
Treaty establishing the European Community
27 March 1957 (extracts; as amended by the 1986
Single European Act, the 1992 Treaty on European
Union, the 1997 Treaty of Amsterdam and the 2001
Treaty of Nice)

Editorial note

The Treaty establishing the European Community (formerly European Economic Community, EEC) was designed to create a common market among Western European Member States. When adopted in 1957, it included no rules on environmental protection. The Treaty has been amended several times: it was amended in 1986 by the Single European Act (SEA) and in 1992 by the Treaty on the European Union (TEU). It was further amended in 1997 and in 2001 (respectively by the Treaty of Amsterdam and the Treaty of Nice). The EC Treaty has also been amended by the various accession treaties following the several enlargements of the Community, which over the years has expanded from its original six founding Members to the current twenty-five Member States. Of particular significance are the changes to the Treaty made as a result of the Treaty on the Accession of ten new Member States, which was signed on 16 April 2003 and came into force on 1 May 2004.

In particular, the SEA, adopted in February 1986 and entered into force on 1 July 1987, included new specific rules on environmental protection (the then Title VII of the EEC Treaty), which were further expanded upon by the Treaty on European Union, signed on 7 February 1992 and entered into force on 1 November 1993. The TEU, also known as the Maastricht Treaty, changed the name of the European Economic Community to simply ‘the European Community’. It also introduced new forms of co-operation between the Member States – for example on defence, and in the area of ‘justice and home affairs’. By adding this inter-governmental co-operation to the existing ‘Community’ system, the Maastricht Treaty created a new structure with three so-called ‘pillars’ which is political as well as economic, known as the European Union (EU). The Treaty of Amsterdam, signed on 2 October 1997, entered into force on 1 May 1999, amended and renumbered the EU and EC Treaties (for example, Articles 130r, 130s and 130t, the three provisions on the Title on the Environment, have respectively become Articles 174, 175 and 176). The Treaty of Nice, signed on 26 February 2001, entered into force on 1 February 2003.

The EC Treaty will be superseded by the Treaty establishing a Constitution for Europe adopted at an Intergovernmental Conference by the Heads of States and Governments of the Member States of the European Union on 18 June 2004. The final text of the Treaty establishing a Constitution for Europe was signed in Rome on 29 October 2004 and will then be subject to ratification (parliamentary approval and/or referendum) by the twenty-five Member States of the Union. If approved by all the Member States, the Treaty will enter into force on 1 November 2006.

The EC Treaty prohibits, subject to certain qualifications, quantitative restrictions on imports from Member States and measures having equivalent effect (Articles 23–25 and 28). Quantitative restrictions on exports are also prohibited between Member States (Article 29). All these provisions are subject to exceptions based on the protection of the health and life of humans, animals or plants, so long as such measures do not arbitrarily discriminate or act as a disguised restriction to trade (Article 30). EC rules on competition specifically prohibit any practice which has as its object or effect ‘the prevention, restriction or distortion of competition’ (Article 81), and the abuse by an undertaking of its dominant position is prohibited if trade between Member States is affected (Article 82). The Treaty also prohibits State aids (subsidies) which distort or threaten to distort competition, but certain exceptions are allowed (Article 87).

The SEA introduced specific provisions relating to the protection of the environment which, as mentioned earlier, have been further expanded upon by the subsequent amending treaties. Article 2 now specifies that the Community shall have as its task, *inter alia*, the promotion of ‘balanced and sustainable development of economic activities’ and of ‘a high level of protection and improvement of the quality of the environment’. For this purpose, the Treaty specifically recognises that the Community’s activities include ‘a policy in the sphere of the environment’ (Article 3(1)). The principles of subsidiarity and proportionality shall guide the Community action (Article 5). Article 6 requires that ‘Environmental protection requirements must be integrated into the definition and implementation of the Community policies’ for the promotion of sustainable development. Prohibitions or restrictions on imports and exports may be justified under Article 30, *inter alia*, for ‘the protection of health and life of humans, animals or plants’. Article 95 allows Member States to enact stricter national measures following harmonisation legislation for the protection of the environment subject to specific conditions and procedures. Article 174(1) specifies the objectives of the Community’s environmental policy: preservation, protection and improvement of the quality of the environment; protection of human health; prudent and rational utilisation of natural resources; promotion of international measures to deal with regional and global environmental problems. The Community’s action shall aim at a high level of protection and shall be based on the precautionary principle, the principle of prevention, the proximity principle and the polluter pays principle (Article 174(2)). The Community’s policy shall take into account, *inter alia*, available scientific and technical data and the costs of action (or inaction) according to

Article 174(3). The Community's environmental legislation shall be adopted by qualified majority under the so-called co-decision procedure (Article 175(1)), although in specified cases unanimity is still required (Article 175(2)). Member States may adopt more stringent protective measures, if compatible with the Treaty (Article 176).

This section reproduces the text of the EC Treaty as amended by the SEA, the TEU, the Treaty of Amsterdam and the Treaty of Nice, which has been in force from 1 February 2003 (Document 1).

It is followed by selected provisions from the 1957 EC Treaty as modified by the Treaty of Amsterdam (Document 1A), the 1957 EC Treaty as modified by the TEU (Document 1B) and the EEC Treaty as modified by the SEA (Document 1C). These provisions have been reproduced to allow the reader to compare the relevant provisions and assess the amendments, and also to provide the necessary background for understanding the legal basis upon which the European Court of Justice has interpreted and applied the law from time to time. Extracts from the Treaty establishing a Constitution for Europe have also been included (Document 1D).

With effect from 1 May 2004 there are twenty-five members of the European Community: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Germany, Greece, Finland, France, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, The Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

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Treaty establishing the European Community 27 March 1957 (extracts; as amended by the 1986 Single European Act, the 1992 Treaty on European Union, the 1997 Treaty of Amsterdam and the 2001 Treaty of Nice)

Preamble

[*The Heads of State,*]

Determined to lay the foundations of an ever closer union among the peoples of Europe,

Resolved to ensure the economic and social progress of their countries by common action to eliminate the barriers which divide Europe,

Affirming as the essential objective of their efforts the constant improvements of the living and working conditions of their peoples,

Recognising that the removal of existing obstacles calls for concerted action in order to guarantee steady expansion, balanced trade and fair competition,

Anxious to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions,

Desiring to contribute, by means of a common commercial policy, to the progressive abolition of restrictions on international trade,

Intending to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations,

Resolved by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of Europe who share their ideal to join in their efforts,

Determined to promote the development of the highest possible level of knowledge for their peoples through a wide access to education and through its continuous updating,

Have decided to create a *EUROPEAN COMMUNITY* and to this end . . . have agreed as follows:

Part one
Principles

Article 1

By this Treaty, the *High Contracting Parties* establish among themselves a *European Community*.

Article 2

The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

Article 3

1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:

- (a) the prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;
- (b) a common commercial policy;
- (c) an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;
- (d) measures concerning the entry and movement of persons as provided for in Title IV;

- (e) a common policy in the sphere of agriculture and fisheries;
- (f) a common policy in the sphere of transport;
- (g) a system ensuring that competition in the internal market is not distorted;
- (h) the approximation of the laws of Member States to the extent required for the functioning of the common market;
- (i) the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- (j) a policy in the social sphere comprising a European Social Fund;
- (k) the strengthening of economic and social cohesion;
- (l) a policy in the sphere of the environment;
- (m) the strengthening of the competitiveness of Community industry;
- (n) the promotion of research and technological development;
- (o) encouragement for the establishment and development of trans-European networks;
- (p) a contribution to the attainment of a high level of health protection;
- (q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (r) a policy in the sphere of development cooperation;
- (s) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- (t) a contribution to the strengthening of consumer protection;
- (u) measures in the spheres of energy, civil protection and tourism.

2. In all the activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women.

Article 4

1. For the purposes set out in Article 2, the activities of the Member States and the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.

2. Concurrently with the foregoing, and as provided in this Treaty and in accordance with the timetable and the procedures set out therein, these activities shall include the irrevocable fixing of exchange rates leading to the introduction of a single currency, the ecu, and the definition and conduct of a single monetary policy and exchange-rate policy the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support the general economic policies in the Community, in accordance with the principle of an open market economy with free competition.

3. These activities of the Member States and the Community shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

Article 5

The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community. Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty.

Article 6

Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development.

Article 7

1. The tasks entrusted to the Community shall be carried out by the following institutions:

- a European Parliament,
- a Council,
- a Commission,
- a Court of Justice,
- a Court of Auditors.

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

2. The Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

Article 8

A European system of central banks (hereinafter referred to as ‘ESCB’) and a European Central Bank (hereinafter referred to as ‘ECB’) shall be established in accordance with the procedures laid down in this Treaty; they shall act within the limits of the powers conferred upon them by this Treaty and by the Statute of the ESCB and of the ECB (hereinafter referred to as ‘Statute of the ESCB’) annexed thereto.

Article 9

A European Investment Bank is hereby established, which shall act within the limits of the powers conferred upon it by this Treaty and the Statute annexed thereto.

Article 10

Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks.

They shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.

Article 11

1. Member States which intend to establish enhanced cooperation between themselves in one of the areas referred to in this Treaty shall address a request to the Commission, which may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

2. Authorisation to establish enhanced cooperation as referred to in paragraph 1 shall be granted, in compliance with Articles 43 to 45 of the Treaty on European Union, by the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament. When enhanced cooperation relates to an area covered by the procedure referred to in Article 251 of this Treaty, the assent of the European Parliament shall be required.

A member of the Council may request that the matter be referred to the European Council. After that matter has been raised before the European Council, the Council may act in accordance with the first subparagraph of this paragraph.

3. The acts and decisions necessary for the implementation of enhanced cooperation activities shall be subject to all the relevant provisions of this Treaty, save as otherwise provided in this Article and in Articles 43 to 45 of the Treaty on European Union.

Article 11a

Any Member State which wishes to participate in enhanced cooperation established in accordance with Article 11 shall notify its intention to the Council and to the Commission, which shall give an opinion to the Council within three months of the date of receipt of that notification. Within four months of the date of receipt of that notification, the Commission shall take a decision on it, and on such specific arrangements as it may deem necessary.

Article 12

Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited. The Council, acting in accordance with the procedure referred to in Article 251, may adopt rules designed to prohibit such discrimination.

Article 13

1. Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

2. By way of derogation from paragraph 1, when the Council adopts Community incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, it shall act in accordance with the procedure referred to in Article 251.

Article 14

1. The Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992, in accordance with the provisions of this Article and of Articles 15, 26, 47(2), 49, 80, 93 and 95 and without prejudice to the other provisions of this Treaty.

2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of this Treaty.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

Article 15

When drawing up its proposals with a view to achieving the objectives set out in Article 14, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain during the period of establishment of the internal market and it may propose appropriate provisions.

If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the common market.

Article 16

Without prejudice to Articles 73, 86 and 87, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Community and the Member States, each within their respective powers and within the scope of application of this Treaty, shall take care that such services operate on the basis of principles and conditions which enable them to fulfil their missions.
[...]

*Part three**Community policies**Title I**Free movement of goods*

Article 23

1. The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.
2. The provisions of Article 25 and of Chapter 2 of this title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

Article 24

Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

*Chapter 1**The customs union*

Article 25

Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.

Article 26

Common Customs Tariff duties shall be fixed by the Council acting by a qualified majority on a proposal from the Commission.

Article 27

In carrying out the tasks entrusted to it under this chapter the Commission shall be guided by:

- (a) the need to promote trade between Member States and third countries;
- (b) developments in conditions of competition within the Community in so far as they lead to an improvement in the competitive capacity of undertakings;
- (c) the requirements of the Community as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;
- (d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Community.

*Chapter 2**Prohibition of quantitative restrictions between Member States*

Article 28

Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States.

Article 29

Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States.

Article 30

The provisions of Articles 28 and 29 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

Article 31

1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to others.