9. PROTOCOL ON THE TREATY AND THE ACT OF ACCESSION OF THE CZECH REPUBLIC, THE REPUBLIC OF ESTONIA, THE REPUBLIC OF CYPRUS, THE REPUBLIC OF LATVIA, THE REPUBLIC OF LITHUANIA, THE REPUBLIC OF HUNGARY, THE REPUBLIC OF MALTA, THE REPUBLIC OF POLAND, THE REPUBLIC OF SLOVENIA AND THE SLOVAK REPUBLIC

THE HIGH CONTRACTING PARTIES,

RECALLING that the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic acceded to the European Communities and to the European Union established by the Treaty on European Union on 1 May 2004;

CONSIDERING that Article IV-437(2)(e) of the Constitution provides that the Treaty of 16 April 2003 concerning the accessions referred to above shall be repealed;

CONSIDERING that many of the provisions of the Act annexed to that Treaty of Accession remain relevant; that Article IV-437(2) of the Constitution provides that those provisions must be set out or referred to in a Protocol, so that they remain in force and their legal effects are preserved;

CONSIDERING that some of those provisions require the technical adjustments necessary to bring them into line with the Constitution without altering their legal effect,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty establishing a Constitution for Europe and to the Treaty establishing the European Atomic Energy Community:

PART ONE

PROVISIONS RELATING TO THE ACT OF ACCESSION OF 16 APRIL 2003

TITLE I

PRINCIPLES

Article 1

For the purposes of this Protocol:

(a) the expression 'Act of Accession of 16 April 2003' means the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded;

(b) the expressions 'Treaty establishing the European Community' (EC Treaty) and 'Treaty establishing the European Atomic Energy Community' (EAEC Treaty) mean those Treaties as supplemented or amended by treaties or other acts which entered into force before 1 May 2004;

(c) the expression 'Treaty on European Union' (EU Treaty) means that Treaty as supplemented or amended by treaties or other acts which entered into force before 1 May 2004;

(d) the expression 'the Community' means one or both of the Communities referred to in (b) as the case may be;

(e) the expression 'present Member States' means the following Member States: the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland;

(f) the expression 'new Member States' means the following Member States: the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic.

Article 2

The rights and obligations resulting from the Treaty on the Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, referred to in Article IV-437(2)(e) of the Constitution, took effect, under the conditions laid down in that Treaty, as from 1 May 2004.

Article 3

1. The provisions of the Schengen *acquis* integrated into the framework of the Union by the Protocol annexed to the Treaty establishing a Constitution for Europe (hereinafter referred to as the 'Schengen Protocol') and the acts building upon it or otherwise related to it, listed in Annex I to the Act of Accession of 16 April 2003, as well as any further such acts adopted before 1 May 2004, shall be binding on and applicable in the new Member States from 1 May 2004.

2. Those provisions of the Schengen *acquis* as integrated into the framework of the Union and the acts building upon it or otherwise related to it not referred to in paragraph 1, while binding on the new Member States from 1 May 2004, shall apply in a new Member State only pursuant to a European decision of the Council to that effect after verification in accordance with the applicable Schengen evaluation procedures that the necessary conditions for the application of all parts of the *acquis* concerned have been met in that new Member State.

The Council shall take its decision, after consulting the European Parliament, acting with the unanimity of its members representing the Governments of the Member States in respect of which the provisions referred to in the present paragraph have already been put into effect and of the representative of the Government of the Member State in respect of which those provisions are to be

put into effect. The members of the Council representing the Governments of Ireland and of the United Kingdom of Great Britain and Northern Ireland shall take part in such a decision insofar as it relates to the provisions of the Schengen *acquis* and the acts building upon it or otherwise related to it in which these Member States participate.

3. The Agreements concluded by the Council under Article 6 of the Schengen Protocol shall be binding on the new Member States from 1 May 2004.

4. The new Member States shall be required in respect of those conventions or instruments in the field of justice and home affairs which are inseparable from the attainment of the objectives of the EU Treaty:

(a) to accede to those which, by 1 May 2004, have been opened for signature by the present Member States, and to those which have been drawn up by the Council in accordance with Title VI of the EU Treaty and recommended to the Member States for adoption;

(b) to introduce administrative and other arrangements, such as those adopted by 1 May 2004 by the present Member States or by the Council, to facilitate practical cooperation between the Member States' institutions and organisations working in the field of justice and home affairs.

Article 4

Each of the new Member States shall participate in Economic and Monetary Union from 1 May 2004 as a Member State with a derogation within the meaning of Article III-197 of the Constitution.

Article 5

1. The new Member States, which have acceded by the Act of Accession of 16 April 2003 to the decisions and agreements adopted by the Representatives of the Governments of the Member States, meeting within the Council, shall be required to accede to all other agreements concluded by the present Member States relating to the functioning of the Union or connected with the activities thereof.

2. The new Member States shall be required to accede to the conventions provided for in Article 293 of the EC Treaty and to those that are inseparable from the attainment of the objectives of the EC Treaty, insofar as they are still in force, and also to the protocols on the interpretation of those conventions by the Court of Justice of the European Communities, signed by the present Member States, and to this end they shall be required to enter into negotiations with the present Member States in order to make the necessary adjustments thereto.

Article 6

1. The new Member States shall be required to accede, under the conditions laid down in this Protocol, to the agreements or conventions concluded or provisionally applied by the present Member States and the Union or the European Atomic Energy Community, acting jointly, and to the agreements concluded by those States which are related to those agreements or conventions.

The accession of the new Member States to the agreements or conventions mentioned in paragraph 4, as well as the agreements with Belarus, China, Chile, Mercosur and Switzerland which have been concluded or signed by the Community and its present Member States jointly shall be agreed by the conclusion of a protocol to such agreements or conventions between the Council, acting unanimously on behalf of the Member States, and the third country or countries or international organisation concerned. This procedure is without prejudice to the Union's and the European Atomic Energy Community's own competences and does not affect the allocation of powers between the Union and the European Atomic Energy Community and the Member States as regards the conclusion of such agreements in the future or any other amendments not related to accession. The Commission shall negotiate these protocols on behalf of the Member States on the basis of negotiating directives approved by the Council, acting by unanimity, and in consultation with a committee comprised of the representatives of the Member States. It shall submit a draft of the protocols for conclusion to the Council.

2. Upon acceding to the agreements and conventions referred to in paragraph 1 the new Member States shall acquire the same rights and obligations under those agreements and conventions as the present Member States.

3. The new Member States shall be required to accede, under the conditions laid down in this Protocol, to the Agreement on the European Economic Area [1], in accordance with Article 128 of that Agreement.

4. As from 1 May 2004, and, where appropriate, pending the conclusion of the necessary protocols referred to in paragraph 1, the new Member States shall apply the provisions of the Agreements concluded by the present Member States and, jointly, the Community, with Algeria, Armenia, Azerbaijan, Bulgaria, Croatia, Egypt, the former Yugoslav Republic of Macedonia, Georgia, Israel, Jordan, Kazakhstan, Kyrgyzstan, Lebanon, Mexico, Moldova, Morocco, Romania, the Russian Federation, San Marino, South Africa, South Korea, Syria, Tunisia, Turkey, Turkmenistan, Ukraine and Uzbekistan as well as the provisions of other agreements concluded jointly by the present Member States and the Community before 1 May 2004.

Any adjustments to these Agreements shall be the subject of protocols concluded with the co-contracting countries in conformity with the provisions of the second subparagraph of paragraph 1. Should the protocols not have been concluded by 1 May 2004, the Union, the European Atomic Energy Community and the Member States shall take, in the framework of their respective competences, the necessary measures to deal with that situation.

5. As from 1 May 2004, the new Member States shall apply the bilateral textile agreements and arrangements concluded by the Community with third countries.

The quantitative restrictions applied by the Union on imports of textile and clothing products shall be adjusted to take account of the accession of the new Member States.

Should the amendments to the bilateral textile agreements and arrangements not have entered into force by 1 May 2004, the Union shall make the necessary adjustments to its rules for the import of textile and clothing products from third countries to take into account the accession of the new Member States.

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[1] OJ L 1, 3.1.1994, p. 3.

6. The quantitative restrictions applied by the Union on imports of steel and steel products shall be adjusted on the basis of imports by new Member States during the years immediately preceding the signing of the Accession Treaty of steel products originating in the supplier countries concerned.

7. Fisheries agreements concluded before 1 May 2004 by the new Member States with third countries shall be managed by the Union.

The rights and obligations resulting for the new Member States from those agreements shall not be affected during the period in which the provisions of those agreements are provisionally maintained.

As soon as possible, and in any event before the expiry of the agreements referred to in the first subparagraph, appropriate European decisions for the continuation of fishing activities resulting from those agreements shall be adopted in each case by the Council on a proposal from the Commission, including the possibility of extending certain agreements for periods not exceeding one year.

8. With effect from 1 May 2004, the new Member States shall withdraw from any free trade agreements with third countries, including the Central European Free Trade Agreement.

To the extent that agreements between one or more of the new Member States on the one hand, and one or more third countries on the other, are not compatible with the obligations arising from the Constitution and in particular from this Protocol, the new Member States shall take all appropriate steps to eliminate the incompatibilities established. If a new Member State encounters difficulties in adjusting an agreement concluded with one or more third countries before accession, it shall, according to the terms of the agreement, withdraw from that agreement.

9. The new Member States shall take appropriate measures, where necessary, to adjust their position in relation to international organisations, and in relation to those international agreements to which the Union or the European Atomic Energy Community or other Member States are also parties, to the rights and obligations arising from their accession to the Union.

They shall in particular withdraw at 1 May 2004 or the earliest possible date thereafter from international fisheries agreements and organisations to which the Union is also a party, unless their membership relates to matters other than fisheries.

Article 7

Acts adopted by the institutions to which the transitional provisions laid down in this Protocol relate shall retain their status in law; in particular, the procedures for amending those acts shall continue to apply.

Article 8

Provisions of the Act of Accession of 16 April 2003, as interpreted by the Court of Justice of the European Communities and the Court of First Instance, the purpose or effect of which is to repeal or amend, otherwise than as a transitional measure, acts adopted by the institutions, bodies, offices or agencies of the Community or of the European Union established by the Treaty on European Union shall remain in force subject to the application of the second paragraph.

These provisions shall have the same status in law as the acts which they repeal or amend and shall be subject to the same rules as those acts.

Article 9

The texts of the acts of the institutions, bodies, offices and agencies of the Community or of the European Union established by the Treaty on European Union and the texts of acts of the European Central Bank which were adopted before 1 May 2004 and which were drawn up in the Czech, Estonian, Latvian, Lithuanian, Hungarian, Maltese, Polish, Slovenian and Slovak languages shall be authentic from that date, under the same conditions as the texts drawn up and authentic in the other languages.

Article 10

A European law of the Council may repeal the transitional provisions set out in this Protocol, when they are no longer applicable. The Council shall act unanimously after consulting the European Parliament.

Article 11

The application of the Constitution and acts adopted by the institutions shall, as a transitional measure, be subject to the derogations provided for in this Protocol.

TITLE II

PERMANENT PROVISIONS

Article 12

The adaptations to the acts listed in Annex III to the Act of Accession of 16 April 2003 made necessary by accession shall be drawn up in conformity with the guidelines set out in that Annex and in accordance with the procedure and under the conditions laid down in Article 36.

Article 13

The measures listed in Annex IV to the Act of Accession of 16 April 2003 shall be applied under the conditions laid down in that Annex.

Article 14

A European law of the Council may make the adaptations to the provisions of this Protocol relating to the common agricultural policy which may prove necessary as a result of a modification of Union law. The Council shall act unanimously after consulting the European Parliament.

TITLE III

TEMPORARY PROVISIONS

Article 15

The measures listed in Annexes V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV to the Act of Accession of 16 April 2003 shall apply in respect of the new Member States under the conditions laid down in those Annexes.

Article 16

1. The revenue designated as 'Common Customs Tariff duties and other duties' referred to in Article 2(1)(b) of Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources [1], or the corresponding provision in any Decision replacing it, shall include the customs duties calculated on the basis of the rates resulting from the Common Customs Tariff and any tariff concession relating thereto applied by the Union in the new Member States' trade with third countries.

2. For the year 2004, the harmonised VAT assessment base and the GNI (gross national income) base of each new Member State, referred to in Article 2(1)(c) and (d) of Council Decision 2000/597/EC, Euratom shall be equal to two thirds of the annual base. The GNI base of each new Member State to be taken into account for the calculation of the financing of the correction in respect of budgetary imbalances granted to the United Kingdom, referred to in Article 5(1) of Council Decision 2000/597/EC, Euratom shall likewise be equal to two thirds of the annual base.

3. For the purposes of determining the frozen rate for 2004 according to Article 2(4)(b) of Council Decision 2000/597/EC, Euratom the capped VAT bases of the new Member States shall be calculated on the basis of two thirds of their uncapped VAT base and two thirds of their GNI.

Article 17

1. The budget of the Union for the financial year 2004 shall be adapted to take into account the accession of the new Member States through an amending budget taking effect on 1 May 2004.

2. The twelve monthly twelfths of VAT and GNI-based resources to be paid by the new Member States under the amending budget referred to in paragraph 1, as well as the retroactive adjustment of the monthly twelfths for the period January—April 2004 that only apply to the present Member States, shall be converted into eighths to be called during the period May—December 2004. The retroactive adjustments that result from any subsequent amending budget adopted in 2004 shall likewise be converted into equal parts to be called during the remainder of the year.

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[1] OJ L 253, 7.10.2000, p. 42.

Article 18

On the first working day of each month the Union shall pay the Czech Republic, Cyprus, Malta and Slovenia, as an item of expenditure under the Union budget, one eighth in 2004, as of 1 May 2004, and one twelfth in 2005 and 2006 of the following amounts of temporary budgetary compensation:

(EUR million, 1999 prices)

	2004	2005	2006
Czech Republic	125,4	178,0	85,1
Cyprus	68,9	119,2	112,3
Malta	37,8	65,6	62,9
Slovenia	29,5	66,4	35,5

Article 19

On the first working day of each month the Union shall pay the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, as an item of expenditure under the Union budget, one eighth in 2004, as of 1 May 2004, and one twelfth in 2005 and 2006 of the following amounts of a special lump-sum cash-flow facility:

(EUR million, 1999 prices)

	2004	2005	2006
Czech Republic	174,70	91,55	91,55
Estonia	15,80	2,90	2,90
Cyprus	27,70	5,05	5,05
Latvia	19,50	3,40	3,40
Lithuania	34,80	6,30	6,30
Hungary	155,30	27,95	27,95
Malta	12,20	27,15	27,15
Poland	442,80	550,00	450,00
Slovenia	65,40	17,85	17,85
Slovakia	63,20	11,35	11,35

One thousand million euro for Poland and 100 million euro for the Czech Republic included in the special lump-sum cash-flow facility shall be taken into account for any calculations on the distribution of Structural Funds for the years 2004, 2005 and 2006.

Article 20

1. The new Member States listed below shall pay the following amounts to the Research Fund for Coal and Steel referred to in Decision 2002/234/ECSC of the Representatives of the Governments of the Member States, meeting within the Council, of 27 February 2002 on the financial consequences of the expiry of the ECSC Treaty and on the Research Fund for Coal and Steel [1]:

(EUR million, current prices)

Czech Republic	39,88
Estonia	2,50
Latvia	2,69
Hungary	9,93
Poland	92,46
Slovenia	2,36
Slovakia	20,11

2. The contributions to the Research Fund for Coal and Steel shall be made in four instalments starting in 2006 and paid as follows, in each case on the first working day of the first month of each year:

2006: 15 %

2007: 20 %

2008: 30 %

2009: 35 %

Article 21

1. Save as otherwise provided for in this Protocol, no financial commitments shall be made under the Phare programme [2], the Phare cross-border cooperation programme [3], pre-accession funds for Cyprus and Malta [4], the ISPA programme [5] and the Sapard programme [6] in favour of the

[1] OJ L 79, 22.3.2002, p. 42.

[2] Regulation (EEC) No 3906/89 (OJ L 375, 23.12.1989, p. 11).

[3] Regulation (EC) No 2760/98 (OJ L 345, 19.12.1998, p. 49).

[4] Regulation (EC) No 555/2000 (OJ L 68, 16.3.2000, p. 3).

[5] Regulation (EC) No 1267/1999 (OJ L 161, 26.6.1999, p. 73).

[6] Regulation (EC) No 1268/1999 (OJ L 161, 26.6.1999, p. 87).

new Member States after 31 December 2003. The new Member States shall receive the same treatment as the present Member States as regards expenditure under the first three Headings of the Financial Perspective, as defined in the Interinstitutional Agreement of 6 May 1999 ([1]), as from 1 January 2004, subject to the individual specifications and exceptions below or as otherwise provided for in this Protocol. The maximum additional appropriations for headings 1, 2, 3 and 5 of the Financial Perspective related to enlargement are set out in Annex XV to the Act of Accession of 16 April 2003. However, no financial commitment under the 2004 budget for any programme or agency concerned may be made before the accession of the relevant new Member State has taken place.

2. Paragraph 1 shall not apply to expenditure under the European Agricultural Guidance and Guarantee Fund, Guarantee Section, according to Articles 2(1), 2(2), and 3(3) of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy ([2]), which will become eligible for Community funding only from 1 May 2004, in accordance with Article 2 of this Protocol.

However, paragraph 1 of this Article shall apply to expenditure for rural development under the European Agricultural Guidance and Guarantee Fund, Guarantee Section, according to Article 47a of Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain regulations ([3]), subject to the conditions set out in the amendment of that Regulation in Annex II to the Act of Accession of 16 April 2003.

3. Subject to the last sentence of paragraph 1, as of 1 January 2004, the new Member States shall participate in Union programmes and agencies according to the same terms and conditions as the present Member States with funding from the general budget of the Union.

4. If any measures are necessary to facilitate the transition from the pre-accession regime to that resulting from the application of this Article, the Commission shall adopt the required measures.

Article 22

1. Tendering, contracting, implementation and payments for pre-accession assistance under the Phare programme, the Phare cross-border cooperation programme and pre-accession funds for Cyprus and Malta shall be managed by implementing agencies in the new Member States as from 1 May 2004.

The Commission shall adopt European decisions to waive the *ex ante* control by the Commission over tendering and contracting following a positively assessed Extended Decentralised Implementation

([1]) Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure (OJ C 172, 18.6.1999, p. 1).

([2]) OJ L 160, 26.6.1999, p. 103.

([3]) OJ L 160, 26.6.1999, p. 80.

System (EDIS) in accordance with the criteria and conditions laid down in the Annex to Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/89 ([1]).

If these decisions to waive *ex ante* control have not been adopted before 1 May 2004, any contracts signed between 1 May 2004 and the date on which the Commission decisions are taken shall not be eligible for pre-accession assistance.

However, exceptionally, if the Commission decisions to waive ex-ante control are delayed beyond 1 May 2004 for reasons not attributable to the authorities of a new Member State, the Commission may accept, in duly justified cases, eligibility for pre-accession assistance of contracts signed between 1 May 2004 and the date of these decisions, and the continued implementation of pre-accession assistance for a limited period, subject to *ex ante* control by the Commission over tendering and contracting.

2. Global budget commitments made before 1 May 2004 under the pre-accession financial instruments referred to in paragraph 1, including the conclusion and registration of subsequent individual legal commitments and payments made after 1 May 2004, shall continue to be governed by the rules and regulations of the pre-accession financing instruments and be charged to the corresponding budget chapters until closure of the programmes and projects concerned. Notwithstanding this, public procurement procedures initiated after 1 May 2004 shall be carried out in accordance with the relevant Union acts.

3. The last programming exercise for the pre-accession assistance referred to in paragraph 1 shall take place in the last full calendar year preceding 1 May 2004. Actions under these programmes will have to be contracted within the following two years and disbursements made as provided for in the Financing Memorandum ([2]), usually by the end of the third year after the commitment. No extensions shall be granted for the contracting period. Exceptionally and in duly justified cases, limited extensions in terms of duration may be granted for disbursement.

4. In order to ensure the necessary phasing out of the pre-accession financial instruments referred to in paragraph 1 as well as the ISPA programme, and a smooth transition from the rules applicable before and after 1 May 2004, the Commission may take all appropriate measures to ensure that the necessary statutory staff is maintained in the new Member States for a maximum of fifteen months following that date.

During this period, officials assigned to posts in the new Member States before accession and who are required to remain in service in those States after 1 May 2004 shall benefit, as an exception, from the same financial and material conditions as were applied by the Commission before 1 May 2004 in accordance with Annex X to the Staff Regulations of officials and the conditions of employment of other servants of the European Communities laid down in Regulation (EEC, Euratom, ECSC)

([1]) OJ L 232, 2.9.1999, p. 34.

([2]) As set out in the Phare Guidelines (SEC (1999) 1596, updated on 6.9.2002 by C 3303/2).

No 259/68 ([1]). The administrative expenditure, including salaries for other staff, necessary for the management of the pre-accession assistance shall be covered, for all of 2004 and until the end of July 2005, under the heading 'support expenditure for operations' (former part B of the budget) or equivalent headings for the financial instruments referred to in paragraph 1 as well as the ISPA programme, of the relevant pre-accession budgets.

5. Where projects approved under Regulation (EC) No 1258/1999 can no longer be funded under that instrument, they may be integrated into rural development programming and financed under the European Agricultural Guidance and Guarantee Fund. Should specific transitional measures be necessary in this regard, these shall be adopted by the Commission in accordance with the procedures laid down in Article 50(2) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ([2]).

Article 23

1. Between 1 May 2004 and the end of 2006, the Union shall provide temporary financial assistance, hereinafter referred to as the 'Transition Facility', to the new Member States to develop and strengthen their administrative capacity to implement and enforce Union and European Atomic Energy Community law and to foster exchange of best practice among peers.

2. Assistance shall address the continued need for strengthening institutional capacity in certain areas through action which cannot be financed by the Structural Funds, in particular in the following areas:

(a) justice and home affairs (strengthening of the judicial system, external border controls, anti-corruption strategy, strengthening of law enforcement capacities);

(b) financial control;

(c) protection of the financial interests of the Union and of the European Atomic Energy Community and the fight against fraud;

(d) internal market, including customs union;

(e) environment;

(f) veterinary services and administrative capacity-building relating to food safety;

(g) administrative and control structures for agriculture and rural development, including the Integrated Administration and Control System (IACS);

([1]) OJ L 56, 4.3.1968, p. 1.

([2]) OJ L 161, 26.6.1999, p. 1.

(h) nuclear safety (strengthening the effectiveness and competence of nuclear safety authorities and their technical support organisations as well as public radioactive waste management agencies);

(i) statistics;

(j) strengthening public administration according to needs identified in the Commission's comprehensive monitoring report which are not covered by the Structural Funds.

3. Assistance under the Transition Facility shall be decided in accordance with the procedure laid down in Article 8 of Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe ([1]).

4. The programme shall be implemented in accordance with Article 53(1)(a) and (b) of the Financial Regulation applicable to the general budget of the European Communities ([2]) or the European law replacing it. For twinning projects between public administrations for the purpose of institution-building, the procedure for call for proposals through the network of contact points in the Member States shall continue to apply, as established in the Framework Agreements with the present Member States for the purpose of pre-accession assistance.

The commitment appropriations for the Transition Facility, at 1999 prices, shall be 200 million euro in 2004, 120 million euro in 2005 and 60 million euro in 2006. The annual appropriations shall be authorised by the budgetary authority within the limits of the Financial Perspective as defined by the Interinstitutional Agreement of 6 May 1999.

Article 24

1. A Schengen Facility is hereby created as a temporary instrument to help beneficiary Member States between 1 May 2004 and the end of 2006 to finance actions at the new external borders of the Union for the implementation of the Schengen *acquis* and external border control.

In order to address the shortcomings identified in the preparation for participation in Schengen, the following types of action shall be eligible for financing under the Schengen Facility:

(a) investment in construction, renovation or upgrading of border-crossing infrastructure and related buildings;

(b) investments in any kind of operating equipment (e.g. laboratory equipment, detection tools, Schengen Information System — SIS II hardware and software, means of transport);

(c) training of border guards;

([1]) OJ L 375, 23.12.1989, p. 11.

([2]) Regulation (EC, Euratom) No 1605/2002 (OJ L 248, 16.9.2002, p. 1).

(d) support to costs for logistics and operations.

2. The following amounts shall be made available under the Schengen Facility in the form of lump-sum grant payments as of 1 May 2004 to the beneficiary Member States listed below:

(million euro, 1999 prices)

	2004	2005	2006
Estonia	22,90	22,90	22,90
Latvia	23,70	23,70	23,70
Lithuania	44,78	61,07	29,85
Hungary	49,30	49,30	49,30
Poland	93,34	93,33	93,33
Slovenia	35,64	35,63	35,63
Slovakia	15,94	15,93	15,93

3. The beneficiary Member States shall be responsible for selecting and implementing individual operations in compliance with this Article. They shall also be responsible for coordinating use of the Schengen Facility with assistance from other Union instruments, ensuring compatibility with Union policies and measures and compliance with the Financial Regulation applicable to the general budget of the European Communities or with the European law replacing it.

The lump-sum grant payments shall be used within three years from the first payment and any unused or unjustifiably spent funds shall be recovered by the Commission. The beneficiary Member States shall submit, no later than six months after expiry of the three-year deadline, a comprehensive report on the financial execution of the lump-sum grant payments with a statement justifying the expenditure.

The beneficiary State shall exercise this responsibility without prejudice to the Commission's responsibility for the implementation of the Union's budget and in accordance with the provisions applicable to decentralised management in the said Financial Regulation or in the European law replacing it.

4. The Commission retains the right of verification, through the Anti-Fraud Office (OLAF). The Commission and the Court of Auditors may also carry out on-the-spot checks in accordance with the appropriate procedures.

5. The Commission may adopt any technical provisions necessary for the operation of the Schengen Facility.

Article 25

The amounts referred to in Articles 18, 19, 23 and 24 shall be adjusted each year, as part of the technical adjustment provided for in paragraph 15 of the Interinstitutional Agreement of 6 May 1999.

Article 26

1. If, until the end of a period of up to three years after 1 May 2004, difficulties arise which are serious and liable to persist in any sector of the economy or which could bring about serious deterioration in the economic situation of a given area, a new Member State may apply for authorisation to take protective measures in order to rectify the situation and adjust the sector concerned to the economy of the internal market.

In the same circumstances, any present Member State may apply for authorisation to take protective measures with regard to one or more of the new Member States.

2. Upon request by the State concerned, the Commission shall, by emergency procedure, adopt the European regulations or decisions establishing the protective measures which it considers necessary, specifying the conditions and modalities under which they are to be put into effect.

In the event of serious economic difficulties and at the express request of the Member State concerned, the Commission shall act within five working days of the receipt of the request accompanied by the relevant background information. The measures thus decided on shall be applicable forthwith, shall take account of the interests of all parties concerned and shall not entail frontier controls.

3. The measures authorised under paragraph 2 may involve derogations from the rules of the Constitution, and in particular from this Protocol, to such an extent and for such periods as are strictly necessary in order to attain the objectives referred to in paragraph 1. Priority shall be given to such measures as will least disturb the functioning of the internal market.

Article 27

If a new Member State has failed to implement commitments undertaken in the context of the accession negotiations, causing a serious breach of the functioning of the internal market, including any commitments in all sectoral policies which concern economic activities with cross-border effect, or an imminent risk of such breach, the Commission may, until the end of a period of up to three years after 1 May 2004, upon the motivated request of a Member State or on its own initiative, adopt European regulations or decisions establishing appropriate measures.

Measures shall be proportional and priority shall be given to measures which least disturb the functioning of the internal market and, where appropriate, to the application of the existing sectoral safeguard mechanisms. Such safeguard measures shall not be invoked as a means of arbitrary discrimination or a disguised restriction on trade between Member States. The measures shall be maintained no longer than strictly necessary, and, in any case, will be lifted when the relevant commitment is implemented. They may however be applied beyond the period specified in the first paragraph as long as the relevant commitments have not been fulfilled. In response to progress made by the new Member State concerned in fulfilling its commitments, the Commission may adapt the measures as appropriate. The Commission shall inform the Council in good time before revoking the European regulations or decisions establishing the safeguard measures, and it shall take duly into account any observations of the Council in this respect.

Article 28

If there are serious shortcomings or any imminent risks of such shortcomings in a new Member State in the transposition, state of implementation or the application of the framework decisions or any other relevant commitments, instruments of cooperation and decisions relating to mutual recognition in the area of criminal law under Title VI of the EU Treaty, Directives and Regulations relating to mutual recognition in civil matters under Title IV of the EC Treaty, and European laws and framework laws adopted on the basis of Sections 3 and 4 of Chapter IV of Title III of Part III of the Constitution, the Commission may, until the end of a period of up to three years after 1 May 2004, upon the motivated request of a Member State or on its own initiative and after consulting the Member States, adopt European regulations or decisions establishing appropriate measures and specify the conditions and modalities under which these measures are put into effect.

These measures may take the form of temporary suspension of the application of relevant provisions and decisions in the relations between a new Member State and any other Member State or Member States, without prejudice to the continuation of close judicial cooperation. The measures shall be maintained no longer than strictly necessary, and, in any case, will be lifted when the shortcomings are remedied. They may however be applied beyond the period specified in the first paragraph as long as these shortcomings persist. In response to progress made by the new Member State concerned in rectifying the identified shortcomings, the Commission may adapt the adopted measures as appropriate after consulting the Member States. The Commission shall inform the Council in good time before revoking safeguard measures, and it shall take duly into account any observations of the Council in this respect.

Article 29

In order not to hamper the proper functioning of the internal market, the enforcement of the new Member States' national rules during the transitional periods referred to in Annexes V to XIV to the Act of Accession of 16 April 2003 shall not lead to border controls between Member States.

Article 30

If transitional measures are necessary to facilitate the transition from the existing regime in the new Member States to that resulting from the application of the common agricultural policy under the conditions set out in this Protocol, such measures shall be adopted by the Commission in accordance with the procedure referred to in Article 42(2) of Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], or as appropriate, in the corresponding Articles of the other Regulations on the common organisation of agricultural markets or of the European laws replacing them or the relevant procedure as determined in the applicable legislation. The transitional measures referred to in this Article may be adopted during a period of three years after 1 May 2004 and their application shall be limited to that period. A European law of the Council may extend this period. The Council shall act unanimously after consulting the European Parliament.

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[1] OJ L 178, 30.6.2001, p. 1.

Article 31

If transitional measures are necessary to facilitate the transition from the existing regime in the new Member States to that resulting from the application of the Union veterinary and phytosanitary rules, such measures shall be adopted by the Commission in accordance with the relevant procedure as determined in the applicable legislation. These measures shall be taken during a period of three years after 1 May 2004 and their application shall be limited to that period.

Article 32

1. The terms of office of the new members of the Committees, groups and other bodies listed in Annex XVI to the Act of Accession of 16 April 2003 shall expire at the same time as those of the members in office on 1 May 2004.

2. The terms of office of the new members of the Committees and groups set up by the Commission which are listed in Annex XVII to the Act of Accession of 16 April 2003 shall expire at the same time as those of the members in office on 1 May 2004.

TITLE IV

APPLICABILITY OF THE ACTS OF THE INSTITUTIONS

Article 33

As from 1 May 2004, the new Member States shall be considered as being addressees of directives and decisions within the meaning of Article 249 of the EC Treaty and of Article 161 of the EAEC Treaty, provided that those directives and decisions have been addressed to all the present Member States. Except with regard to directives and decisions which enter into force pursuant to Article 254 (1) and (2) of the EC Treaty, the new Member States shall be considered as having received notification of such directives and decisions upon 1 May 2004.

Article 34

The new Member States shall put into effect the measures necessary for them to comply, from 1 May 2004, with the provisions of directives and decisions within the meaning of Article 249 of the EC Treaty and of Article 161 of the EAEC Treaty, unless another time-limit is provided for in the Annexes referred to in Article 15 or in any other provisions of this Protocol.

Article 35

Unless otherwise stipulated, the Council, on a proposal from the Commission, shall adopt the necessary European regulations and decisions to implement the provisions contained in Annexes III and IV to the Act of Accession of 16 April 2003 referred to in Articles 12 and 13 of this Protocol.

Article 36

1. Where acts of the institutions prior to 1 May 2004 require adaptation by reason of accession, and the necessary adaptations have not been provided for in this Protocol, those adaptations shall be made in accordance with the procedure laid down by paragraph 2. Those adaptations shall enter into force as from 1 May 2004.

2. The Council, on a proposal from the Commission, or the Commission, according to which of these two institutions adopted the original acts, shall to this end adopt the necessary acts.

Article 37

Provisions laid down by law, regulation or administrative action designed to ensure the protection of the health of workers and the general public in the territory of the new Member States against the dangers arising from ionising radiations shall, in accordance with Article 33 of the EAEC Treaty, be communicated by those States to the Commission within three months from 1 May 2004.

PART TWO

PROVISIONS ON THE PROTOCOLS

ANNEXED TO THE ACT OF ACCESSION OF 16 APRIL 2003

TITLE I

TRANSITIONAL PROVISIONS ON THE EUROPEAN INVESTMENT BANK

Article 38

The Kingdom of Spain shall pay the amount of EUR 309 686 775 as its share of the capital paid in for the subscribed capital increase. This contribution shall be paid in eight equal instalments falling due on 30 September 2004, 30 September 2005, 30 September 2006, 31 March 2007, 30 September 2007, 31 March 2008, 30 September 2008 and 31 March 2009.

The Kingdom of Spain shall contribute, in eight equal instalments falling due on those dates, to the reserves and provisions equivalent to reserves, as well as to the amount still to be appropriated to the reserves and provisions, comprising the balance of the profit and loss account, established at the end of the month of April 2004, as entered on the balance sheet of the Bank, in amounts corresponding to 4,1292 % of the reserves and provisions.

Article 39

From 1 May 2004, the new Member States shall pay the following amounts corresponding to their share of the capital paid in for the subscribed capital as defined in Article 4 of the Statute of the European Investment Bank.

Poland	EUR 170 563 175
Czech Republic	EUR 62 939 275
Hungary	EUR 59 543 425
Slovakia	EUR 21 424 525
Slovenia	EUR 19 890 750
Lithuania	EUR 12 480 875
Cyprus	EUR 9 169 100
Latvia	EUR 7 616 750
Estonia	EUR 5 882 000
Malta	EUR 3 490 200

These contributions shall be paid in eight equal instalments falling due on 30 September 2004, 30 September 2005, 30 September 2006, 31 March 2007, 30 September 2007, 31 March 2008, 30 September 2008 and 31 March 2009.

Article 40

The new Member States shall contribute, in eight equal instalments falling due on the dates referred to in Article 39, to the reserves and provisions equivalent to reserves, as well as to the amount still to be appropriated to the reserves and provisions, comprising the balance of the profit and loss account, established at the end of the month of April 2004, as entered on the balance sheet of the European Investment Bank, in amounts corresponding to the following percentages of the reserves and provisions:

Poland	2,2742 %
Czech Republic	0,8392 %
Hungary	0,7939 %
Slovakia	0,2857 %
Slovenia	0,2652 %
Lithuania	0,1664 %
Cyprus	0,1223 %
Latvia	0,1016 %
Estonia	0,0784 %
Malta	0,0465 %

Article 41

The capital and payments provided for in Articles 38, 39 and 40 shall be paid in by the Kingdom of Spain and the new Member States in cash in euro, save by way of derogation decided unanimously by the Board of Governors.

TITLE II

PROVISIONS ON THE RESTRUCTURING OF THE CZECH STEEL INDUSTRY

Article 42

1. Notwithstanding Articles III-167 and III-168 of the Constitution, State aid granted by the Czech Republic for restructuring purposes to specified parts of the Czech steel industry from 1997 to 2003 shall be deemed to be compatible with the internal market provided that:

(a) the period provided for in Article 8(4) of Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part [1], has been extended until 1 May 2004;

(b) the terms set out in the restructuring plan on the basis of which the abovementioned Protocol was extended are adhered to throughout the period 2002—2006;

(c) the conditions set out in this Title are met, and

(d) no State aid for restructuring is to be paid to the Czech steel industry after 1 May 2004.

2. Restructuring of the Czech steel sector, as described in the individual business plans of the companies listed in Annex 1 to Protocol 2 to the Act of Accession of 16 April 2003 (hereinafter referred to as 'benefiting companies'), and in line with the conditions set out in this Title, shall be completed no later than 31 December 2006 (hereinafter referred to as 'the end of the restructuring period').

3. Only benefiting companies shall be eligible for State aid in the framework of the Czech steel restructuring programme.

4. A benefiting company may not:

(a) in the case of a merger with a company not included in Annex 1 to Protocol 2 to the Act of Accession of 16 April 2003, pass on the benefit of the aid granted to the benefiting company;

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[1] OJ L 360, 31.12.1994, p. 2.

(b) take over the assets of any company not included in Annex 1 to Protocol 2 to the Act of Accession of 16 April 2003 which is declared bankrupt in the period up to 31 December 2006.

5. Any subsequent privatisation of any of the benefiting companies shall respect the conditions and principles regarding viability, State aid and capacity reduction defined in this Title.

6. The total restructuring aid to be granted to the benefiting companies shall be determined by the justifications set out in the approved Czech steel restructuring plan and individual business plans as approved by the Council. But in any case, the aid paid out in the period 1997—2003 is limited to a maximum amount of CZK 14 147 425 201. Of this total figure, Nová Huť receives a maximum of CZK 5 700 075 201, Vítkovice Steel receives a maximum of CZK 8 155 350 000 and Válcovny Plechu Frýdek Místek receives a maximum of CZK 292 000 000 depending on the requirements as set out in the approved restructuring plan. The aid shall only be granted once. No further State aid shall be granted by the Czech Republic for restructuring purposes to the Czech steel industry.

7. The net capacity reduction to be achieved by the Czech Republic for finished products during the period 1997—2006 shall be 590 000 tonnes.

Capacity reduction shall be measured only on the basis of permanent closure of production facilities by physical destruction such that the facilities cannot be restored to service. A declaration of bankruptcy of a steel company shall not qualify as capacity reduction.

The above level of net capacity reduction, together with any other capacity reductions identified as necessary in the restructuring programmes, shall be completed in line with the timetable in Annex 2 to Protocol 2 to the Act of Accession of 16 April 2003.

8. The Czech Republic shall remove trade barriers in the coal market in accordance with the *acquis* by accession, enabling Czech steel companies to obtain access to coal at international market prices.

9. The business plan for the benefiting company Nová Huť shall be implemented. In particular:

(a) the Vysoké Pece Ostrava (VPO) plant shall be brought into the organisational framework of Nová Huť by acquisition of full ownership. A target date shall be set for this merger, including assignation of responsibility for its implementation;

(b) restructuring efforts shall concentrate on the following:

(i) evolving Nová Huť from being production-oriented to being marketing-oriented and improving the efficiency and effectiveness of its business management, including greater transparency on costs;

(ii) Nová Huť reviewing its product mix and entry into higher added-value markets;

(iii) Nová Huť making the necessary investments in order to achieve a higher quality of finished products in the short term;

(c) employment restructuring shall be implemented; levels of productivity comparable to those obtained by the Union's steel industry product groups shall be reached as at 31 December 2006, on the basis of the consolidated figures of the benefiting companies concerned;

(d) compliance with the relevant Community *acquis* in the field of environmental protection shall be achieved by 1 May 2004 including the necessary investments addressed in the business plan. In accordance with the business plan the necessary future IPPC-related investment shall also be made, in order to ensure compliance with Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control ([1]) by 1 November 2007.

10. The business plan for the benefiting company Vítkovice Steel shall be implemented. In particular:

(a) the Duo Mill shall be permanently closed no later than 31 December 2006. In the event of purchase of the company by a strategic investor, the purchase contract shall be made conditional on this closure by this date;

(b) restructuring efforts shall concentrate on the following:

(i) an increase in direct sales and a greater focus on cost reduction, this being essential for more efficient business management,

(ii) adapting to market demand and shifting towards higher value-added products,

(iii) bringing forward the proposed investment in the secondary steel-making process from 2004 to 2003, in order to allow the company to compete on quality rather than on price;

(c) compliance with the relevant Community *acquis* in the field of environmental protection shall be achieved by 1 May 2004 including the necessary investments addressed in the business plan, which include the need for future IPPC-related investment.

([1]) OJ L 257, 10.10.1996, p. 26.

11. The business plan for the benefiting company Válcovny Plechu Frýdek Místek (VPFM) shall be implemented. In particular:

(a) Hot Rolling Mills Nos 1 and 2 shall be permanently closed at the end of 2004;

(b) restructuring efforts shall concentrate on the following:

(i) making the necessary investment in order to reach a higher quality of finished product in the short term after the signing of the Treaty of Accession,

(ii) giving priority to the implementation of key identified profit improvement opportunities (including employment restructuring, cost reductions, yield improvements and distribution reorientation).

12. Any subsequent changes in the overall restructuring plan and the individual plans must be agreed by the Commission and, where appropriate, by the Council.

13. The implementation of the restructuring shall take place under conditions of full transparency and on the basis of sound market economy principles.

14. The Commission and the Council shall closely monitor the implementation of the restructuring and the fulfilment of the conditions set out in this Title concerning viability, State aid and capacity reductions before and after 1 May 2004 until the end of the restructuring period, in accordance with paragraphs 15 to 18. For this purpose the Commission shall report to the Council.

15. The Commission and the Council shall monitor the restructuring benchmarks set out in Annex 3 to Protocol 2 to the Act of Accession of 16 April 2003. The references in that Annex to paragraph 16 of the said Protocol shall be construed as being made to paragraph 16 of this Article.

16. Monitoring shall include an independent evaluation to be carried out in 2003, 2004, 2005 and 2006. The Commission's viability test shall be an important element in ensuring that viability is achieved.

17. The Czech Republic shall cooperate fully with all the arrangements for monitoring. In particular:

(a) the Czech Republic shall supply the Commission with six-monthly reports concerning the restructuring of the benefiting companies, no later than 15 March and 15 September of each year, until the end of the restructuring period,

(b) the first report shall reach the Commission by 15 March 2003 and the last report by 15 March 2007, unless the Commission decides otherwise,

(c) the reports shall contain all the information necessary to monitor the restructuring process and the reduction and use of capacity and shall provide sufficient financial data to allow an assessment to be made of whether the conditions and requirements contained in this Title have been fulfilled. The reports shall at the least contain the information set out in Annex 4 to Protocol 2 to the Act of Accession of 16 April 2003, which the Commission reserves the right to modify in line with its experiences during the monitoring process. In addition to the individual business reports of the benefiting companies, there shall also be a report on the overall situation of the Czech steel sector, including recent macroeconomic developments,

(d) the Czech Republic shall oblige the benefiting companies to disclose all relevant data which might, under other circumstances, be considered as confidential. In its reporting to the Council, the Commission shall ensure that company-specific confidential information is not disclosed.

18. The Commission may at any time decide to mandate an independent consultant to evaluate the monitoring results, undertake any research necessary and report to the Commission and the Council.

19. If the Commission establishes, on the basis of the reports referred to in paragraph 17, that substantial deviations from the financial data on which the viability assessment has been made have occurred, it may require the Czech Republic to take appropriate measures to reinforce the restructuring measures of the benefiting companies concerned.

20. Should the monitoring show that:

(a) the conditions for the transitional arrangements contained in this Title have not been fulfilled, or that

(b) the commitments made in the framework of the extension of the period during which the Czech Republic may exceptionally grant State support for the restructuring of its steel industry under the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part ([1]) have not been fulfilled, or that

(c) the Czech Republic in the course of the restructuring period has granted additional incompatible State aid to the steel industry and to the benefiting companies in particular,

the transitional arrangements contained in this Title shall not have effect.

The Commission shall take appropriate steps requiring any company concerned to reimburse any aid granted in breach of the conditions laid down in this Title.

([1]) OJ L 360, 31.12.1994, p. 2.

TITLE III

PROVISIONS ON THE SOVEREIGN BASE AREAS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND IN CYPRUS

Article 43

1. The Sovereign Base Areas shall be included within the customs territory of the Union and, for this purpose, the customs and common commercial policy acts of the Union listed in Part One of the Annex to Protocol 3 to the Act of Accession of 16 April 2003 shall apply to the Sovereign Base Areas with the amendments set out in that Annex. In that Annex, reference to 'this Protocol' shall be construed as being to this Title.

2. The Union acts on turnover taxes, excise duties and other forms of indirect taxation listed in Part Two of the Annex to Protocol 3 to the Act of Accession of 16 April 2003 shall apply to the Sovereign Base Areas with the amendments set out in that Annex as well as the relevant provisions applying to Cyprus as set out in this Protocol.

3. The Union acts listed in Part Three of the Annex to Protocol 3 to the Act of Accession of 16 April 2003 shall be amended as set out in that Annex to enable the United Kingdom to maintain the reliefs and exemptions from duties and taxes on supplies to its forces and associated personnel which are granted by the Treaty concerning the Establishment of the Republic of Cyprus (hereinafter referred to as the 'Treaty of Establishment').

Article 44

Articles III-225 to III-232 of the Constitution, together with the provisions adopted on that basis, and the provisions adopted in accordance with Article III-278(4)(b) of the Constitution shall apply to the Sovereign Base Areas.

Article 45

Persons resident or employed in the territory of the Sovereign Base Areas who, under arrangements made pursuant to the Treaty of Establishment and the associated Exchange of Notes dated 16 August 1960, are subject to the social security legislation of the Republic of Cyprus shall be treated for the purposes of Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community [1] as if they were resident or employed in the territory of the Republic of Cyprus.

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[1] OJ L 149, 5.7.1971, p. 2.

Article 46

1. The Republic of Cyprus shall not be required to carry out checks on persons crossing its land and sea boundaries with the Sovereign Base Areas and any Union restrictions on the crossing of external borders shall not apply in relation to such persons.

2. The United Kingdom shall exercise controls on persons crossing the external borders of the Sovereign Base Areas in accordance with the undertakings set out in Part Four of the Annex to Protocol 3 to the Act of Accession of 16 April 2003.

Article 47

The Council, on a proposal from the Commission, may, in order to ensure effective implementation of the objectives of this Title, adopt a European decision amending Articles 43 to 46, including the Annex to Protocol 3 to the Act of Accession of 16 April 2003, or applying other provisions of the Constitution and Union acts to the Sovereign Base Areas on such terms and subject to such conditions as it may specify. The Council shall act unanimously. The Commission shall consult the United Kingdom and the Republic of Cyprus before bringing forward a proposal.

Article 48

1. Subject to paragraph 2, the United Kingdom shall be responsible for the implementation of this Title in the Sovereign Base Areas. In particular:

(a) the United Kingdom shall be responsible for the application of the Union measures specified in this Title in the fields of customs, indirect taxation and the common commercial policy in relation to goods entering or leaving the island of Cyprus through a port or airport within the Sovereign Base Areas;

(b) customs controls on goods imported into or exported from the island of Cyprus by the forces of the United Kingdom through a port or airport in the Republic of Cyprus may be carried out within the Sovereign Base Areas;

(c) the United Kingdom shall be responsible for issuing any licences, authorisations or certificates which may be required under any applicable Union measure in respect of goods imported into or exported from the island of Cyprus by the forces of the United Kingdom.

2. The Republic of Cyprus shall be responsible for the administration and payment of any Union funds to which persons in the Sovereign Base Areas may be entitled pursuant to the application of the common agricultural policy in the Sovereign Base Areas under Article 44, and the Republic of Cyprus shall be accountable to the Commission for such expenditure.

3. Without prejudice to paragraphs 1 and 2, the United Kingdom may delegate to the competent authorities of the Republic of Cyprus, in accordance with arrangements made pursuant to the Treaty of Establishment, the performance of any functions imposed on a Member State by or under any provision referred to in Articles 43 to 46.

4. The United Kingdom and the Republic of Cyprus shall cooperate to ensure the effective implementation of this Title in the Sovereign Base Areas and, where appropriate, shall conclude further arrangements concerning the delegation of the implementation of any of the provisions referred to in Articles 43 to 46. A copy of any such arrangements shall be submitted to the Commission.

Article 49

The arrangements provided for in this Title shall have the sole purpose of regulating the particular situation of the Sovereign Base Areas of the United Kingdom in Cyprus and shall not apply to any other territory of the Union, nor serve as a precedent, in whole or in part, for any other special arrangements which either already exist or which might be set up in another European territory provided for in Article IV-440 of the Constitution.

Article 50

The Commission shall report to the European Parliament and the Council every five years as from 1 May 2004 on the implementation of the provisions of this Title.

Article 51

The provisions of this Title shall apply in the light of the Declaration on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus, which incorporates, without altering its legal effect, the wording of the preamble to Protocol 3 to the Act of Accession of 16 April 2003.

TITLE IV

PROVISIONS ON THE IGNALINA NUCLEAR POWER PLANT IN LITHUANIA

Article 52

Acknowledging the readiness of the Union to provide adequate additional assistance to the efforts by Lithuania to decommission the Ignalina nuclear power plant and highlighting this expression of solidarity, Lithuania has undertaken to close Unit 1 of the Ignalina nuclear power plant before 2005 and Unit 2 of this plant by 31 December 2009 at the latest and subsequently decommission these units.

Article 53

1. During the period 2004—2006, the Union shall provide Lithuania with additional financial assistance in support of its efforts to decommission, and to address the consequences of the closure

and decommissioning of, the Ignalina nuclear power plant (hereinafter 'the Ignalina Programme').

2. Measures under the Ignalina Programme shall be decided and implemented in accordance with the provisions laid down in Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe ([1]).

3. The Ignalina Programme shall, inter alia, cover: measures in support of the decommissioning of the Ignalina nuclear power plant; measures for the environmental upgrading in line with the *acquis* and modernisation measures of conventional production capacity to replace the production capacity of the two Ignalina nuclear power plant reactors; and other measures which are consequential to the decision to close and decommission this plant and which contribute to the necessary restructuring, environmental upgrading and modernisation of the energy production, transmission and distribution sectors in Lithuania as well as to enhancing the security of energy supply and improving energy efficiency in Lithuania.

4. The Ignalina Programme shall include measures to support plant personnel in maintaining a high level of operational safety at the Ignalina nuclear power plant in the periods prior to the closure and during the decommissioning of the said reactor units.

5. For the period 2004—2006 the Ignalina Programme shall amount to 285 million euro in commitment appropriations, to be committed in equal annual tranches.

6. The contribution under the Ignalina Programme may, for certain measures, amount to up to 100 % of the total expenditure. Every effort should be made to continue the co-financing practice established under the pre-accession assistance for Lithuania's decommissioning effort as well as to attract co-financing from other sources, as appropriate.

7. The assistance under the Ignalina Programme, or parts thereof, may be made available as a Union contribution to the Ignalina International Decommissioning Support Fund, managed by the European Bank for Reconstruction and Development.

8. Public aid from national, Union and international sources:

(a) for the environmental upgrading in line with the *acquis* and modernisation measures of the Lithuanian Thermal Power Plant in Elektrenai as the key replacement for the production capacity of the two Ignalina nuclear power plant reactors; and

(b) for the decommissioning of the Ignalina nuclear power plant

shall be compatible with the internal market as defined in the Constitution.

([1]) OJ L 375, 23.12.1989, p. 11.

9. Public aid from national, Union and international sources in support of Lithuania's efforts to address the consequences of the closure and of the decommissioning of the Ignalina nuclear power plant may, on a case by case basis, be considered to be compatible — under the Constitution — with the internal market, in particular public aid provided for enhancing the security of energy supply.

Article 54

1. Recognising that the decommissioning of the Ignalina nuclear power plant is of a long-term nature and represents for Lithuania an exceptional financial burden not commensurate with its size and economic strength, the Union shall, in solidarity with Lithuania, provide adequate additional assistance to the decommissioning effort beyond 2006.

2. The Ignalina Programme shall be, for this purpose, seamlessly continued and extended beyond 2006. Implementing provisions for the extended Ignalina Programme shall be adopted in accordance with the procedure laid down in Article 35 of this Protocol and enter into force, at the latest, by the date of expiry of the Financial Perspective as defined in the Interinstitutional Agreement of 6 May 1999.

3. The Ignalina Programme, as extended in accordance with the provisions of paragraph 2, shall be based on the same elements and principles as described in Article 53.

4. For the period of the subsequent Financial Perspective, the overall average appropriations under the extended Ignalina Programme shall be appropriate. Programming of these resources will be based on actual payment needs and absorption capacity.

Article 55

Without prejudice to the provisions of Article 52, the general safeguard clause referred to in Article 26 shall apply until 31 December 2012 if energy supply is disrupted in Lithuania.

Article 56

This Title shall apply in the light of the Declaration on the Ignalina nuclear power plant in Lithuania which incorporates, without altering its legal effect, the wording of the preamble to Protocol 4 to the Act of Accession of 16 April 2003.

TITLE V

PROVISIONS ON THE TRANSIT OF PERSONS BY LAND BETWEEN THE REGION OF KALININGRAD AND OTHER PARTS OF THE RUSSIAN FEDERATION

Article 57

The Union rules and arrangements on transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation, and in particular the Council Regulation (EC) No 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail

Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual [1], shall not in themselves delay or prevent the full participation of Lithuania in the Schengen acquis, including the removal of internal border controls.

Article 58

The Union shall assist Lithuania in implementing the rules and arrangements for the transit of persons between the region of Kaliningrad and the other parts of the Russian Federation with a view to Lithuania's full participation in the Schengen area as soon as possible.

The Union shall assist Lithuania in managing the transit of persons between the region of Kaliningrad and the other parts of the Russian Federation and shall, notably, bear any additional costs incurred by implementing the specific provisions of the *acquis* provided for such transit.

Article 59

Without prejudice to the sovereign rights of Lithuania, any further act concerning the transit of persons between the region of Kaliningrad and other parts of the Russian Federation shall be adopted by the Council on a proposal from the Commission. The Council shall act unanimously.

Article 60

This Title shall apply in the light of the Declaration on the transit of persons by land between the region of Kaliningrad and other parts of the Russian Federation, which incorporates, without altering its legal affect, the wording of the preamble to Protocol 5 to the Act of Accession of 16 April 2003.

TITLE VI

PROVISIONS ON THE ACQUISITION OF SECONDARY RESIDENCES IN MALTA

Article 61

Bearing in mind the very limited number of residences in Malta and the very limited land available for construction purposes, which can only cover the basic needs created by the demographic development of the present residents, Malta may on a non-discriminatory basis maintain in force the rules on the acquisition and holding of immovable property for secondary residence purposes by nationals of the Member States who have not legally resided in Malta for at least five years laid down in the Immovable Property (Acquisition by Non-Residents) Act (Chapter 246).

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[1] OJ L 99, 17.4.2003, p. 8.

Malta shall apply authorisation procedures for the acquisition of immovable property for secondary residence purposes in Malta, which shall be based on published, objective, stable and transparent criteria. These criteria shall be applied in a non-discriminatory manner and shall not differentiate between nationals of Malta and of other Member States. Malta shall ensure that in no instance shall a national of a Member State be treated in a more restrictive way than a national of a third country.

In the event that the value of one such property bought by a national of a Member State exceeds the thresholds provided for in Malta's legislation, namely 30 000 Maltese lira for apartments and 50 000 Maltese lira for any type of property other than apartments and property of historical importance, authorisation shall be granted. Malta may revise the thresholds established by such legislation to reflect changes in prices in the property market in Malta.

TITLE VII

PROVISIONS ON ABORTION IN MALTA

Article 62

Nothing in the Treaty establishing a Constitution for Europe or in the Treaties and Acts modifying or supplementing it shall affect the application in the territory of Malta of national legislation relating to abortion.

TITLE VIII

PROVISIONS ON THE RESTRUCTURING OF THE POLISH STEEL INDUSTRY

Article 63

1. Notwithstanding Articles III-167 and III-168 of the Constitution, State aid granted by Poland for restructuring purposes to specified parts of the Polish steel industry shall be deemed to be compatible with the internal market provided that:

(a) the period provided for in Article 8(4) of Protocol 2 on ECSC products to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part [1], has been extended until 1 May 2004,

(b) the terms set out in the restructuring plan, on the basis of which the abovementioned Protocol was extended are adhered to throughout the period 2002—2006,

(c) the conditions set out in this Title are met, and

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[1] OJ L 348, 31.12.1993, p. 2.

(d) no State aid for restructuring is to be paid to the Polish steel industry after 1 May 2004.

2. Restructuring of the Polish steel sector, as described in the individual business plans of the companies listed in Annex 1 to Protocol 8 to the Act of Accession of 16 April 2003 (hereinafter referred to as 'benefiting companies'), and in line with the conditions set out in this Title, shall be completed no later than 31 December 2006 (hereinafter referred to as 'the end of the restructuring period').

3. Only benefiting companies shall be eligible for State aid in the framework of the Polish steel restructuring programme.

4. A benefiting company may not:

(a) in the case of a merger with a company not included in Annex 1 to Protocol 8 to the Act of Accession of 16 April 2003, pass on the benefit of the aid granted to the benefiting company;

(b) take over the assets of any company not included in Annex 1 to Protocol 8 to the Act of Accession of 16 April 2003 which is declared bankrupt in the period up to 31 December 2006.

5. Any subsequent privatisation of any of the benefiting companies shall take place on a basis that respects the need for transparency and shall respect the conditions and principles regarding viability, State aids and capacity reduction defined in this Title. No further State aid shall be granted as part of the sale of any company or individual assets.

6. The restructuring aid granted to the benefiting companies shall be determined by the justifications set out in the approved Polish steel restructuring plan and individual business plans as approved by the Council. But, in any case, the aid paid out in the period of 1997-2003 in its total amount shall not exceed PLN 3 387 070 000.

Of this total figure:

(a) as regards Polskie Huty Stali (hereinafter referred to as 'PHS'), the restructuring aid already granted or to be granted from 1997 until the end of 2003 shall not exceed PLN 3 140 360 000. PHS has already received PLN 62 360 000 of restructuring aid in the period 1997-2001; it shall receive further restructuring aid of no more than PLN 3 078 000 000 in 2002 and 2003 depending on the requirements set out in the approved restructuring plan (to be entirely paid out in 2002 if the extension of the grace period under Protocol 2 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part, is granted by the end of 2002, or otherwise in 2003);

(b) as regards Huta Andrzej S.A., Huta Bankowa Sp. z o.o., Huta Batory S.A., Huta Buczek S.A., Huta L.W. Sp. z o.o., Huta Łabędy S.A., and Huta Pokój S.A. (hereinafter referred to as 'other benefiting companies'), the steel restructuring aid already granted or to be granted from 1997 until the end of 2003 shall not exceed PLN 246 710 000. These firms have already received PLN 37 160 000 of restructuring aid in the period 1997-2001; they shall receive further restructuring aid of no more than PLN 210 210 000 depending on the requirements set out in the approved

restructuring plan (of which PLN 182 170 000 in 2002 and PLN 27 380 000 in 2003 if the extension of the grace period under Protocol 2 of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part, is granted by the end of 2002, or otherwise PLN 210 210 000 in 2003).

No further State aid shall be granted by Poland for restructuring purposes to the Polish steel industry.

7. The net capacity reduction to be achieved by Poland for finished products during the period 1997-2006 shall be a minimum of 1 231 000 tonnes. This overall amount includes net capacity reductions of at least 715 000 tpy in hot-rolled products and 716 000 tpy in cold-rolled products, as well as an increase of at most 200 000 tpy of other finished products.

Capacity reduction shall be measured only on the basis of permanent closure of production facilities by physical destruction such that the facilities cannot be restored to service. A declaration of bankruptcy of a steel company shall not qualify as capacity reduction.

The net capacity reductions shown in Annex 2 to Protocol 8 to the Act of Accession of 16 April 2003 are minima and actual net capacity reductions to be achieved and the time frame for doing so shall be established on the basis of Poland's final restructuring programme and individual business plans under the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part, taking into account the objective to ensure the viability of benefiting companies as at 31 December 2006.

8. The business plan for the benefiting company PHS shall be implemented. In particular:

(a) restructuring efforts shall concentrate on the following:

(i) reorganising PHS production facilities on a product basis and ensuring horizontal organisation by function (purchasing, production, sales),

(ii) establishing in PHS a unified management structure enabling full realisation of synergies in the consolidation,

(iii) evolving the strategic focus of PHS from being production-oriented to being marketing-oriented,

(iv) improving the efficiency and effectiveness of PHS business management and also ensuring better control of direct sales,

(v) PHS reviewing, on the basis of sound economic considerations, the strategy of spin-off companies and, where appropriate, reintegrating services into the parent company,

(vi) PHS reviewing its product mix, reducing over-capacity on long semi-finished products and generally moving further into the higher value-added product market,

(vii) PHS investing in order to achieve a higher quality of finished products; special attention shall be given to attaining by the date set in the timetable for the implementation of the PHS restructuring programme and at the latest by the end of 2006 3-Sigma production quality level at the PHS site in Kraków;

(b) cost savings shall be maximised in PHS during the restructuring period through energy efficiency gains, improved purchasing and ensuring productivity yields comparable to Union levels;

(c) employment restructuring shall be implemented; levels of productivity comparable to those obtained by Union steel industry product groups shall be reached as at 31 December 2006, based on consolidated figures including indirect employment in the wholly owned service companies;

(d) any privatisation shall be on a basis that respects the need for transparency and fully respects the commercial value of PHS. No further State aid shall be granted as part of the sale.

9. The business plan for the other benefiting companies shall be implemented. In particular:

(a) for all of the other benefiting companies, restructuring efforts shall concentrate on the following:

(i) evolving the strategic focus from being production-oriented to being marketing-oriented,

(ii) improving the efficiency and effectiveness of the companies' business management and also ensuring better control of direct sales,

(iii) reviewing, on the basis of sound economic considerations, the strategy of spin-off companies and, where appropriate, reintegrating services into the parent companies;

(b) for Huta Bankowa, implementing the cost savings programme;

(c) for Huta Buczek, obtaining the necessary financial support from creditors and local financial institutions and implementing the cost savings programme, including reducing the investment cost by adapting existing production facilities;

(d) for Huta Łabędy, implementing the cost savings programme and reducing reliance on the mining industry;

(e) for Huta Pokój, achieving international productivity standards in the subsidiaries, implementing energy consumption savings and cancelling the proposed investment in the processing and construction department;

(f) for Huta Batory, reaching agreement with creditors and financial institutions on debt rescheduling and investment loans. The company shall also ensure substantial additional cost savings associated with employment restructuring and improved yields;

(g) for Huta Andrzej, securing a stable financial base for its development by negotiating an agreement between the company's current lenders, long-term creditors, trade creditors and financial institutions. Additional investments in the hot tube mill as well as the implementation of the staff reduction programme must take place;

(h) for Huta L.W., carrying out investments in relation to the company's hot-rolling mills project, lifting equipment, and environmental standing. This company shall also achieve higher productivity levels, through staff restructuring and reducing the costs of external services.

10. Any subsequent changes in the overall restructuring plan and the individual plans must be agreed by the Commission and, where appropriate, by the Council.

11. The implementation of the restructuring shall take place under conditions of full transparency and on the basis of sound market economy principles.

12. The Commission and the Council shall closely monitor the implementation of the restructuring and the fulfilment of the conditions set out in this Title concerning viability, State aid and capacity reductions before and after 1 May 2004, until the end of the restructuring period, in accordance with paragraphs 13 to 18. For this purpose the Commission shall report to the Council.

13. In addition to the monitoring of State aid, the Commission and the Council shall monitor the restructuring benchmarks set out in Annex 3 to Protocol 8 to the Act of Accession of 16 April 2003. References made in that Annex to paragraph 14 of the Protocol shall be construed as being made to paragraph 14 of this Article.

14. Monitoring shall include an independent evaluation to be carried out in 2003, 2004, 2005 and 2006. The Commission's viability test shall be applied and productivity shall be measured as part of the evaluation.

15. Poland shall cooperate fully with all the arrangements for monitoring. In particular:

(a) Poland shall supply the Commission with six-monthly reports concerning the restructuring of the benefiting companies, no later than 15 March and 15 September of each year, until the end of the restructuring period;

(b) the first report shall reach the Commission by 15 March 2003 and the last report by 15 March 2007, unless the Commission decides otherwise;

(c) the reports shall contain all the information necessary to monitor the restructuring process, the State aid and the reduction and use of capacity and shall provide sufficient financial data to allow an assessment to be made of whether the conditions and requirements contained in this Title

have been fulfilled. The reports shall at the least contain the information set out in Annex 4 to Protocol 8 to the Act of Accession of 16 April 2003, which the Commission reserves the right to modify in line with its experiences during the monitoring process. In Annex 4 to Protocol 8 to the Act of Accession of 16 April 2003, the reference to paragraph 14 of the Protocol shall be construed as being to paragraph 14 of this Article. In addition to the individual business reports of the benefiting companies there shall also be a report on the overall situation of the Polish steel sector, including recent macroeconomic developments;

(d) all additional information necessary for the independent evaluation provided for in paragraph 14 must, furthermore, be provided by Poland;

(e) Poland shall oblige the benefiting companies to disclose all relevant data which might, under other circumstances, be considered as confidential. In its reporting to the Council, the Commission shall ensure that company-specific confidential information is not disclosed.

16. The Commission may at any time decide to mandate an independent consultant to evaluate the monitoring results, undertake any research necessary and report to the Commission and the Council.

17. If the Commission establishes, on the basis of the monitoring, that substantial deviations from the financial data on which the viability assessment has been made have occurred, it may require Poland to take appropriate measures to reinforce or modify the restructuring measures of the benefiting companies concerned.

18. Should the monitoring show that:

(a) the conditions for the transitional arrangements contained in this Title have not been fulfilled, or that

(b) the commitments made in the framework of the extension of the period during which Poland may exceptionally grant State support for the restructuring of its steel industry under the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and Poland, of the other part, have not been fulfilled, or that

(c) Poland in the course of the restructuring period has granted additional incompatible State aid to the steel industry and to the benefiting companies in particular, the transitional arrangements contained in this Title shall not have effect.

The Commission shall take appropriate steps requiring any company concerned to reimburse any aid granted in breach of the conditions laid down in this Title.

TITLE IX

PROVISIONS ON UNIT 1 AND UNIT 2 OF THE BOHUNICE V1 NUCLEAR POWER PLANT IN SLOVAKIA

Article 64

Slovakia has undertaken to close Unit 1 of the Bohunice V1 nuclear power plant by 31 December 2006 at the latest and Unit 2 of this plant by 31 December 2008 at the latest and subsequently decommission these units.

Article 65

1. During the period 2004-2006, the Union shall provide Slovakia with financial assistance in support of its efforts to decommission, and to address the consequences of the closure and decommissioning of, Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant (hereinafter referred to as 'the Assistance').

2. The Assistance shall be decided and implemented in accordance with the provisions laid down in Council Regulation (EEC) No 3906/89 of 18 December 1989 on economic aid to certain countries of Central and Eastern Europe [1].

3. For the period 2004-2006 the Assistance shall amount to 90 million euro in commitment appropriations, to be committed in equal annual tranches.

4. The Assistance or parts thereof may be made available as a Union contribution to the Bohunice International Decommissioning Support Fund, managed by the European Bank for Reconstruction and Development.

Article 66

The Union acknowledges that the decommissioning of the Bohunice V1 Nuclear Power plant must continue beyond the Financial Perspective as defined in the Interinstitutional Agreement of 6 May 1999, and that this effort represents for Slovakia a significant financial burden. Decisions on the continuation of Union assistance in this field after 2006 will take the situation into account.

Article 67

The provisions of this Title shall apply in the light of the Declaration on Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant in Slovakia which incorporates, without altering its legal effect, the wording of the preamble to Protocol 9 to the Act of Accession of 16 April 2003.

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[1] OJ L 375, 23.12.1989, p. 11.

TITLE X

PROVISIONS ON CYPRUS

Article 68

1. The application of the Community and Union *acquis* shall be suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control.

2. The Council, on the basis of a proposal from the Commission, shall decide on the withdrawal of the suspension referred to in paragraph 1. It shall act unanimously.

Article 69

1. The Council, on the basis of a proposal from the Commission, shall define the terms under which the provisions of Union law shall apply to the line between those areas referred to in Article 68 and the areas in which the Government of the Republic of Cyprus exercises effective control. The Council shall act unanimously.

2. The boundary between the Eastern Sovereign Base Area and those areas referred to in Article 68 shall be treated as part of the external borders of the Sovereign Base Areas for the purpose of Part Four of the Annex to Protocol 3 to the Act of Accession of 16 April 2003 on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus for the duration of the suspension of the application of the Community and Union *acquis* according to Article 68.

Article 70

1. Nothing in this Title shall preclude measures with a view to promoting the economic development of the areas referred to in Article 68.

2. Such measures shall not affect the application of the Community and Union *acquis* under the conditions set out in this Protocol in any other part of the Republic of Cyprus.

Article 71

In the event of settlement of the Cyprus problem, the Council, on the basis of a proposal from the Commission, shall decide on the adaptations to the terms concerning the accession of Cyprus to the Union with regard to the Turkish Cypriot Community. The Council shall act unanimously.

Article 72

This Title shall apply in the light of the declaration on Cyprus which incorporates, without altering its legal effect, the wording of the preamble to Protocol 10 to the Act of Accession of 16 April 2003.

PART THREE

PROVISIONS ON THE ANNEXES TO THE ACT OF ACCESSION OF 16 APRIL 2003

Article 73

Annex I and Annexes III to XVII to the Act of Accession of 16 April 2003, their appendices, and the Annexes to Protocols 2, 3 and 8 to the Act of Accession of 16 April 2003 [1] form an integral part of this Protocol.

Article 74

1. The references made to the 'Treaty of Accession' in the Annexes referred to in Article 73 of this Protocol shall be construed as being made to the Treaty referred to in Article IV-437(2)(e) of the Constitution, those made to the date or time of signing of that Treaty shall be construed as being made to 16 April 2003 and those made to the date of accession shall be construed as being made to 1 May 2004.

2. Without prejudice to the second subparagraph, the references made to 'this Act' in the Annexes referred to in Article 73 of this Protocol shall be construed as being made to the Act of Accession of 16 April 2003.

The references made to the provisions of the Act of Accession of 16 April 2003 in the Annexes referred to in Article 73 of this Protocol shall be construed as being made to this Protocol, in accordance with the following table of equivalence.

Act of Accession of 16 April 2003	Protocol
Article 21	Article 12
Article 22	Article 13
Article 24	Article 15
Article 32	Article 21
Article 37	Article 26
Article 52	Article 32

3. The expressions, which appear in the Annexes referred to in Article 73, shall be construed as having the meaning assigned to them in the following table of equivalence, unless they refer exclusively to legal situations preceding the entry into force of the Treaty establishing a Constitution for Europe.

[1] OJ L 236, 23.9.2003, p. 33.

Expressions used in the Annexes	Meaning
Treaty establishing the European Community	Constitution
Treaty on European Union	Constitution
Treaties on which the European Union is founded	Constitution
(European) Community	Union
Enlarged Community	Union
Community	Union
EU	Union
Enlarged Union or enlarged EU	Union

By way of derogation from the first subparagraph, the meaning of the expression 'Community' where it is used to qualify the terms 'preference' and 'fisheries' shall remain unchanged.

4. The references made to parts or to provisions of the Treaty establishing the European Community in the Annexes referred to in Article 73 of this Protocol shall be construed as being made to parts or to provisions of the Constitution, in accordance with the following table of equivalence.

EC Treaty	Constitution
Part Three, Title I	Part III, Title III, Chapter I, Section 3
Part Three, Title I, Chapter 1	Part III, Title III, Chapter I, Section 3 Subsection 1
Part Three, Title II	Part III, Title III, Chapter III, Section 4
Part Three, Title III	Part III, Title III, Chapter I, Sections 2 and 4
Part Three, Title VI, Chapter 1	Part III, Title III, Chapter I, Section 5
Article 31	Article III-155
Article 39	Article III-133
Article 49	Article III-144
Article 58	Article III-158
Article 87	Article III-167
Article 88	Article III-168
Article 226	Article III-360
Annex I	Annex I

5. Where the Annexes referred to in Article 73 of this Protocol provide that the Council or the Commission shall adopt legal acts, those acts shall take the form of European regulations or decisions.