person exercising the function of HR) ▪ Art. 15 TEU (depending on the content of Article 24 of the new Treaty) ▪ Art. 18 TEU (representation, specific role for the person exercising the function of HR) ▪ Art. 19 TEU (role for the person exercising the function of HR in improved coordination within the international organisations) ▪ Art. 20 TEU (role of the Union Delegations and Member States' embassies in relation to the HR) ▪ Art. 21 TEU (role for the person exercising the function of HR, and whether EP to be better informed) ▪ Art. 22 TEU (specific role for the person exercising the function of HR) ▪ Art. 26 TEU (role for the person exercising the function of HR/new post) ▪ Arts. 27a, 27b, 27c, 27d, 27e TEU (to be reviewed in the light of Article 32 of the new Treaty) ▪ Art. 207(2) TEC (appointment of the person exercising the function of HR)

¹ All these articles are to be amended, in varying degrees, in the light of the proceedings of Groups VII and VIII.

2. Crisis management	<ul style="list-style-type: none"> Art. 17(1), first (?) and second subparas. TEU 		<ul style="list-style-type: none"> Art. 17(1) third subpara., (2) and (4) TEU (to be reviewed) Art. 23(1) TEU (change from "consensus"/unanimity to consent) Art. 25 TEU (article on PSC– amendment for the role of the HR function in crisis management and other mechanisms) <p>Inclusion of a mechanism allowing for greater flexibility in procedures for calling on the Community budget (amendment of Art. 28(3) TEU?)</p> <p>Preparatory phase fund or amendment of Art. 28(3) (to allow for military costs)</p>
	NEW (convergence objectives)		
	NEW (armaments agency)		

V. Conclusion of international agreements				<ul style="list-style-type: none"> ▪ Art .111(1)(3)(5) TEC ▪ Art. 133(3)(5)(7) TEC ▪ Art. 170 TEC ▪ Art. 174(4) TEC ▪ Art. 181 TEC ▪ Art. 181a (2) – (3)TEC ▪ Art. 300 TEC ▪ Art. 310 TEC ▪ Art. 24 TEU ▪ Art. 38 TEU <p>(new article grouping together provisions on negotiation of international agreements)</p>
VI. Relations with and representation in international organisations		<ul style="list-style-type: none"> ▪ Art. 111(4) TEC: "Community" representation: ▪ Art. 303 TEC "Community" ▪ Art. 304 TEC: "Community" 		<ul style="list-style-type: none"> ▪ Art. 302 TEC

C. <u>DEFENCE</u>	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
	NEW (Article indicating how Article 30 of the new Treaty is to be implemented)			
	NEW (European Council clause, adoption of a declaration on threat assessment and updating)			
D. <u>THE FUNCTIONING OF THE UNION</u>	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
I. <u>Institutional provisions</u>				
European Parliament	<ul style="list-style-type: none"> ▪ Art. 193 : (temporary Committees of Inquiry) ▪ Arts. 196, 197, 199, 200: (internal operation) 	<ul style="list-style-type: none"> ▪ Art. 194 (petition) : ref. to "Community" ▪ Art.195, except (1), first subpara. (Ombudsman) 		<ul style="list-style-type: none"> ▪ Art. 191 (political parties) : <i>to be transferred to the title "Democratic life?"</i>

Council	<ul style="list-style-type: none"> ▪ Art. 204 (convening) ▪ Art. 206 (voting on behalf of another member) ▪ (Art. 207(1) (Coreper) ▪ Art. 207(3), first subpara. (Rules of Procedure) ▪ Art. 209 (rules governing committees) ▪ Art. 210 (salaries and pensions): <i>see below</i> 			<ul style="list-style-type: none"> ▪ Art. 207(2) (Secretary-General- HR)
Commission	<ul style="list-style-type: none"> ▪ Art. 213(2), second and third subparas. (concept of independence) ¹ ▪ Art. 216 (retirement of Member of the Commission) ▪ Art. 218(2) (Rules of Procedure) ▪ Art. 219, third paragraph (quorum) ▪ Art. 284 (Commission's power to carry out checks) 	<ul style="list-style-type: none"> ▪ Art. 212 (annual report): ref. to "Community" 		<ul style="list-style-type: none"> ▪ Art. 215 (replacement of Members of the Commission) : <i>depends on the amendment of Art.214</i>

¹ . Reform of the Commission could entail a substantive amendment of this provision.

Court of Justice	<ul style="list-style-type: none"> ▪ Art. 292 (settlement of disputes) ▪ Arts. 226, 227, 228, 232 to 235, 237, 239 to 244 	<ul style="list-style-type: none"> ▪ Art. 225a: <i>instrument : ref. to "decision"</i> ▪ Art. 229: <i>ref. to "regulations" and designation of codecision procedure</i> ▪ Art. 229a: <i>ref. to "Community rights"</i> ▪ Art. 231: <i>ref. to "regulations"</i> ▪ Art. 236: <i>ref. to "Community"</i> ▪ Art. 238: <i>ref. to "Community"</i> 		<ul style="list-style-type: none"> ▪ Art. 46 TEU ▪ Art. 68 TEC ▪ Articles 221 to 225 of the TEC (<i>in part- some provisions of these articles should appear in Article 20 of the Constitutional Treaty</i>) ▪ Art. 230, (proceedings to have an act declared void) : <i>new rules relating to referral?</i> ▪ Art. 245 (Statute of the Court): <i>change of procedure?</i> ▪ Art. 225a and 229a (<i>creation of new judicial panels: change of procedure?</i>)
Court of Auditors		<ul style="list-style-type: none"> ▪ Arts. 247, 248 (<i>in part – certain provisions of these articles should appear in Article 21 of the Constitutional Treaty</i>) 		

The ESCB and ECB	<ul style="list-style-type: none"> ▪ Art. 107(4) and (6) (reference to the Statute of the ESCB) ▪ Art. 108 (independence) ▪ Arts 112, 113 (membership and operation of the Governing Council and the Executive Board) ▪ Art. 114(3) and (4) ▪ Art. 115 	<ul style="list-style-type: none"> ▪ Art. 109 (second phase)? <i>To be deleted? (obsolete)</i> ▪ Art. 114(1): delete (Monetary Committee replaced by Economic and Financial Committee) ▪ Art. 114(2): <i>ref. to "Community"</i> 	<ul style="list-style-type: none"> ▪ Art.107(5) (amendment of the ESCB Statute): <i>change of procedure?: assent or codecision? (Amato report)</i>
European Investment Bank			
Union advisory bodies	<ul style="list-style-type: none"> ▪ Articles 9, 266 TEC ▪ Art. 209 (rules governing committees) <p><i>See Art. 23 of the Constitutional Treaty?</i></p> <ul style="list-style-type: none"> ▪ Articles 257 to 262 (Economic and Social Committee) ▪ Articles 263 to 265 (Committee of the Regions)¹ 	<ul style="list-style-type: none"> ▪ Art. 267 : ref. to "Community" ▪ Article 258, third para. ▪ Art. 259(2) ▪ Art. 263, third para. <p><i>Ref. to "Community"</i></p>	
Provisions common to the institutions	<ul style="list-style-type: none"> ▪ Articles 210, 247(8), 258, fourth para. (salaries of members of certain institutions and bodies) 	<ul style="list-style-type: none"> ▪ Art. 283 (Staff Regulations of officials) ▪ Art. 287 (discretion obligation) ▪ Art. 289 (seat of the institutions) ▪ Art. 290: (rules governing languages) ▪ Art. 291 (privileges and immunities) <p><i>Ref. to "Community(lies)"</i></p>	

¹ Subject to the debate in the plenary on the regions..

<u>II. Provisions on procedures and acts</u>				
Procedures		<ul style="list-style-type: none"> ▪ Art. 251 (in part - details of the codecision procedure) 	<ul style="list-style-type: none"> • Art. 252 • (cooperation procedure): delete (Amato report) 	<ul style="list-style-type: none"> ▪ Articles 7 TEU and 309 TEC (<i>in part- details of the procedure for penalising a MS for breach of principles and values</i>)? Or in the first part of the <i>Constitutional Treaty</i> only? ▪ Arts. 272, 273 (in part): budget procedure
Acts	<ul style="list-style-type: none"> ▪ Art. 254 (publication of acts) : <i>see Article 24 of the Constitutional Treaty</i> ▪ Art. 256 (enforceability of acts of the Commission and Council) 	<ul style="list-style-type: none"> ▪ Art.253 (statement of reasons for acts) : <i>ref. to instruments</i> 	<ul style="list-style-type: none"> • Art. 293 (TEC conventions): delete) • (Amato report) 	
<u>III. Provisions on Union finances</u>	<ul style="list-style-type: none"> ▪ Arts. 271, 274 ▪ Arts. 276, 277 ▪ Arts. 278 ▪ Art. 279 (adoption of Financial Regulations and other procedures) 	<ul style="list-style-type: none"> ▪ - Arts. 275, 280 <i>ref. to "Community".</i> 		

<u>IV. Enhanced cooperation</u>				<ul style="list-style-type: none"> Arts. 40, 43, 44 TEU and 11 TEC (<i>in part, see Art. 32 of the Constitutional Treaty</i>)
<u>V. Miscellaneous provisions</u>	<ul style="list-style-type: none"> Art. 294 (non-discrimination against shareholders on the basis of nationality) Art. 295 (rules on property ownership) Art. 296 (essential interests of Member States' security- secret list) Art. 297 (protection of the "common market" in exceptional circumstances) Art. 298 (monitoring the application of Articles 296 and 297). Art. 306 (Benelux) Art. 307 (agreements between Member States before 1958) 	<ul style="list-style-type: none"> Art. 288 (Community liability) Art. 285 (statistics) Art. 286 (processing of personal data): <i>to be inserted in the "citizenship" section of Part Two of the Constitutional Treaty ?</i> <p><i>ref. to "Community".</i></p>	<ul style="list-style-type: none"> Art. 305 (link with ECSC and Euratom) : <i>(1) to be deleted; (2) to be reviewed in the light of the decision taken on the Euratom Treaty</i> 	<ul style="list-style-type: none"> Art. 282 (legal capacity)
Part 2a? : Overseas countries and territories (to be inserted)		<ul style="list-style-type: none"> Articles 182 to 188 		

PART ONE

<u>ARCHITECTURE OF THE TREATY</u>				
Title I: <u>Definition and objectives of the Union</u>	ARTICLES UNCHANGED ¹	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 1: Creation of the [European Community, European Union, United States of Europe, United Europe]	NEW		<ul style="list-style-type: none"> Art. 1(3) 	<ul style="list-style-type: none"> Art.1, first and second paras., TEU Art. 1 TEC
Article 2: Values	NEW			<ul style="list-style-type: none"> Art. 6(1) TEU
Article 3: Objectives	NEW			<ul style="list-style-type: none"> Art. 2 TEU Arts. 2,3,4 TEC Art. 11 TEU Art. 29 TEU
Article 4: Legal personality	NEW		<ul style="list-style-type: none"> Art. 281 TEC 	

¹ Even those articles which remain unchanged will need to be "tidied up" and renumbered.

Title II: <u>Union citizenship and fundamental rights</u>	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 5: Citizenship of the Union ¹		<ul style="list-style-type: none"> ▪ Arts. 12, 18 TEC ▪ Art. 19(2) ▪ Art. 21 TEC (Charter) 		<ul style="list-style-type: none"> ▪ Art. 17 TEC (dual nationality)
Article 6: Charter of Fundamental Rights				<ul style="list-style-type: none"> ▪ Art. 6 TEU

¹ Provisions conferring competence on the Union to establish procedures for exercising some of these rights are in Part Two of the Constitutional Treaty. The same is true of the second paragraph of the current Article 22 TEC, which allows the Council to adopt provisions to strengthen or add to citizenship rights.

	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 7: Fundamental principles: conferred competence, subsidiarity, proportionality.				<ul style="list-style-type: none"> ▪ Art. 5 TEC ▪ Art. 2, second para., TEU Protocol on subsidiarity and proportionality
Article 8: Respect for fundamental principles: the limits of conferred competence. Monitoring subsidiarity and proportionality. Primacy of Community law. Evolution over time. .		<ul style="list-style-type: none"> ▪ Art. 10 TEC 		<ul style="list-style-type: none"> ▪ Art. 308 TEC
Article 9: Categories of competence: definition	NEW			
Article 10: Exclusive competence	NEW			
Article 11: Shared competence	NEW			
Article 12: Areas for supporting action	NEW			
Article 13: Common foreign and security policy; common defence policy; policy on police matters and crime.	NEW			

Title IV: <u>Union institutions</u>	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 14: The institutional structure common to actions taken by the Union and action taken jointly by the Member States within the framework of the Union			<ul style="list-style-type: none"> ▪ Art. 47 TEU 	<ul style="list-style-type: none"> ▪ Arts. 3, 5 TEU ▪ Art. 28(1) TEU ▪ Art. 41(1) TEU ▪ Art. 7 TEC ▪ Art. 8 TEC
Article 15: European Council: composition, role, tasks				<ul style="list-style-type: none"> ▪ Art. 4 TEU ▪ Art. 13(1) and (2) TEU
Article 15a: Chairmanship of the European Council				<ul style="list-style-type: none"> ▪ Art. 4 TEU
Article 16: European Parliament: composition, powers	<ul style="list-style-type: none"> ▪ Art. 21 TEU ▪ Art. 195(1), first subpara., TEC ▪ Art. 201 TEC 	<ul style="list-style-type: none"> ▪ Art. 192 TEC 		<ul style="list-style-type: none"> ▪ Art. 39(1) TEU ▪ Arts.189,190 TEC
Article 17: Council: composition, powers	<ul style="list-style-type: none"> ▪ Art. 208 TEC ▪ Art. 203, first para. TEC ▪ Art. 218(1) TEC 			<ul style="list-style-type: none"> ▪ Art. 13(3) ¹ ▪ Art. 26 TEU ▪ Art. 202 TEC
Article 17a: Presidency of the Council				<ul style="list-style-type: none"> ▪ Art. 18 TEU ▪ Art. 203, second para., TEC

¹ See also Art. 29 of the preliminary draft.

Article 18: Commission: composition; powers (sole right of initiative) ¹	▪ Art. 218(1) TEC			<ul style="list-style-type: none"> ▪ Arts. 27, 36(2) TEU ▪ Arts. 211, 250(2) TEC ▪ Art. 213(1) and (2), first subpara., TEC ▪ Art. 214 TEC ▪ Art. 217 TEC
Article 18a: Presidency of the Commission				<ul style="list-style-type: none"> ▪ Art. 214 TEC ▪ Art. 219, first para., TEC
Article 19: Congress of the Peoples of Europe	NEW			
Article 20: Court of Justice	▪ Art. 220 TEC (Art. 220 first para., following Nice)			<ul style="list-style-type: none"> ▪ Art. 35 TEU (deleted except for para. 5?) ▪ Art. 46 TEU ▪ Art. 68 TEC ▪ Arts. 221, 222 TEC ▪ Arts. 225, 223 TEC (in part)
Article 21: Court of Auditors	▪ Art. 246 TEC	<ul style="list-style-type: none"> ▪ Art. 247 TEC (in part) ▪ Art. 248 TEC (in part) 		
Article 22: European Central Bank	<ul style="list-style-type: none"> ▪ Art. 105(4) ▪ Art. 106(1) ▪ Art. 107(2) TEC ▪ Art. 110(1) TEC 			▪ Art. 8 TEC
Article 23: The Union's advisory bodies	▪ Art. 209 TEC	▪ Art. 7(2) TEC		

¹ Specific reference will be made to the Commission's right of initiative and its repercussions on voting rights within the Council (see also Art. 37 of the preliminary draft).

Title V: <u>Exercise of Union competence and implementation of Union action</u>	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 24: The instruments of the Union: e.g. European laws, framework laws, European decisions (precise list to reflect the conclusions of Working Group IX)		<p>All articles quoting instruments (see Part Two)</p> <ul style="list-style-type: none"> ▪ Art. 110 TEC (but not parallel to Art. 249 TEC) ▪ Art. 254 TEC 		<ul style="list-style-type: none"> ▪ Art. 12 TEU ▪ Art. 14(1), (2), (3), (4) TEU ▪ Art. 15 TEU ▪ Art. 34(2) TEU ▪ Art. 249 TEC
Article 25: Legislative procedures: adoption of laws and framework laws		<ul style="list-style-type: none"> ▪ Art. 251 TEC (in part) <p>All articles referring to procedures (see Part Two)</p>	<ul style="list-style-type: none"> ▪ Art. 252 TEC 	
Article 26: Procedures for the adoption of decisions	NEW			
Article 27: Procedures for the adoption of implementing measures				<ul style="list-style-type: none"> ▪ Art. 202 TEC ▪ Art. 211 TEC
Article 28: Procedures for implementing supporting actions (including programmes) and monitoring them	NEW			

Article 29: 1) Common foreign and security policy 2) Crisis management	<ul style="list-style-type: none"> Art. 12, last indent, TEU Art. 16 TEU 			<ul style="list-style-type: none"> Art. 13(2) and (3) TEU (HR initiative to be added) Art. 14(4), (5), (6) and (7) TEU Art. 22(1) TEU Art. 25 TEU (following Nice)
Article 30: Common defence policy ¹	NEW			
Article 31: Policy on police matters and crime				<ul style="list-style-type: none"> Art. 29 TEU²
Article 32: Enhanced cooperation				<ul style="list-style-type: none"> Arts. 40, 43 TEU Art. 44 TEU Art. 11 TEC (in part)
Title VI: The democratic life of the Union	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 33: The principle of democratic equality among Union citizens	NEW			
Article 34: The principle of participatory democracy	NEW			
Article 35: Uniform electoral law for European Parliament elections				<ul style="list-style-type: none"> Art. 190(4) TEC

¹ See also Art. 17 of the preliminary draft.

² This article is interpreted as referring to part C. of Part Two of the preliminary draft Constitutional Treaty.

Article 36: Transparency of the Union's legislative debates <i>and access to documents</i> <i>Article 36a: right to good governance?</i>				<ul style="list-style-type: none"> ▪ Art. 207(3) second subpara., TEC ▪ Art. 255 TEC
	<i>NEW? See Art. 41 Charter of Fundamental Rights</i>			
Article 37: Voting rules in Union institutions. Implementation of the possibility of "constructive abstention", and its consequences.		<ul style="list-style-type: none"> ▪ Art. 23 TEU 		<ul style="list-style-type: none"> ▪ Art. 23 TEU ▪ Art. 34(3) and (4) TEU ▪ Art. 205 TEC ▪ Arts. 219, second para., 198 TEC ▪ Art. 250 TEC
Title VII: Union finances	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 38: The Union's resources				<ul style="list-style-type: none"> ▪ Art. 269 TEC
Article 39: The principle of budgetary balance		<ul style="list-style-type: none"> ▪ Art 270 TEC 		<ul style="list-style-type: none"> ▪ Art. 268, third para. TEC
Article 40: The Union's budgetary procedure				<ul style="list-style-type: none"> ▪ Arts 28(2), (3) and (4), 41(2), (3) and (4) TEU ▪ Art. 268, first and second paras. TEC ▪ Arts 272, 273 TEC ▪ Art. 274 TEC (in part)

Title VIII: <u>Union action in the world</u>	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 41: The external representation of the Union				▪ Art. 18 TEU
Title IX: The Union and its immediate environment	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 42: Privileged relations between the Union and neighbouring States				▪ Art. 310 TEC
Title X: Union Membership	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Article 43: A Union open to all the European States which strictly respect its values and fundamental rights and accept its rules of operation	NEW			
Article 44: Procedure for accession to the Union	▪ Art. 49 TEU			
Article 45: Suspension of Union membership rights				▪ Art. 7 TEU ▪ Art. 309 TEC
Article 46: Withdrawal from the Union	NEW			▪

PART THREE:
GENERAL AND FINAL PROVISIONS

<u>ARCHITECTURE OF THE TREATY</u>				
Last Title:	ARTICLES UNCHANGED	ARTICLES TO BE AMENDED TECHNICALLY	ARTICLES TO BE DELETED	ARTICLES TO BE AMENDED SUBSTANTIVELY
Repeal of previous treaties	NEW		▪ Art. 50: to be deleted? (see Article 9 Treaty of Amsterdam)	
Legal continuity in relation to the European Community and the European Union	NEW			
Territorial application		▪ Art. 299 TEC		
Protocols		▪ Art. 311 TEC		
Procedure for revising the Constitutional Treaty				▪ <i>Art. 48 TEU (to be examined)</i>
Adoption, ratification and entry into force of the Constitutional Treaty				▪ Art. 52 TEU ▪ Art. 313 TEC (to be merged) (to be examined)
Duration		▪ Art. 51 TEU ▪ Art. 312 TEC (to be merged)		
Languages		▪ Art. 53 TEU ▪ Art. 314 TEC (to be merged)		