DENMARK AND THE TREATY ON EUROPEAN UNION (1)

(92/C 348/01)

The European Council recalled that the entry into force of the Treaty signed in Maastricht requires ratification by all the twelve Member States in accordance with their respective constitutional requirements, and reaffirmed the importance of concluding the process as soon as possible, without reopening the present text, as foreseen in Article R of the Treaty.

The European Council noted that Denmark has submitted to Member States on 30 October a document entitled 'Denmark in Europe', which sets out the following points as being of particular importance:

— the defence policy dimension,

— the third stage of Economic and Monetary Union,

— citizenship of the Union,

— cooperation in the fields of justice and home affairs,

— openness and transparency in the Community's decision-making process,

— the effective application of the principle of subsidiarity,

— promotion of cooperation between the Member States to combat unemployment.

Against this background, the European Council has agreed on the following set of arrangements, which are fully compatible with the Treaty, are designed to meet Danish concerns, and therefore apply exclusively to Denmark and not to other existing or acceding Member States:

(a) Decision concerning certain problems raised by Denmark on the Treaty on European Union (Annex 1). This Decision will take effect on the date of entry into force of the Treaty on European Union;

(b) the declaration in Annex 2.

The European Council has also taken cognizance of the unilateral declarations in Annex 3, which will be associated with the Danish act of ratification of the Treaty on European Union.

(1) European Council, Edinburgh, 11 and 12 December 1992; Conclusions of the Presidency, Part B.

ANNEX 1

DECISION OF THE HEADS OF STATE AND GOVERNMENT, MEETING WITHIN THE EUROPEAN COUNCIL, CONCERNING CERTAIN PROBLEMS RAISED BY DENMARK ON THE TREATY ON EUROPEAN UNION

The Heads of State and Government, meeting within the European Council, whose Governments are signatories of the Treaty on European Union, which involves independent and sovereign States having freely decided, in accordance with the existing Treaties, to exercise in common some of their competences,

— desiring to settle, in conformity with the Treaty on European Union, particular problems existing at the present time specifically for Denmark and raised in its memorandum 'Denmark in Europe' of 30 October 1992,

— having regard to the conclusions of the Edinburgh European Council on subsidiarity and transparency,

— noting the declarations of the Edinburgh European Council relating to Denmark,

— taking cognizance of the unilateral declarations of Denmark made on the same occasion which will be associated with its act of ratification,

— noting that Denmark does not intend to make use of the following provisions in such a way as to prevent closer cooperation and action among Member States compatible with the Treaty and within the framework of the Union and its objectives,

Have agreed on the following decision:

SECTION A

Citizenship

The provisions of Part Two of the Treaty establishing the European Community relating to citizenship of the Union give nationals of the Member States additional rights and protection as specified in that Part. They do not in any way take the place of national citizenship. The question whether an individual possesses the nationality of a Member State will be settled solely by reference to the national law of the Member State concerned.

SECTION B

Economic and Monetary Union

1. The Protocol on certain provisions relating to Denmark attached to the Treaty establishing the European Community gives Denmark the right to notify the Council of the European Communities of its position concerning participation in the third stage of Economic and Monetary Union. Denmark has given notification that it will not participate in the third stage. This notification will take effect upon the coming into effect of this decision.

2. As a consequence, Denmark will not participate in the single currency, will not be bound by the rules concerning economic policy which apply only to the Member States participating in the third stage of Economic and Monetary Union, and will retain its existing powers in the field of monetary policy according to its national laws and regulations, including powers of the National Bank of Denmark in the field of monetary policy.

3. Denmark will participate fully in the second stage of Economic and Monetary Union and will continue to participate in exchange-rate cooperation within the European Monetary System (EMS).

SECTION C

Defence Policy

The Heads of State and Government note that, in response to the invitation from the Western European Union (WEU), Denmark has become an observer to that organization. They also note that nothing in the Treaty on European Union commits Denmark to become a member of the WEU. Accordingly, Denmark does not participate in the elaboration and the implementation of decisions and actions of the Union which have defence implications, but will not prevent the development of closer cooperation between Member States in this area.

SECTION D

Justice and Home affairs

Denmark will participate fully in cooperation on Justice and Home Affairs on the basis of the provisions of Title VI of the Treaty on European Union.

SECTION E

Final provisions

1. This decision will take effect on the date of entry into force of the Treaty on European Union; its duration shall be governed by Articles Q and N(2) of that Treaty.

2. At any time Denmark may, in accordance with its constitutional requirements, inform other Member States that it no longer wishes to avail itself of all or part of this decision. In that event, Denmark will apply in full all relevant measures then in force taken within the framework of the European Union.

ANNEX 2

DECLARATIONS OF THE EUROPEAN COUNCIL

DECLARATION ON SOCIAL POLICY, CONSUMERS, ENVIRONMENT, DISTRIBUTION OF INCOME

1. The Treaty on European Union does not prevent any Member State from maintaining or introducing more stringent protection measures compatible with the EC Treaty:

   — in the field of working conditions and in social policy (Article 118 A (3) of the EC Treaty and Article 2 (5) of the Agreement on social policy concluded between the Member States of the European Community with the exception of the United Kingdom),

   — in order to attain a high level of consumer protection (Article 129 A (3) of the EC Treaty),

   — in order to pursue the objectives of protection of the environment (Article 130 T of the EC Treaty).

2. The provisions introduced by the Treaty on European Union, including the provisions on Economic and Monetary Union, permit each Member State to pursue its own policy with regard to distribution of income and maintain or improve social welfare benefits.

DECLARATION ON DEFENCE

The European Council takes note that Denmark will renounce its right to exercise the Presidency of the Union in each case involving the elaboration and the implementation of decisions and actions of the Union which have defence implications. The normal rules for replacing the President, in the case of the President being indisposed, shall apply. These rules will also apply with regard to the representation of the Union in international organizations, international conferences and with third countries.

ANNEX 3

UNILATERAL DECLARATIONS OF DENMARK, TO BE ASSOCIATED TO THE DANISH ACT OF RATIFICATION OF THE TREATY ON EUROPEAN UNION AND OF WHICH THE ELEVEN OTHER MEMBER STATES WILL TAKE COGNIZANCE

DECLARATION ON CITIZENSHIP OF THE UNION

1. Citizenship of the Union is a political and legal concept which is entirely different from the concept of citizenship within the meaning of the Constitution of the Kingdom of Denmark and of the Danish legal system. Nothing in the Treaty on European Union implies or foresees an undertaking to create a citizenship of the Union in the sense of citizenship of a nation-state. The question of Denmark participating in any such development does, therefore, not arise.

2. Citizenship of the Union in no way in itself gives a national of another Member State the right to obtain Danish citizenship or any of the rights, duties, privileges or advantages that are inherent in Danish citizenship by virtue of Denmark's constitutional, legal and administrative rules. Denmark will fully respect all specific rights expressly provided for in the Treaty and applying to nationals of the Member States.

3. Nationals of the other Member States of the European Community enjoy in Denmark the right to vote and to stand as a candidate at municipal elections, foreseen in Article 8b of the European Community Treaty. Denmark intends to introduce legislation granting nationals of the other Member States the right to vote and to stand as a candidate for elections to the European Parliament in good time before the next elections in 1994. Denmark has no intention of accepting that the detailed arrangements foreseen in paragraphs 1 and 2 of this Article could lead to rules detracting from the rights already given in Denmark in that matter.

4. Without prejudice to the other provisions of the Treaty establishing the European Community, Article 8e requires the unanimity of all the Members of the Council of the European Communities, i.e. all Member States, for the adoption of any provision to strengthen or to add to the rights laid down in Part Two of the EC Treaty. Moreover, any unanimous decision of the Council, before coming into force, will have to be adopted in each Member State, in accordance with its constitutional requirements. In Denmark, such adoption will, in the case of a transfer of sovereignty, as defined in the Danish Constitution, require either a majority of $^5/_6$ of Members of the Folketing or both a majority of the Members of the Folketing and a majority of voters in a referendum.

DECLARATION ON COOPERATION IN THE FIELDS OF JUSTICE AND HOME AFFAIRS

Article K 9 of the Treaty on European Union requires the unanimity of all the Members of the Council of the European Union, i.e. all Member States, to the adoption of any decision to apply Article 100 C of the Treaty establishing the European Community to action in areas referred to in Article K 1 (1) to (6). Moreover, any unanimous decision of the Council, before coming into force, will have to be adopted in each Member State, in accordance with its constitutional requirements. In Denmark, such adoption will, in the case of a transfer of sovereignty, as defined in the Danish Constitution, require either a majority of $^5/_6$ of Members of the Folketing or both a majority of the Members of the Folketing and a majority of voters in a referendum.

FINAL DECLARATION

The Decision and Declarations above are a response to the result of the Danish referendum of 2 June 1992 on ratification of the Maastricht Treaty. As far as Denmark is concerned, the objectives of that Treaty in the four areas mentioned in sections A to D of the Decision are to be seen in the light of these documents, which are compatible with the Treaty and do not call its objectives into question.