RULES OF PROCEDURE OF THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES OF 19 JUNE 1991

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THE COURT OF JUSTICE,

Having regard to the powers conferred on the Court of Justice by the Treaty establishing the European Coal and Steel Community, the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community (Euratom),

Having regard to Article 55 of the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community,

Having regard to the third paragraph of Article 188 of the Treaty establishing the European Economic Community,

Having regard to the third paragraph of Article 160 of the Treaty establishing the European Atomic Energy Community (Euratom),

Whereas it is necessary to revise the text of its Rules of Procedure in the various languages in order to ensure coherence and uniformity between those language versions;

With the unanimous approval of that revision, given by the Council on 29 April 1991;

And whereas, after the numerous amendments to its Rules of Procedure, it is necessary, in the interests of clarity and simplicity to establish a coherent authentic text,

With the unanimous approval of the Council, given on 7 June 1991,

REPLACES ITS RULES OF PROCEDURE BY THE FOLLOWING RULES:

INTERPRETATION

Article 1

In these Rules:

'ECSC Treaty' means the Treaty establishing the European Coal and Steel Community;

'ECSC Statute' means the Protocol on the Statute of the Court of Justice of the European Coal and Steel Community;

'EEC Treaty' means the Treaty establishing the European Economic Community;

'EEC Statute' means the Protocol on the Statute of the Court of Justice of the European Economic Community;

'Euratom Treaty' means the Treaty establishing the European Atomic Energy Community (Euratom);

'Euratom Statute' means the Protocol on the Statute of the Court of Justice of the European Atomic Energy Community.

For the purposes of these Rules, 'institutions' means the institutions of the European Communities and the European Investment Bank.

TITLE I

ORGANIZATION OF THE COURT

Chapter 1

JUDGES AND ADVOCATES-GENERAL

Article 2

The term of office of a Judge shall begin on the date laid down in his instrument of appointment. In the absence of any provisions regarding the date, the term shall begin on the date of the instrument.

Article 3

1. Before taking up his duties, a Judge shall at the first public sitting of the Court which he attends after his appointment take the following oath:

'I swear that I will perform my duties impartially and conscientiously; I swear that I will preserve the secrecy of the deliberations of the Court'.

2. Immediately after taking the oath, a Judge shall sign a declaration by which he solemnly undertakes that, both during and after his term of office, he will respect the obligations arising therefrom, and in particular the duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments and benefits.

Article 4

When the Court is called upon to decide whether a Judge no longer fulfils the requisite conditions or no longer meets the obligations arising from his office, the President shall invite the Judge concerned to make representations to the Court, in closed session and in the absence of the Registrar.

Article 5

Articles 2, 3 and 4 of these Rules shall apply in a corresponding manner to Advocates-General.

Article 6

Judges and Advocates-General shall rank equally in precedence according to their seniority in office.

Where there is equal seniority in office, precedence shall be determined by age.

Retiring Judges and Advocates-General who are reappointed shall retain their former precedence.

Chapter 2

PRESIDENCY OF THE COURT AND CONSTITUTION OF THE CHAMBERS

Article 7

1. The Judges shall, immediately after the partial replacement provided for in Article 32b of the ECSC Treaty, Article 167 of the EEC Treaty and Article 139 of the Euratom Treaty, elect one of their number as President of the Court for a term of three years.

2. If the office of the President of the Court falls vacant before the normal date of expiry thereof, the Court shall elect a successor for the remainder of the term.

3. The elections provided for in this Article shall be by secret ballot. If a Judge obtains an absolute majority he shall be elected. If no Judge obtains an absolute majority, a second ballot shall be held and the Judge obtaining the most votes shall be elected. Where two or more Judges obtain an equal number of votes the oldest of them shall be deemed elected.

Article 8

The President shall direct the judicial business and the administration of the Court; he shall preside at hearings and deliberations.

Article 9

1. The Court shall set up Chambers in accordance with the provisions of the second paragraph of Article 32 of the ECSC Treaty, the second paragraph of Article 165 of the EEC Treaty and the second paragraph of Article 137 of the Euratom Treaty and shall decide which Judges shall be attached to them.

The composition of the Chambers shall be published in the *Official Journal of the European Communities*.

2. As soon as an application initiating proceedings has been lodged, the President shall assign the case to one of the Chambers for any preparatory inquiries and shall designate a Judge from that Chamber to act as Rapporteur.

3. The Court shall lay down criteria by which, as a rule, cases are to be assigned to Chambers.

4. These Rules shall apply to proceedings before the Chambers.

In cases assigned to a Chamber the powers of the President of the Court shall be exercised by the President of the Chamber.

Article 10

1. The Court shall appoint for a period of one year the Presidents of the Chambers and the First Advocate-General.

The provisions of Article 7 (2) and (3) shall apply.

Appointments made in pursuance of this paragraph shall be published in the *Official Journal of the European Communities*.

2. The First Advocate-General shall assign each case to an Advocate-General as soon as the Judge-Rapporteur has been designated by the President. He shall take the necessary steps if an Advocate-General is absent or prevented from acting.

Article 11

When the President of the Court is absent or prevented from attending or when the office of President is vacant, the functions of President shall be exercised by a President of a Chamber according to the order of precedence laid down in Article 6 of these Rules.

If the President of the Court and the President of the Chambers are all prevented from attending at the same time, or their posts are vacant at the same time, the functions of President shall be exercised by one of the other Judges according to the order of precedence laid down in Article 6 of these Rules.

Chapter 3

REGISTRY

Section 1 — The Registrar and Assistant Registrar

Article 12

1. The Court shall appoint the Registrar. Two weeks before the date fixed for making the appointment, the President shall inform the Members of the Court of the applications which have been made for the post.

2. An application shall be accompanied by full details of the candidate's age, nationality, university degrees, knowledge of any languages, present and past occupations and experience, if any, in judicial and international fields.

3. The appointment shall be made following the procedure laid down in Article 7 (3) of these Rules.

4. The Registrar shall be appointed for a term of six year. He may be reappointed.

5. The Registrar shall take the oath in accordance with Article 3 of these Rules.

6. The Registrar may be deprived of his office only if he no longer fulfils the requisite conditions or no longer meets the obligations arising from his office; the Court shall take its decision after giving the Registrar an opportunity to make representations.

7. If the office of Registrar falls vacant before the normal date of expiry of the term thereof, the Court shall appoint a new Registrar for a term of six years.

Article 13

The Court may, following the procedure laid down in respect of the Registrar, appoint one or more Assistant Registrars to assist the Registrar and to take his place in so far as the Instructions to the Registrar referred in Article 15 of these Rules allow.

Article 14

Where the Registrar and the Assistant Registrar are absent or prevented from attending or their posts are vacant, the President shall designate an official to carry out temporarily the duties of Registrar.

Article 15

Instructions to the Registrar shall be adopted by the Court acting on a proposal from the President.

Article 16

1. There shall be kept in the Registry, under the control of the Registrar, a register initialled by the President, in which all pleadings and supporting documents shall be entered in the order in which they are lodged.

2. When a document has been registered, the Registrar shall make a note to that effect on the original and, if a party so requests, on any copy submitted for the purpose.

3. Entries in the register and the notes provided for in the preceding paragraph shall be authentic.

4. Rules for keeping the register shall be prescribed by the Instructions to the Registrar referred to in Article 15 of the Rules.

5. Persons having an interest may consult the register at the Registry and may obtain copies or extracts on payment of a charge on a scale fixed by the Court on a proposal from the Registrar.

The parties to a case may on payment of the appropriate charge also obtain copies of pleadings and authenticated copies of judgments and orders.

6. Notice shall be given in the *Official Journal of the European Communities* of the date of registration of an application initiating proceedings, the names and addresses of the parties, the subject-matter of the proceedings, the form of order sought by the applicant and a summary of the pleas in law and of the main supporting arguments.

7. Where the Council or the Commission is not a party to a case, the Court shall send to it copies of the application and of the defence, without the annexes thereto, to enable it to assess whether the inapplicability of one of its acts is being invoked under the third paragraph of Article 36 of the ECSC Treaty, Article 184 of the EEC Treaty or Article 156 of the Euratom Treaty.

Article 17

1. The Registrar shall be responsible, under the authority of the President, for the acceptance, transmission and custody of documents and for effecting service as provided for by these Rules.

2. The Registrar shall assist the Court, the Chambers, the President and the Judges in all their official functions.

Article 18

The Registrar shall have custody of the seals. He shall be responsible for the records and be in charge of the publications of the Court.

Article 19

Subject to Articles 4 and 27 of these Rules, the Registrar shall attend the sittings of the Court and of the Chambers.

Section 2 — Other departments

Article 20

1. The official and other servants of the Court shall be appointed in accordance with the provisions of the Staff Regulations.

2. Before taking up his duties, an official shall take the following oath before the President, in the presence of the Registrar:

'I swear that I will perform loyally, discreetly and conscientiously the duties assigned to me by the Court of Justice of the European Communities'.

Article 21

The organization of the departments of the Court shall be laid down, and may be modified, by the Court on a proposal from the Registrar.

Article 22

The Court shall set up a translating service staffed by experts with adequate legal training and a thorough knowledge of several official languages of the Court.

Article 23

The Registrar shall be responsible, under the authority of the President, for the administration of the Court, its financial management and its accounts; he shall be assisted in this by an administrator.

Chapter 4

ASSISTANT RAPPORTEURS

Article 24

1. Where the Court is of the opinion that the consideration of and preparatory inquiries in cases before it so require, it shall, pursuant to Article 16 of the ECSC Statute and Article 2 of the EEC and Euratom Statutes, propose the appointment of Assistant Rapporteurs.

2. Assistant Rapporteurs shall in particular assist the President in connection with applications for the adoption of interim measures and assist the Judge-Rapporteurs in their work.

3. In the performance of their duties the Assistant Rapporteurs shall be responsible to the President of the Court, the President of a Chamber or a Judge-Rapporteur, as the case may be.

4. Before taking up his duties, an Assistant Rapporteur shall take before the Court the oath set out in Article 3 of these Rules.

Chapter 5

THE WORKING OF THE COURT

Article 25

1. The dates and times of the sittings of the Court shall be fixed by the President.

2. The dates and times of the sittings of the Chambers shall be fixed by their respective Presidents.

3. The Court and the Chambers may choose to hold one or more sittings in a place other than that in which the Court has its seat.

Article 26

1. Where, by reason of a Judge being absent or prevented from attending, there is an even number of Judges, the most junior Judge within the meaning of Article 6 of these Rules shall abstain from taking part in the deliberations unless he is the Judge-Rapporteur. In that case the Judge immediately senior to him shall abstain from taking part in the deliberations.

2. If after the Court has been convened it is found that the quorum of seven Judges has not been attained, the President shall adjourn the sitting until there is a quorum.

3. If in any Chamber the quorum of three Judges has not been attained, the President of that Chamber shall so inform the President of the Court who shall designate another Judge to complete the Chamber.

Article 27

1. The Court and Chambers shall deliberate in closed session.

2. Only those Judges who were present at the oral proceedings and the Assistant Rapporteur, if any, entrusted with the consideration of the case may take part in the deliberations.

3. Every Judge taking part in the deliberations shall state his opinion and the reasons for it.

4. Any Judge may require that any questions be formulated in the language of his choice and communicated in writing to the Court or Chamber before being put to the vote.

5. The conclusions reached by the majority of the Judges after final discussion shall determine the decision of the Court. Votes shall be cast in reverse order to the order of precedence laid down in Article 6 of these Rules.

6. Differences of view on the substance, wording or order of questions, or on the interpretation of the voting shall be settled by decision of the Court or Chamber.

7. Where the deliberations of the Court concern questions of its own administration, the Advocates-General shall take part and have a vote. The Registrar shall be present, unless the Court decides to the contrary.

8. Where the court sits without the Registrar being present it shall, if necessary, instruct the most junior Judge within the meaning of Article 6 of these rules to draw up minutes. The minutes shall be signed by this Judge and by the President.

Article 28

1. Subject to any special decision of the Court, its vacations shall be as follows:

— from 18 December to 10 January,

— from the Sunday before Easter to the second Sunday after Easter,

— from 15 July to 15 September.

During the vacations, the functions of President shall be exercised at the place where the Court has its seat either by the President himself, keeping in touch with the Registrar, or by a President of Chamber or other Judge invited by the President to take his place.

2. In a case of urgency, the President may convene the Judges and the Advocates-General during the vacations.

3. The Court shall observe the official holidays of the place where it has its seat.

4. The Court may, in proper circumstances, grant leave of absence to any Judge or Advocate-General.

Chapter 6

LANGUAGES

Article 29

1. The language of a case shall be Danish, Dutch, English, French, German, Greek, Irish, Italian, Portuguese or Spanish.

2. The language of a case shall be chosen by the applicant, except that:

(a) where the defendant is a Member State or a natural or legal person having the nationality of a Member State, the language of the case shall be the official language of that State; where that State has more than one official language, the applicant may choose between them;

(b) at the joint request of the parties the Court may authorize another of the languages mentioned in paragraph (1) of this Article to be used as the language of the case for all or part of the proceedings;

(c) at the request of one of the parties, and after the opposite party and the Advocate-General have been heard, the Court, may, by way of derogation from subparagraphs (a) and (b), authorize another of the languages mentioned in paragraph (1) of this Article to be used as the language of the case for all or part of the proceedings; such a request may not be submitted by an institution of the European Communities.

In cases to which Article 103 of these Rules applies, the language of the case shall be the language of the national court or tribunal which refers the matter to the Court.

3. The language of the case shall be used in the written and oral pleadings of the parties and in supporting documents, and also in the minutes and decisions of the Court.

Any supporting documents expressed in another language must be accompanied by a translation into the language of the case.

In the case of lengthy documents, translations may be confined to extracts. However, the Court or Chamber may,

of its own motion or at the request of a party, at any time call for a complete or fuller translation.

Notwithstanding the foregoing provisions, a Member State shall be entitled to use its official language when intervening in a case before the Court or when taking part in any reference of a kind mentioned in Article 103. This provision shall apply both to written statements and to oral addresses. The Registrar shall cause any such statement or address to be translated into the language of the case.

4. Where a witness or expert states that he is unable adequately to express himself in one of the languages referred to in paragraph (1) of this Article, the Court or Chamber may authorize him to give his evidence in another language. The Registrar shall arrange for translation into the language of the case.

5. The President of the Court and the Presidents of Chambers in conducting oral proceedings, the Judge-Rapporteur both in his preliminary report and in his report for the hearing, Judges and Advocates-General in putting questions and Advocates-General in delivering their opinions may use one of the languages referred to in paragraph (1) of this Article other than the language of the case. The Registrar shall arrange for translation into the language of the case.

Article 30

1. The Registrar shall, at the request of any Judge, of the Advocate-General or of a party, arrange for anything said or written in the course of the proceedings before the Court or a Chamber to be translated into the languages he chooses from those referred to in Article 29 (1).

2. Publications of the Court shall be issued in the languages referred to in Article 1 of Council Regulation No 1.

Article 31

The texts of documents drawn up in the language of the case or in any other language authorized by the Court pursuant to Article 29 of these rules shall be authentic.

Chapter 7

RIGHTS AND OBLIGATIONS OF AGENTS, ADVISERS AND LAWYERS

Article 32

1. Agents representing a State or an institution, as well as advisers and lawyers, appearing before the Court or before any judicial authority to which the Court has addressed letters rogatory, shall enjoy immunity in respect of words spoken or written by them concerning the case or the parties.

2. Agents, advisers and lawyers shall enjoy the following further privileges and facilities:

(a) papers and documents relating to the proceedings shall be exempt from both search and seizure; in the event of a dispute the customs officials or police may seal those papers and documents; they shall then be immediately forwarded to the Court for inspection in the presence of the Registrar and of the person concerned;

(b) agents, advisers and lawyers shall be entitled to such allocation of foreign currency as may be necessary for the performance of their duties;

(c) agents, advisers and lawyers shall be entitled to travel in the course of duty without hindrance.

Article 33

In order to qualify for the privileges, immunities and facilities specified in Article 32, persons entitled to them shall furnish proof of their status as follows:

(a) agents shall produce an official document issued by the State or institution which they represent; a copy of this document shall be forwarded without delay to the Registrar by the State or institution concerned;

(b) advisers and lawyers shall produce a certificate signed by the Registrar. The validity of this certificate shall be limited to a specified period, which may be extended or curtailed according to the length of the proceedings.

Article 34

The privileges, immunities and facilities specified in Article 32 of these Rules are granted exclusively in the interests of the proper conduct of proceedings.

The Court may waive the immunity where it considers that the proper conduct of proceedings will not be hindered thereby.

Article 35

1. Any adviser or lawyer whose conduct towards the Court, a Chamber, a Judge, an Advocate-General or the Registrar is incompatible with the dignity of the Court, or who uses his rights for purposes other than those for which they were granted, may at any time be excluded from the proceedings by an order of the Court or Chamber, after the Advocate-General has been heard; the person concerned shall be given an opportunity to defend himself.

The order shall have immediate effect.

Chapter 3

ORAL PROCEDURE

Article 55

1. Subject to the priority of decisions provided for in Article 85 of these Rules, the Court shall deal with the cases before it in the order in which the preparatory inquiries in them have been completed. Where the preparatory inquiries in several cases are completed simultaneously, the order in which they are to be dealt with shall be determined by the dates of entry in the register of the applications initiating them respectively.

2. The President may in special circumstances order that a case be given priority over others.

The President may in special circumstances, after hearing the parties and the Advocate-General, either on his own initiative or at the request of one of the parties, defer a case to be dealt with at a later date. On a joint application by the parties the President may order that a case be deferred.

Article 56

1. The proceedings shall be opened and directed by the President, who shall be responsible for the proper conduct of the hearing.

2. The oral proceedings in cases heard *in camera* shall not be published.

Article 57

The President may in the course of the hearing put questions to the agents, advisers or lawyers of the parties.

The other Judges and the Advocate-General may do likewise.

Article 58

A party may address the Court only through his agent, adviser or lawyer.

Article 59

1. The Advocate-General shall deliver his opinion orally at the end of the oral procedure.

2. After the Advocate-General has delivered his opinion, the President shall declare the oral procedure closed.

Article 60

The Court may at any time, in accordance with Article 45 (1), after hearing the Advocate-General, order any measure of inquiry to be taken or that a previous inquiry be repeated or expanded. The Court may direct the Chamber or the Judge-Rapporteur to carry out the measures so ordered.

Article 61

The Court may after hearing the Advocate-General order the reopening of the oral procedure.

Article 62

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes at the Registry and obtain copies at their own expense.

Chapter 4

JUDGMENTS

Article 63

The judgment shall contain:

— a statement that it is the judgment of the Court,

— the date of its delivery,

— the names of the President and of the Judges taking part in it,

— the name of the Advocate-General,

— the name of the Registrar,

— the description of the parties,

— the names of the agents, advisers and lawyers of the parties,

— a statement of the forms of order sought by the parties,

— a statement that the Advocate-General has been heard,

— a summary of the facts,

— the grounds for the decision,

— the operative part of the judgment, including the decision as to costs.

Article 64

1. The judgment shall be delivered in open court; the parties shall be given notice to attend to hear it.

2. The original of the judgment, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be sealed and deposited at the Registry; the parties shall be served with certified copies of the judgment.

3. The Registrar shall record on the original of the judgment the date on which it was delivered.

Article 65

The judgment shall be binding from the date of its delivery.

Article 66

1. Without prejudice to the provisions relating to the interpretation of judgments the Court may, of its own motion or on application by a party made within two weeks after the delivery of a judgment, rectify clerical mistakes, errors in calculation and obvious slips in it.

2. The parties, whom the Registrar shall duly notify, may lodge written observations within a period prescribed by the President.

3. The Court shall take its decision in closed session after hearing the Advocate-General.

4. The original of the rectification order shall be annexed to the original of the rectified judgment. A note of this order shall be made in the margin of the original of the rectified judgment.

Article 67

If the Court should omit to give a decision on a specific head of claim or on costs, any party may within a month after service of the judgment apply to the Court to supplement its judgment.

The application shall be served on the opposite party and the President shall prescribe a period within which that party may lodge written observations.

After these observations have been lodged, the Court shall, after hearing the Advocate-General, decide both on the admissibility and on the substance of the application.

Article 68

The Registrar shall arrange for the publication of reports of cases before the Court.

Chapter 5

COSTS

Article 69

1. A decision as to costs shall be given in the final judgment or in the order which closes the proceedings.

2. The unsuccessful party shall be ordered to pay the costs if they have been applied for in the successful party's pleadings.

Where there are several unsuccessful parties the Court shall decide how the costs are to be shared.

3. Where each party succeeds on some and fails on other heads, or where the circumstances are exceptional, the Court may order that the costs be shared or that the parties bear their own costs.

The Court may order a party, even if successful, to pay costs which the Court considers that party to have unreasonably or vexatiously caused the opposite party to incur.

4. The Member States and institutions which intervene in the proceedings shall bear their own costs.

The Court may order an intervener other than those mentioned in the preceding subparagraph to bear his own costs.

5. A party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the other party's pleadings. However, upon application by the party who discontinues or withdraws from proceedings, the costs shall be borne by the other party if this appears justified by the conduct of that party.

Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement.

If costs are not claimed, the parties shall bear their own costs.

6. Where a case does not proceed to judgment the costs shall be in the discretion of the Court.

Article 70

Without prejudice to the second subparagraph of Article 69 (3) of these Rules, in proceedings between the Communities and their servants the institutions shall bear their own costs.

Article 71

Costs necessarily incurred by a party in enforcing a judgment or order of the Court shall be refunded by the opposite party on the scale in force in the State where the enforcement takes place.

Article 72

Proceedings before the Court shall be free of charge, except that:

(a) where a party has caused the Court to incur avoidable costs the Court may, after hearing the Advocate-General, order that party to refund them;

2. Where an adviser or lawyer is excluded from the proceedings, the proceedings shall be suspended for a period fixed by the President in order to allow the party concerned to appoint another adviser or lawyer.

3. Decisions taken under this Article may be rescinded.

Article 36

The provisions of this Chapter shall apply to university teachers who have a right of audience before the Court in accordance with Article 20 of the ECSC Statute and Article 17 of the EEC and Euratom Statutes.

TITLE II

PROCEDURE

Chapter 1

WRITTEN PROCEDURE

Article 37

1. The original of every pleading must be signed by the party's agent or lawyer.

The original, accompanied by all annexes referred to therein, shall be lodged together with five copies for the Court and a copy for every other party to the proceedings. Copies shall be certified by the party lodging them.

2. Institutions shall in addition produce, within time-limits laid down by the Court, translations of all pleadings into the other languages provided for by Article 1 of Council Regulation No 1. The second subparagraph of paragraph (1) of this Article shall apply.

3. All pleadings shall bear a date. In the reckoning of time-limits for taking steps in proceedings, only the date of lodgment at the Registry shall be taken into account.

4. To every pleading there shall be annexed a file containing the documents relied on in support of it, together with a schedule listing them.

5. Where in view of the length of a document only extracts from it are annexed to the pleading, the whole document or a full copy of it shall be lodged at the Registry.

Article 38

1. An application of the kind referred to in Article 22 of the ECSC Statute and Article 19 of the EEC and Euratom Statutes shall state:

(a) the name and address of the applicant;

(b) the designation of the party against whom the application is made;

(c) the subject-matter of the proceedings and a summary of the pleas in law on which the application is based;

(d) the form of order sought by the applicant;

(e) where appropriate, the nature of any evidence offered in support.

2. For the purpose of the proceedings, the application shall state an address for service in the place where the Court has its seat and the name of the person who is authorized and has expressed willingness to accept service.

If the application does not comply with these requirements, all service on the party concerned for the purpose of the proceedings shall be effected, for so long as the defect has not been cured, by registered letter addressed to the agent or lawyer of that party. By way of derogation from Article 79, service shall then be deemed to be duly effected by the lodging of the registered letter at the post office of the place where the Court has its seat.

3. The lawyer acting for a party must lodge at the Registry a certificate that he is entitled to practise before a Court of a Member State.

4. The application shall be accompanied, where appropriate, by the documents specified in the second paragraph of Article 22 of the ECSC Statute and in the second paragraph of Article 19 of the EEC and Euratom Statutes.

5. An application made by a legal person governed by private law shall be accompanied by:

(a) the instrument or instruments constituting or regulating that legal person or a recent extract from the register of companies, firms or associations or any other proof of its existence in law;

(b) proof that the authority granted to the applicant's lawyer has been properly conferred on him by someone authorized for the purpose.

6. An application submitted under Articles 42 and 89 of the ECSC Treaty, Articles 181 and 182 of the EEC Treaty and Articles 153 and 154 of the Euratom Treaty shall be accompanied by a copy of the arbitration clause contained in the contract governed by private or public law entered into by the Communities or on their behalf, or, as the case may be, by a copy of the special agreement concluded between the Member States concerned.

7. If an application does not comply with the requirements set out in paragraphs (3) to (6) of this Article, the Registrar shall prescribe a reasonable period within

which the applicant is to comply with them whether by putting the application itself in order or by producing any of the abovementioned documents. If the applicant fails to put the application in order or to produce the required documents within the time prescribed, the Court shall, after hearing the Advocate-General, decide whether the non-compliance with these conditions renders the application formally inadmissible.

Article 39

The application shall be served on the defendant. In a case where Article 38 (7) applies, service shall be effected as soon as the application has been put in order or the Court has declared it admissible notwithstanding the failure to observe the formal requirements set out in that Article.

Article 40

1. Within one month after service on him of the application, the defendant shall lodge a defence, stating:

(a) the name and address of the defendant;

(b) the arguments of fact and law relied on;

(c) the form of order sought by the defendant;

(d) the nature of any evidence offered by him.

The provisions af Article 38 (2) to (5) of these Rules shall apply to the defence.

2. The time-limit laid down in paragraph (1) of this Article may be extended by the President on a reasoned application by the defendant.

Article 41

1. The application initiating the proceedings and the defence may be supplemented by a reply from the applicant and by a rejoinder from the defendant.

2. The President shall fix the time-limits within which these pleadings are to be lodged.

Article 42

1. In reply or rejoinder a party may offer further evidence. The party must, however, give reasons for the delay in offering it.

2. No new plea in law may be introduced in the course of proceedings unless it is based on matters of law or of fact which come to light in the course of the procedure.

If in the course of the procedure one of the parties puts forward a new plea in law which is so based, the President may, even after the expiry of the normal procedural time-limits, acting on a report of the Judge-Rapporteur and after hearing the Advocate-General, allow the other party time to answer on that plea.

The decision on the admissibility of the plea shall be reserved for the final judgment.

Article 43

The Court may, at any time, after hearing the parties and the Advocate-General, if the assignment referred to in Article 10 (2) has taken place, order that two or more cases concerning the same subject-matter shall, on account of the connection between them, be joined for the purposes of the written or oral procedure or of the final judgment. The cases may subsequently be disjoined.

Article 44

1. After the rejoinder provided for in Article 41 (1) of these Rules has been lodged, the President shall fix a date on which the Judge-Rapporteur is to present his preliminary report to the Court. The report shall contain recommendations as to whether a preparatory inquiry or any other preparatory step should be undertaken and whether the case should be referred to the Chamber to which it has been assigned under Article 9 (2).

The Court shall decide, after hearing the Advocate-General, what action to take upon the recommendations of the Judge-Rapporteur.

The same procedure shall apply:

(a) where no reply or no rejoinder has been lodged within the time-limit fixed in accordance with Article 41 (2) of these Rules;

(b) where the party concerned waives his right to lodge a reply or rejoinder.

2. Where the Court orders a preparatory inquiry and does not undertake it itself, it shall assign the inquiry to the Chamber.

Where the Court decides to open the oral procedure without an inquiry, the President shall fix the opening date.

Article 44 (a)

Without prejudice to any special provisions laid down in these Rules, and except in the specific cases in which, after the pleadings referred to in Article 40 (1) and, as the case may be, in Article 41 (1) have been lodged, the Court, acting on a report from the Judge-Rapporteur, after hearing the Advocate-General and with the express consent of the parties, decides otherwise, the procedure before the Court shall also include an oral part.

Chapter 2

PREPARATORY INQUIRIES

Section 1 — Measures of inquiry

Article 45

1. The Court, after hearing the Advocate-General, shall prescribe the measures of inquiry that it considers appropriate by means of an order setting out the facts to be

proved. Before the Court decides on the measures of inquiry referred to in paragraph (2) (c), (d) and (e) the parties shall be heard.

The order shall be served on the parties.

2. Without prejudice to Articles 24 and 25 of the ECSC Statute, Articles 21 and 22 of the EEC Statute or Articles 22 and 23 of the Euratom Statute, the following measures of inquiry may be adopted:

(a) the personal appearance of the parties;

(b) a request for information and production of documents;

(c) oral testimony;

(d) the commissioning of an expert's report;

(e) an inspection of the place or thing in question.

3. The measures of inquiry which the Court has ordered may be conducted by the Court itself, or be assigned to the Judge-Rapporteur.

The Advocate-General shall take part in the measures of inquiry.

4. Evidence may be submitted in rebuttal and previous evidence may be amplified.

Article 46

1. A Chamber to which a preparatory inquiry has been assigned may exercise the powers vested in the Court by Articles 45 and 47 to 53 of these Rules; the powers vested in the President of the Court may be exercised by the President of the Chamber.

2. Articles 56 and 57 of the Rules shall apply in a corresponding manner to proceedings before the Chamber.

3. The parties shall be entitled to attend the measures of inquiry.

Section 2 — The summoning and examination of witnesses and experts

Article 47

1. The Court may, either of its own motion or an application by a party, and after hearing the Advocate-General, order that certain facts be proved by witnesses. The order of the Court shall set out the facts to be established.

The Court may summon a witness of its own motion or on application by a party or at the instance of the Advocate-General.

An application by a party for the examination of a witness shall state precisely about what facts and for what reasons the witness should be examined.

2. The witness shall be summoned by an order of the Court containing the following information:

(a) the surname, forenames, description and address of the witness;

(b) an indication of the facts about which the witness is to be examined;

(c) where appropriate, particulars of the arrangements made by the Court for reimbursement of expenses incurred by the witness, and of the penalties which may be imposed on defaulting witnesses.

The order shall be served on the parties and the witnesses.

3. The Court may make the summoning of a witness for whose examination a party has applied conditional upon the deposit with the cashier of the Court of a sum sufficient to cover the taxed costs thereof; the Court shall fix the amount of the payment.

The cashier shall advance the funds necessary in connection with the examination of any witness summoned by the Court of its own motion.

4. After the identity of the witness has been established, the President shall inform him that he will be required to vouch the truth of his evidence in the manner laid down in these Rules.

The witness shall give his evidence to the Court, the parties having been given notice to attend. After the witness has given his main evidence the President may, at the request of a party or of his own motion, put questions to him.

The other Judges and the Advocate-General may do likewise.

Subject to the control of the President, questions may be put to witnesses by the representatives of the parties.

5. After giving his evidence, the witness shall take the following oath:

'I swear that I have spoken the truth, the whole truth and nothing but the truth.'

The Court may, after hearing the parties, exempt a witness from taking the oath.

6. The Registrar shall draw up minutes in which the evidence of each witness is reproduced.

The minutes shall be signed by the President or by the Judge-Rapporteur responsible for conducting the examination of the witness, and by the Registrar. Before the minutes are thus signed, witnesses must be given an opportunity to check the content of the minutes and to sign them.

The minutes shall constitute an official record.

Article 48

1. Witnesses who have been duly summoned shall obey the summons and attend for examination.

2. If a witness who has been duly summoned fails to appear before the Court, the Court may impose upon him a

pecuniary penalty not exceeding ECU 5 000 and may order that a further summons be served on the witness at his own expense.

The same penalty may be imposed upon a witness who, without good reason, refuses to give evidence or to take the oath or where appropriate to make a solemn affirmation equivalent thereto.

3. If the witness proffers a valid excuse to the Court, the pecuniary penalty imposed on him may be cancelled. The pecuniary penalty imposed may be reduced at the request of the witness where he establishes that it is disproportionate to his income.

4. Penalties imposed and other measures ordered under this Article shall be enforced in accordance with Article 44 and 92 of the ECSC Treaty, Articles 187 and 192 of the EEC Treaty and Articles 159 and 164 of the Euratom Treaty.

Article 49

1. The Court may order that an expert's report be obtained. The order appointing the expert shall define his task and set a time-limit within which he is to make his report.

2. The expert shall receive a copy of the order, together with all the documents necessary for carrying out his task. He shall be under the supervision of the Judge-Rapporteur, who may be present during his investigation and who shall be kept informed of his progress in carrying out his task.

The Court may request the parties or one of them to lodge security for the costs of the expert's report.

3. At the request of the expert, the Court may order the examination of witnesses. Their examination shall be carried out in accordance with Article 47 of these Rules.

4. The expert may give his opinion only on points which have been expressly referred to him.

5. After the expert has made his report, the Court may order that he be examined, the parties having been given notice to attend.

Subject to the control of the President, questions may be put to the expert by the representatives of the parties.

6. After making his report, the expert shall take the following oath before the Court:

'I swear that I have conscientiously and impartially carried out my task.'

The Court may, after hearing the parties, exempt the expert from taking the oath.

Article 50

1. If one of the parties objects to a witness or to an expert on the ground that he is not a competent or proper person to act as witness or expert or for any other reason, or if a witness or expert refuses to give evidence, to take the oath or to make a solemn affirmation equivalent thereto, the matter shall be resolved by the Court.

2. An objection to a witness or to an expert shall be raised within two weeks after service of the order summoning the witness or appointing the expert; the statement of objection must set out the grounds of objection and indicate the nature of any evidence offered.

Article 51

1. Witnesses and experts shall be entitled to reimbursement of their travel and subsistence expenses. The cashier of the Court may make a payment to them towards these expenses in advance.

2. Witnesses shall be entitled to compensation for loss of earnings, and experts to fees for their services. The cashier of the Court shall pay witnesses and experts their compensation or fees after they have carried out their respective duties or tasks.

Article 52

The Court may, on application by a party or of its own motion, issue letters rogatory for the examination of witnesses or experts, as provided for in the supplementary rules mentioned in Article 125 of these Rules.

Article 53

1. The Registrar shall draw up minutes of every hearing. The minutes shall be signed by the President and by the Registrar and shall constitute an official record.

2. The parties may inspect the minutes and any expert's report at the Registry and obtain copies at their own expense.

Section 3 — Closure of the preparatory inquiry

Article 54

Unless the Court prescribes a period within which the parties may lodge written observations, the President shall fix the date for the opening of the oral procedure after the preparatory inquiry has been completed.

Where a period had been prescribed for the lodging of written observations, the President shall fix the date for the opening of the oral procedure after that period has expired.

(b) where copying or translation work is carried out at the request of a party, the cost shall, in so far as the Registrar considers it excessive, be paid for by that party on the scale of charges referred to in Article 16 (5) of these Rules.

Article 73

Without prejudice to the preceding Article, the following shall be regarded as recoverable costs:

(a) sums payable to witnesses and experts under Article 51 of these Rules;

(b) expenses necessarily incurred by the parties for the purpose of the proceedings, in particular the travel and subsistence expenses and the remuneration of agents, advisers or lawyers.

Article 74

1. If there is a dispute concerning the costs to be recovered, the Chamber to which the case has been assigned shall, on application by the party concerned and after hearing the opposite party and the Advocate-General, make an order, from which no appeal shall lie.

2. The parties may, for the purposes of enforcement, apply for an authenticated copy of the order.

Article 75

1. Sums due from the cashier of the Court shall be paid in the currency of the country where the Court has its seat.

At the request of the person entitled to any sum, it shall be paid in the currency of the country where the expenses to be refunded were incurred or where the steps in respect of which payment is due were taken.

2. Other debtors shall make payment in the currency of their country of origin.

3. Conversions of currency shall be made at the official rates of exchange ruling on the day of payment in the country where the Court has its seat.

Chapter 6

LEGAL AID

Article 76

1. A party who is wholly or in part unable to meet the costs of the proceedings may at any time apply for legal aid.

The application shall be accompanied by evidence of the applicant's need of assistance, and in particular by a document from the competent authority certifying his lack of means.

2. If the application is made prior to proceedings which the applicant wishes to commence, it shall briefly state the subject of such proceedings.

The application need not be made through a lawyer.

3. The President shall designate a Judge to act as Rapporteur. The Chamber to which the latter belongs shall, after considering the written observations of the opposite party and after hearing the Advocate-General, decide whether legal aid should be granted in full or in part, or whether it should be refused. The Chamber shall consider whether there is manifestly no cause of action.

The Chamber shall make an order without giving reasons, and no appeal shall lie thereform.

4. The Chamber may at any time, either of its own motion or on application, withdraw legal aid if the circumstances which led to its being granted alter during the proceedings.

5. Where legal aid is granted, the cashier of the Court shall advance the funds necessary to meet the expenses.

In its decision as to costs the Court may order the payment to the cashier of the Court of the whole or any part of amounts advanced as legal aid.

The Registrar shall take steps to obtain the recovery of these sums from the party ordered to pay them.

Chapter 7

DISCONTINUANCE

Article 77

If, before the Court has given its decision, the parties reach a settlement of their dispute and intimate to the Court the abandonment of their claims, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 69 (5), having regard to any proposals made by the parties on the matter.

This provision shall not apply to proceedings under Articles 33 and 35 of the ECSC Treaty, Articles 173 and 175 of the EEC Treaty or Articles 146 and 148 of the Euratom Treaty.

Article 78

If the applicant informs the Court in writing that he wishes to discontinue the proceedings, the President shall order the case to be removed from the register and shall give a decision as to costs in accordance with Article 69 (5).

Chapter 8

SERVICE

Article 79

Where these Rules require that a document be served on a person, the Registrar shall ensure that service is effected at that person's address for service either by the dispatch of a copy of the document by registered post with a form for acknowledgement of receipt or by personal delivery of the copy against a receipt.

The Registrar shall prepare and certify the copies of documents to be served, save where the parties themselves supply the copies in accordance with Article 37 (1) of these Rules.

Chapter 9

TIME LIMITS

Article 80

1. Any period of time prescribed by the ECSC, EEC or Euratom Treaties, the Statutes of the Court or these Rules for the taking of any procedural step shall be reckoned as follows:

(a) where a period expressed in days, weeks, months or years is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) a period expressed in weeks, months or in years shall end with the expiry of whichever day in the last week, month or year is the same day of the week, or falls on the same date, as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months or in years, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) where a period is expressed in months and days, it shall first be reckoned in whole months, then in days;

(d) periods shall include official holidays, Sundays and Saturdays;

(e) periods shall not be suspended during the judicial vacations.

2. If the period would otherwise end on a Saturday, Sunday or an official holiday, it shall be extended until the end of the first following working day.

A list of official holidays drawn up by the Court shall be published in the *Official Journal of the European Communities*.

Article 81

1. The period of time allowed for commencing proceedings against a measure adopted by an institution shall run from the day following the receipt by the person concerned of notification of the measure or, where the measure is published, from the 15th day after publication thereof in the *Official Journal of the European Communities*.

2. The extensions, on account of distance, of prescribed time limits shall be provided for in a decision of the Court which shall be published in the *Official Journal of the European Communities*.

Article 82

Any time limit prescribed pursuant to these Rules may be extended by whoever prescribed it.

The President and the Presidents of Chambers may delegate to the Registrar power of signature for the purpose of fixing time limits which, pursuant to these Rules, it falls to them to prescribe or of extending such time limits.

Chapter 10

STAY OF PROCEEDINGS

Article 82a

1. The proceedings may be stayed:

(a) in the circumstances specified in the third paragraph of Article 47 of the ECSC Statute, the third paragraph of Article 47 of the EEC Statute and the third paragraph of Article 48 of the Euratom Statute, by order of the Court or of the Chamber to which the case has been assigned, made after hearing the Advocate-General;

(b) in all other cases, by decision of the President adopted after hearing the Advocate-General and, save in the case of references for a preliminary ruling as referred to in Article 103, the parties.

The proceedings may be resumed by order or decision, following the same procedure.

The orders or decisions referred to in this paragraph shall be served on the parties.

2. The stay of proceedings shall take effect on the date indicated in the order or decision of stay or, in the absence of such indication, on the date of that order or decision.

While proceedings are stayed time shall cease to run for the purposes of prescribed time limits for all parties.

3. Where the order or decision of stay does not fix the length of stay, it shall end on the date indicated in the order or decision of resumption or, in the absence of such indication, on the date of the order or decision of resumption.

From the date of resumption time shall begin to run afresh for the purposes of the time limits.

TITLE III

SPECIAL FORMS OF PROCEDURE

Chapter 1

SUSPENSION OF OPERATION OR ENFORCEMENT AND OTHER INTERIM MEASURES

Article 83

1. An application to suspend the operation of any measure adopted by an institution, made pursuant to the second paragraph of Article 39 of the ECSC Treaty, Article 185 of the EEC Treaty or Article 157 of the Euratom Treaty, shall be admissible only if the applicant is challenging that measure in proceedings before the Court.

An application for the adoption of any other interim measure referred to in the third paragraph of Article 39 of the ECSC Treaty, Article 186 of the EEC Treaty or Article 158 of the Euratom Treaty shall be admissible only if it is made by a party to a case before the Court and relates to that case.

2. An application of a kind referred to in paragraph (1) of this Article shall state the subject-matter of the proceedings, the circumstances giving rise to urgency and the pleas of fact and law establishing a *prima facie* case for the interim measures applied for.

3. The application shall be made by a separate document and in accordance with the provisions of Articles 37 and 38 of these Rules.

Article 84

1. The application shall be served on the opposite party, and the President shall prescribe a short period within which that party may submit written or oral observations.

2. The President may order a preparatory inquiry.

The President may grant the application even before the observations of the opposite party have been submitted. This decision may be varied or cancelled even without any application being made by any party.

Article 85

The President shall either decide on the application himself or refer it to the Court.

If the President is absent or prevented from attending, Article 11 of these Rules shall apply.

Where the application is referred to it, the Court shall postpone all other cases, and shall give a decision after hearing the Advocate-General. Article 84 shall apply.

Article 86

1. The decision on the application shall take the form of a reasoned order, from which no appeal shall lie. The order shall be served on the parties forthwith.

2. The enforcement of the order may be made conditional on the lodging by the applicant of security, of an amount and nature to be fixed in the light of the cirumstances.

3. Unless the order fixes the date on which the interim measure is to lapse, the measure shall lapse when final judgment is delivered.

4. The order shall have only an interim effect, and shall be without prejudice to the decision of the Court on the substance of the case.

Article 87

On application by a party, the order may at any time be varied or cancelled on account of a change in circumstances.

Article 88

Rejection of an application for an interim measure shall not bar the party who made it from making a further application on the basis of new facts.

Article 89

The provisions of this Chapter shall apply to applications to suspend the enforcement of a decision of the Court or of any measure adopted by another institution, submitted pursuant to Articles 44 and 92 of the ECSC Treaty, Articles 187 and 192 of the EEC Treaty or Articles 159 and 164 of the Euratom Treaty.

The order granting the application shall fix, where appropriate, a date on which interim measure is to lapse.

Article 90

1. An application of a kind referred to in the third and fourth paragraphs of Article 81 of the Euratom Treaty shall contain:

(a) the names and addresses of the persons or undertakings to be inspected;

(b) an indication of what is to be inspected and of the purpose of the inspection.

2. The President shall give his decision in the form of an order. Article 86 of these Rules shall apply.

If the President is absent or prevented from attending, Article 11 of these Rules shall apply.

Chapter 2

PRELIMINARY ISSUES

Article 91

1. A party applying to the Court for a decision on a preliminary objection or other preliminary plea not going to the substance of the case shall make the application by a separate document.

The application must state the pleas of fact and law relied on and the form of order sought by the applicant; any supporting documents must be annexed to it.

2. As soon as the application has been lodged, the President shall prescribe a period within which the opposite party may lodge a document containing a statement of the form of order sought by that party and its pleas in law.

3. Unless the Court decides otherwise, the remainder of the proceedings shall be oral.

4. The Court shall, after hearing the Advocate-General, decide on the application or reserve its decision for the final judgment.

If the Court refuses the application or reserves its decision, the President shall prescribe new time-limits for the further steps in the proceedings.

Article 92

1. Where it is clear that the Court has no jurisdiction to take cognizance of an action or where the action is manifestly inadmissible, the Court may, by reasoned order, after hearing the Advocate-General and without taking further steps in the proceedings, give a decision on the action.

2. The Court may at any time of its own motion consider whether there exists any absolute bar to proceeding with a case, and shall give its decision in accordance with Article 91 (3) and (4) of these Rules.

Chapter 3

INTERVENTION

Article 93

1. An application to intervene must be made within three months of the publication of the notice referred to in Article 16 (6) of these Rules.

The application shall contain:

(a) the description of the case;

(b) the description of the parties;

(c) the name and address of the intervener;

(d) the intervener's address for service at the place where the Court has its seat;

(e) the form of order sought, by one or more of the parties, in support of which the intervener is applying for leave to intervene;

(f) except in the case of applications to intervene made by Member States or institutions, a statement of the reasons establishing the intervener's interest in the result of the case.

The intervener shall be represented in accordance with the first and second paragraphs of Article 20 of the ECSC Statute and with Article 17 of the EEC and Euratom Statutes.

Articles 37 and 38 of these Rules shall apply.

2. The application shall be served on the parties.

The President shall give the parties an opportunity to submit their written or oral observations before deciding on the application.

The President shall decide on the application by order or shall refer the application to the Court.

3. If the President allows the intervention, the intervener shall receive a copy of every document served on the parties. The President may, however, on application by one of the parties, omit secret or confidential documents.

4. The intervener must accept the case as he finds it at the time of his intervention.

5. The President shall prescribe a period within which the intervener may submit a statement in intervention.

The statement in intervention shall contain:

(a) a statement of the form of order sought by the intervener in support of or opposing, in whole or in part, the form of order sought by one of the parties;

(b) the pleas in law and arguments relied on by the intervener;

(c) where appropriate, the nature of any evidence offered.

6. After the statement in intervention has been lodged, the President shall, where necessary, prescribe a time-limit within which the parties may reply to that statement.

Chapter 4

JUDGMENTS BY DEFAULT AND APPLICATIONS TO SET THEM ASIDE

Article 94

1. If a defendant on whom an application initiating proceedings has been duly served fails to lodge a defence to the application in the proper form within the time prescribed, the applicant may apply for judgment by default.

The application shall be served on the defendant. The President shall fix a date for the opening of the oral procedure.

2. Before giving judgment by default the Court shall, after hearing the Advocate-General, consider whether the application initiating proceedings is admissible, whether the appropriate formalities have been complied with, and whether the application appears well founded. The Court may order a preparatory inquiry.

3. A judgment by default shall be enforceable. The Court may, however, grant a stay of execution until the Court has given its decision on any application under paragraph (4) to set aside the judgment, or it may make execution subject to the provision of security of an amount and nature to be fixed in the light of the circumstances; this security shall be released if no such application is made or if the application fails.

4. Application may be made to set aside a judgment by default.

The application to set aside the judgment must be made within one month from the date of service of the judgment and must be lodged in the form prescribed by Articles 37 and 38 of these Rules.

5. After the application has been served, the President shall prescribe a period within which the other party may submit his written observations.

The proceedings shall be conducted in accordance with Articles 44 *et seq.* of these Rules.

6. The Court shall decide by way of a judgment which may not be set aside. The original of this judgment shall be annexed to the original of the judgment by default. A note of the judgment on the application to set aside shall be made in the margin of the original of the judgment by default.

Chapter 5

CASES ASSIGNED TO CHAMBERS

Article 95

1. The Court may assign to a Chamber any appeal brought against a decision of the Court of First Instance pursuant to Article 49 of the ECSC Statute, Article 49 of the EEC Statute and Article 50 of the Euratom Statute, any reference for a preliminary ruling of a kind mentioned in Article 103 of these Rules and any other case, with the exception of those brought by a Member State or an institution, in so far as the difficulty or the importance of the case or particular circumstances are not such as to require that the Court decide it in plenary session.

2. The decision so to assign a case shall be taken by the Court at the end of the written procedure upon consideration of the preliminary report presented by the Judge-Rapporteur and after the Advocate-General has been heard.

However, a case may not be so assigned if a Member State or an institution, being a party to the proceedings, has requested that the case be decided in plenary session. In this subparagraph the expression 'party to the proceedings' means any Member State or any institution which is a party to or an intervener in the proceedings or which has submitted written observations in any reference of a kind mentioned in Article 103 of these Rules.

The request referred to in the preceding subparagraph may not be made in proceedings between the Communities and their servants.

3. A Chamber may at any stage refer a case back to the Court.

Article 96

(repealed)

Chapter 6

EXCEPTIONAL REVIEW PROCEDURES

Section 1 — Third-party proceedings

Article 97

1. Articles 37 and 38 of these Rules shall apply to an application initiating third-party proceedings. In addition such an application shall:

(a) specify the judgment contested;

(b) state how that judgment is prejudicial to the rights of the third party;

(c) indicate the reasons for which the third party was unable to take part in the original case.

The application must be made against all the parties to the original case.

Where the judgment has been published in the *Official Journal of the European Communities*, the application must be lodged within two months of the publication.

2. The Court may, on application by the third party, order a stay of execution of the judgment. The provisions of Title III, Chapter I, of these Rules shall apply.

3. The contested judgment shall be varied on the points on which the submissions of the third party are upheld.

The original of the judgment in the third-party proceedings shall be annexed to the original of the contested judgment. A note of the judgment in the third-party proceedings shall be made in the margin of the original of the contested judgment.

Section 2 — Revision

Article 98

An application for revision of a judgment shall be made within three months of the date on which the facts on which the application is based came to the applicant's knowledge.

Article 99

1. Articles 37 and 38 of these Rules shall apply to an application for revision. In addition such an application shall:

(a) specify the judgment contested;

(b) indicate the points on which the judgment is contested;

(c) set out the facts on which the application is based;

(d) indicate the nature of the evidence to show that there are facts justifying revision of the judgment, and that the time-limit laid down in Article 98 has been observed.

2. The application must be made against all parties to the case in which the contested judgment was given.

Article 100

1. Without prejudice to its decision on the substance, the Court, in closed session, shall, after hearing the Advocate-General and having regard to the written observations of the parties, give in the form of a judgment its decision on the admissibility of the application.

2. If the Court finds the application admissible, it shall proceed to consider the substance of the application and shall give its decision in the form of a judgment in accordance with these Rules.

3. The original of the revising judgment shall be annexed to the original of the judgment revised. A note of the revising judgment shall be made in the margin of the original of the judgment revised.

Chapter 7

APPEALS AGAINST DECISIONS OF THE ARBITRATION COMMITTEE

Article 101

1. An application initiating an appeal under the second paragraph of Article 18 of the Euratom Treaty shall state:

(a) the name and address of the applicant;

(b) the description of the signatory;

(c) a reference to the arbitration committee's decision against which the appeal is made;

(d) the description of the parties;

(e) a summary of the facts;

(f) the pleas in law of and the form of order sought by the applicant.

2. Articles 37 (3) and (4) and 38 (2), (3) and (5) of these Rules shall apply.

A certified copy of the contested decision shall be annexed to the application.

3. As soon as the application has been lodged, the Registrar of the Court shall request the arbitration committee registry to transmit to the Court the papers in the case.

4. Articles 39, 40, *55 et seq.* of these Rules shall apply to these proceedings.

5. The Court shall give its decision in the form of a judgment. Where the Court sets aside the decision of the arbitration committee it may refer the case back to the committee.

Chapter 8

INTERPRETATION OF JUDGMENTS

Article 102

1. An application for interpretation of a judgment shall be made in accordance with Articles 37 and 38 of these Rules. In addition it shall specify:

(a) the judgment in question;

(b) the passages of which interpretation is sought.

The application must be made against all the parties to the case in which the judgment was given.

2. The Court shall give its decision in the form of a judgment after having given the parties an opportunity to submit their observations and after hearing the Advocate-General.

The original of the interpreting judgment shall be annexed to the original of the judgment interpreted. A note of the interpreting judgment shall be made in the margin of the original of the judgment interpreted.

Chapter 9

PRELIMINARY RULINGS AND OTHER REFERENCES FOR INTERPRETATION

Article 103

1. In cases governed by Article 20 of the EEC Statute and Article 21 of the Euratom Statute, the procedure shall be governed by the provisions of these Rules, subject to adaptations necessitated by the nature of the reference for a preliminary ruling.

2. The provisions of paragraph (1) shall apply to the references for a preliminary ruling provided for in the Protocol concerning the interpretation by the Court of Justice of the Convention of 29 February 1968 on the mutual recognition of companies and legal persons and the Protocol concerning the interpretation by the Court of Justice of the Convention of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters, signed at Luxembourg on 3 June 1971, and to the references provided for by Article 4 of the latter Protocol.

The provisions of paragraph (1) shall apply also to references for interpretation provided for by other existing or future agreements.

3. In cases provided for in Article 41 of the ECSC Treaty, the text of the decision to refer the matter shall be served on the parties in the case, the Member States, the Commission and the Council.

These parties, States and institutions may, within two months from the date of such service, lodge written statements of case or written observations.

The provisions of paragraph (1) shall apply.

Article 104

1. The decisions of national courts or tribunals referred to in Article 103 shall be communicated to the Member States in the original version, accompanied by a translation into the official language of the State to which they are addressed.

2. As regards the representation and attendance of the parties to the main proceedings in the preliminary ruling procedure the Court shall take account of the rules of procedure of the national court or tribunal which made the reference.

3. Where a question referred to the Court for a preliminary ruling is manifestly identical to a question on which the Court has already ruled, the Court may, after informing the court or tribunal which referred the question to it, hearing any observations submitted by the persons referred to in Article 20 of the EEC Statute, Article 21 of the Euratom Statute and Article 103 (3) of these Rules and hearing the Advocate-General, give its decision by reasoned order in which reference is made to its previous judgment.

4. Without prejudice to paragraph (3) of this Article, the procedure before the Court in the case of a reference for a preliminary ruling shall also include an oral part. However, after the statements of case or written observations referred to in Article 20 of the EEC Statute, Article 21 of the Euratom Statute and Article 103 (3) of these Rules have been submitted, the Court, acting on a report from the Judge-Rapporteur, after informing the persons who under the aforementioned provisions are entitled to submit such statements or observations, may, after hearing the Advocate-General, decide otherwise, provided that none of those persons has asked to present oral argument.

5. It shall be for the national court or tribunal to decide as to the costs of the reference.

In special circumstances the Court may grant, by way of legal aid, assistance for the purpose of facilitating the representation or attendance of a party.

Chapter 10

SPECIAL PROCEDURES UNDER ARTICLES 103 TO 105 OF THE EURATOM TREATY

Article 105

1. Four certified copies shall be lodged of an application under the third paragraph of Article 103 of the Euratom Treaty. The Commission shall be served with a copy.

2. The application shall be accompanied by the draft of the agreement or contract in question, by the observations of the Commission addressed to the State concerned and by all other supporting documents.

The Commission shall submit its observations to the Court within a period of 10 days, which may be extended by the President after the State concerned has been heard.

A certified copy of the observations shall be served on that State.

3. As soon as the application has been lodged the President shall designate a Judge to act as Rapporteur. The First Advocate-General shall assign the case to an Advocate-General as soon as the Judge-Rapporteur has been designated.

4. The decision shall be taken in closed session after the Advocate-General has been heard.

The agents and advisers of the State concerned and of the Commission shall be heard if they so request.

Article 106

1. In cases provided for in the last paragraph of Article 104 and the last paragraph of Article 105 of the Euratom Treaty, the provisions of Articles 37 *et seq.* of these Rules shall apply.

2. The application shall be served on the State to which the respondent person or undertaking belongs.

Chapter 11

OPINIONS

Article 107

1. A request by the Council for an Opinion under Article 228 of the EEC Treaty shall be served on the Commission. Such a request by the Commission shall be served on the Council and on the Member States. Such a request by a Member State shall be served on the Council, the Commission and the other Member States.

The President shall prescribe a period within which the institutions and Member States which have been served with a request may submit their written observations.

2. The Opinion may deal not only with the question whether the envisaged agreement is compatible which the provisions of the EEC Treaty but also with the question whether the Community or any Community institution has the power to enter into that agreement.

Article 108

1. As soon as the request for an Opinion has been lodged, the President shall designate a Judge to act as Rapporteur.

2. The Court sitting in closed session shall, after hearing the Advocates-General, deliver a reasoned Opinion.

3. The Opinion, signed by the President, by the Judges who took part in the deliberations and by the Registrar, shall be served on the Council, the Commission and the Member States.

Article 109

Requests for the Opinion of the Court under the fourth paragraph of Article 95 of the ECSC Treaty shall be submitted jointly by the Commission and the Council.

The Opinion shall be delivered in accordance with the provisions of the preceding Article. It shall be communicated to the Commission, the Council and the European Parliament.

TITLE IV

APPEALS AGAINST DECISIONS OF THE COURT OF FIRST INSTANCE

Article 110

Without prejudice to the arrangements laid down in Article 29 (2) (b) and (c) and the fourth subparagraph of Article 29 (3) of these Rules, in appeals against decisions of the Court of First Instance as referred to in Articles 49 and 50 of the ECSC Statute, Articles 49 and 50 of the EEC Statute and Articles 50 and 51 of the Euratom Statute, the language of the case shall be the language of the decision of the Court of First Instance against which the appeal is brought.

Article 111

1. An appeal shall be brought by lodging an application at the Registry of the Court of Justice or of the Court of First Instance.

2. The Registry of the Court of First Instance shall immediately transmit to the Registry of the Court of Justice the papers in the case at first instance and, where necessary, the appeal.

Article 112

1. An appeal shall contain:

(a) the name and address of the appellant;

(b) the names of the other parties to the proceedings before the Court of First Instance;

(c) the pleas in law and legal arguments relied on;

(d) the form or order sought by the appellant.

Article 37 and Article 38 (2) and (3) of these Rules shall apply to appeals.

2. The decision of the Court of First Instance appealed against shall be attached to the appeal. The appeal shall state the date on which the decision appealed against was notified to the appellant.

3. If an appeal does not comply with Article 38 (3) or with paragraph (2) of this Article, Article 38 (7) of these Rules shall apply.

Article 113

1. An appeal may seek:

— to set aside, in whole or in part, the decision of the Court of First Instance;

— the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject-matter of the proceedings before the Court of First Instance may not be changed in the appeal.

Article 114

Notice of the appeal shall be served on all the parties to the proceedings before the Court of First Instance. Article 39 of these Rules shall apply.

Article 115

1. Any party to the proceedings before the Court of First Instance may lodge a response within two months after service on him of notice of the appeal. The time-limit for lodging a response shall not be extended.

2. A response shall contain:

(a) the name and address of the party lodging it;

(b) the date on which notice of the appeal was served on him;

(c) the pleas in law and legal arguments relied on;

(d) the form of order sought by the respondent.

Article 38 (2) and (3) of these Rules shall apply.

Article 116

1. A response may seek:

— to dismiss, in whole or in part, the appeal or to set aside, in whole or in part, the decision of the Court of First Instance;

— the same form of order, in whole or in part, as that sought at first instance and shall not seek a different form of order.

2. The subject-matter of the proceedings before the Court of First Instance may not be changed in the response.

Article 117

1. The appeal and the response may be supplemented by a reply and a rejoinder or any other pleading, where the President expressly, on application made within seven days of service of the response or of the reply, considers such further pleading necessary and expressly allows it in order to enable the party concerned to put forward its point of view or in order to provide a basis for the decision on the appeal.

2. Where the response seeks to set aside, in whole or in part, the decision of the Court of First Instance on a plea in law which was not raised in the appeal, the appellant or any other party may submit a reply on that plea alone within two months of the service of the response in question. Paragraph (1) shall apply to any further pleading following such a reply.

3. Where the President allows the lodging of a reply and a rejoinder, or any other pleading, he shall prescribe the period within which they are to be submitted.

Article 118

Subject to the following provisions, Articles 42 (2), 43, 44, 55 to 90, 93, 95 to 100 and 102 of these Rules shall apply to the procedure before the Court of Justice on appeal from a decision of the Court of First Instance.

Article 119

Where the appeal is, in whole or in part, clearly inadmissible or clearly unfounded, the Court may at any time, acting on a report from the Judge-Rapporteur and after hearing the Advocate-General, by reasoned order dismiss the appeal in whole or in part.

Article 120

After the submission of pleadings as provided for in Articles 115 (1) and, if any, Article 117 (1) and (2) of these Rules, the Court may, acting on a report from the Judge-Rapporteur and after hearing the Advocate-General and the parties, decide to dispense with the oral part of the procedure unless one of the parties objects on the ground that the written procedure did not enable him fully to defend his point of view.

Article 121

The report referred to in Article 44 (1) shall be presented to the Court after the pleadings provided for in Article 115 (1) and Article 117 (1) and (2) of these Rules have been lodged. The report shall contain, in addition to the recommendations provided for in Article 44 (1), a recommendation as to whether Article 120 of these Rules should be applied. Where no such pleadings are lodged, the same procedure shall apply after the expiry of the period prescribed for lodging them.

Article 122

Where the appeal is unfounded or where the appeal is well founded and the Court itself gives final judgment in the case, the Court shall make a decision as to costs.

In proceedings between the Communities and their servants:

— Article 70 of these Rules shall apply only to appeals brought by institutions;

— by way of derogation from Article 69 (2) of these Rules, the Court may, in appeals brought by officials or other servants of an institution, order the parties to share the costs where equity so requires.

If the appeal is withdrawn Article 69 (5) shall apply.

When an appeal brought by a Member State or an institution which did not intervene in the proceedings before the Court of First Instance is well founded, the Court of Justice may order that the parties share the costs or that the successful appellant pay the costs which the appeal has caused an unsuccessful party to incur.

Article 123

An application to intervene made to the Court in appeal proceedings shall be lodged before the expiry of a period of three months running from the date on which the appeal was lodged. The Court shall, after hearing the Advocate-General, give its decision in the form of an order on whether or not the intervention is allowed.

MISCELLANEOUS PROVISIONS

Article 124

1. The President shall instruct any person who is required to take an oath before the Court, as witness or expert, to tell the truth or to carry out his task conscientiously and impartially, as the case may be, and shall warn him of the criminal liability provided for in his national law in the event of any breach of this duty.

2. The witness shall take the oath either in accordance with the first subparagraph of Article 47 (5) of these Rules or in the manner laid down by his national law.

Where his national law provides the opportunity to make, in judicial proceedings, a solemn affirmation equivalent to an oath as well as or instead of taking an oath, the witness may make such an affirmation under the conditions and in the form prescribed in his national law.

Where his national law provides neither for taking an oath nor for making a solemn affirmation, the procedure described in paragraph (1) shall be followed.

3. Paragraph (2) shall apply *mutatis mutandis* to experts, a reference to the first subparagraph of Article 49 (6) replacing in this case the reference to the first subparagraph of Article 47 (5) of these Rules.

Article 125

Subject to the provisions of Article 188 of the EEC Treaty and Article 160 of the Euratom Treaty and after consultation with the Governments concerned, the Court shall adopt supplementary rules concerning its practice in relation to:

(a) letters rogatory;

(b) applications for legal aid;

(c) reports of perjury by witnesses or experts, delivered pursuant to Article 28 of the ECSC and Euratom Statutes and Article 27 of the EEC Statute.

Article 126

These Rules replace the Rules of Procedure of the Court of Justice of the European Communities adopted on 4 December 1974 (*Official Journal of the European Communities No* L 350 of 28 December 1974, p. 1), as last amended on 15 May 1991 [1].

Article 127

These Rules, which are authentic in the languages mentioned in Article 29 (1) of these Rules, shall be published in the *Official Journal of the European Communities* and shall enter into force on the first day of the second month following their publication.

Done at Luxembourg, 19 June 1991.

[1] See page 1 of this Official Journal.

ANNEX I

DECISION ON OFFICIAL HOLIDAYS

THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES,

Having regard to Article 80 (2) of the Rules of Procedure, which requires the Court to draw up a list of official holidays;

DECIDES:

Article 1

For the purposes of Article 80 (2) of the Rules of Procedure the following shall be official holidays:

New Year's Day;

Easter Monday;

1 May;

Ascension Day;

Whit Monday;

23 June;

24 June, where 23 June is a Sunday;

15 August;

1 November;

25 December;

26 December.

The official holidays referred to in the first paragraph hereof shall be those observed at the place where the Court of Justice has its seat.

Article 2

Article 80 (2) of the Rules of Procedure shall apply only to the official holidays mentioned in Article 1 of this Decision.

Article 3

This Decision, which shall constitute Annex I to the Rules of Procedure, shall enter into force on the same day as those Rules.

It shall be published in the *Official Journal of the European Communities*.

Done at Luxembourg, 19 June 1991.

ANNEX II

DECISION ON EXTENSION OF TIME LIMITS ON ACCOUNT OF DISTANCE

THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES,

Having regard to Article 81 (2) of the Rules of Procedure relating to the extension, on account of distance, of prescribed time limits;

DECIDES:

Article 1

In order to take account of distance, procedural time limits for all parties save those habitually resident in the Grand Duchy of Luxembourg shall be extended as follows:

— for the Kingdom of Belgium: two days,

— for the Federal Republic of Germany, the European territory of the French Republic and the European territory of the Kingdom of the Netherlands: six days,

— for the European territory of the Kingdom of Denmark, for the Hellenic Republic, for Ireland, for the Italian Republic, for the Kingdom of Spain, for the Portuguese Republic (with the exception of the Azores and Madeira) and for the United Kingdom: 10 days,

— for other European countries and territories: two weeks,

— for the autonomous regions of the Azores and Madeira of the Portuguese Republic: three weeks,

— for other countries, departments and territories: one month.

Article 2

This Decision, which shall constitute Annex II to the Rules of Procedure, shall enter into force on the same day as those Rules.

It shall be published in the *Official Journal of the European Communities*.

Done at Luxembourg, 19 June 1991.