II

(Preparatory Acts pursuant to Title VI of the Treaty on European Union)

Initiative by the Republic of Austria with a view to the adoption of a Council Act amending Euro-
pol's staff regulations

(2006/C 71/10)

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Convention on the establishment of a European Police Office ('Europol Convention') (1), and in particular Article 30(3) thereof,

Having regard to the initiative by the Republic of Austria,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Management Board of Europol,

Whereas:

(1) It is desirable to amend the Staff Regulations applicable to Europol employees, as laid down in the Council Act of 3 December 1998 (2) (hereinafter referred to as the 'Staff Regulations'), in order to provide for a maximum period of service of nine years under two fixed term contracts for all employees,

(2) It is furthermore desirable to amend the Staff Regulations in order to regulate the employment relationships of the Financial Controller, of the Assistant Financial Controller(s) and of staff working for the Financial Controller's Office, and the employment relationships of the Secretary of the Management Board of Europol and of staff working for the Management Board Secretariat.

(3) It is for the Council, acting unanimously, to lay down the detailed arrangements applicable to Europol employees and make subsequent amendments,

HAS ADOPTED THIS ACT:

Article 1

The Staff Regulations are hereby amended as follows:

1) The following paragraphs shall be added to Article 1:

3. The Staff Regulations shall also apply to the Financial Controller and Assistant Financial Controller(s) of Europol and to staff working for the Financial Controller's Office, without prejudice to the Europol Convention or to the Europol Financial Regulation and as far as not otherwise provided in Appendix 10, which establishes special provisions concerning the Financial Controller, the Assistant Financial Controller(s) and staff working for the Financial Controller's Office.

4. The Staff Regulations shall also apply to the Secretary of the Management Board of Europol and to staff working for the Management Board Secretariat, without prejudice to the Europol Convention and as far as not otherwise provided in Appendix 11, which establishes special provisions concerning the Secretary of the Management Board and staff working for the Management Board Secretariat.

2) Article 6 shall be replaced by the following:

"Article 6

All Europol staff, whether recruited to a post which can be filled only by staff engaged from the competent authorities referred to in Article 2(4) of the Europol Convention or whether recruited to a post which is not subject to that restriction, shall initially be engaged for a fixed period of between one and five years.

First contracts may be renewed. The total length of the fixed-term contracts, including any periods of renewal, shall not be more than nine years.

Only staff recruited to a post not restricted to staff engaged from the competent authorities referred to in Article 2(4) of the Europol Convention may be engaged for an indefinite period after serving two contracts for a fixed period consistently to a highly satisfactory standard for a minimum period of service of six years.

The Management Board of Europol shall give its consent on a yearly basis insofar as the Director of Europol intends to grant contracts of indefinite duration. The Management Board may fix ceilings for the total number of such contracts to be granted."

3) Article 95 shall be replaced by the following:

"Article 95

Employment, whether for a fixed or for an indefinite period, may be terminated by Europol without notice:

(a) during or at the end of the probationary period in accordance with Article 26;

(b) if the official ceases to satisfy the requirements of Article 24(2)(a) and (d) however, if the official ceases to satisfy the requirements of Article 24(2)(d), his contact may be terminated only in accordance with Article 65;

(c) if the period of secondment, special leave or temporary outplacement agreed to by the competent authority is terminated in the case of an official occupying a post which can be filled only by staff engaged from the competent authorities referred to in Article 2(4) of the Europol Convention;

(d) if the official is unable to resume his duties at the end of a period of paid sick leave as provided for in Article 38. In such a case, the official shall receive an allowance equal to his basic salary, plus family allowances at the rate of two days per month of service completed."

4) Article 3(3) of Appendix 2 shall be replaced by the following:

"3. Without prejudice to the maximum periods of service provided for in Article 6 of the Staff Regulations, for all vacant posts both internal and external applications shall be considered."

5) the following appendix 10 shall be added after Appendix 9:

"APPENDIX 10

Special provisions concerning the Financial Controller, the Assistant Financial Controller(s) and staff working for the Financial Controller’s Office

CHAPTER 1

FUNCTION AND DUTIES

Article 1

1. The Financial Controller shall be responsible for and shall perform the tasks assigned to him by the Europol Convention and by the Europol Financial Regulation, and all other tasks assigned to the Financial Controller by the Management Board.

2. In accordance with Article 20 of the Europol Financial Regulation, in carrying out his duties, the Financial Controller shall be accountable solely to the Management Board and shall be responsible to it for their performance."
3. The Assistant Financial Controller(s) shall be responsible for and shall perform the tasks assigned to them by the Europol Convention and by the Europol Financial Regulation, and all other tasks assigned to them by the Financial Controller.

4. In carrying out their duties, the Assistant Financial Controller(s) and any additional staff working for the Financial Controller’s Office shall be accountable solely to the Management Board and shall be responsible to it for their performance.

5. The Financial Controller and one or more Assistant Financial Controller(s) shall be appointed in accordance with Article 35(7) of the Europol Convention and with the further rules set out in this Appendix.

Article 2

1. Unless provided otherwise in this Appendix, where the Staff Regulations provide for the exercise of authority or control by the Director over members of Europol staff, any such provision shall be read, in respect of the Financial Controller, the Assistant Financial Controller(s) and additional staff working for the Financial Controller’s Office, as referring to the Chairman of the Management Board.

2. Any decision taken in accordance with this Appendix by the Management Board or by the Chairman of the Management Board that requires legal implementation shall be formalised by the Director, acting as the legal representative of Europol in accordance with Article 29(5) of the Europol Convention.

CHAPTER 2

ELIGIBILITY AND SELECTION PROCEDURES

Article 3

In accordance with Article 35(7) of the Europol Convention and Article 20 of the Europol Financial Regulation, the Financial Controller and the Assistant Financial Controller(s) shall be selected from one of the official audit bodies of one of the Member States.

Article 4

Recruitment for the post of Financial Controller shall be carried out in accordance with Article 35(7) of the Europol Convention and Chapter 3 and Appendix 2 of the Staff Regulations, subject to the following special provisions:

(a) a Selection Board shall be set up by the Chairman of the Management Board, which shall consist of the representatives of three Member States, including the Presidency, the others being determined by the drawing of lots by the Management Board; those three members shall elect one of their number as the Chairman of the Selection Board;

(b) the advertisement shall be drawn up by the Management Board;

(c) the Head of the Human Resources Unit shall act as the Secretary of the Selection Board and shall provide administrative support as required; he shall have no vote in the selection procedure, nor shall he exercise any other influence on the outcome of the procedure;

(d) the test(s), if any, shall be prepared exclusively by the members of the Selection Board, who may decide against the need for written test(s); all pre-selected candidates shall be interviewed by the Selection Board;

(e) the list of the successful candidates in order of merit drawn up by the Selection Board shall be forwarded to the Chairman of the Management Board;

(f) the Management Board shall select the successful candidate by unanimous decision, in accordance with Article 35(7) of the Europol Convention.
Article 5

Recruitment of one or more Assistant Financial Controller(s) and of staff working for the Financial Controller’s office shall be carried out in accordance with Chapter 3 and Appendix 2 of the Staff Regulations and, in respect of the Assistant Financial Controller(s), with Article 35(7) of the Europol Convention, subject to the following special provisions:

(a) for the recruitment of an Assistant Financial Controller, a Selection Board shall be set up by the Chairman of the Management Board, which shall consist of the Financial Controller, who shall act as the Chairman of the Selection Board, two representatives of Member States, including the Presidency, the other being determined by the drawing of lots by the Management Board, and the Head of the Human Resources Unit, who shall act as the secretary to the Selection Board; the secretary of the Selection Board shall have no vote in the selection procedure, nor shall he exercise any other influence on the outcome of the selection procedure;

(b) for the recruitment of other staff working for the Financial Controller’s Office, a Selection Board shall be set up by the Financial Controller, who shall act as the Chairman of the Selection Board, and the Head of the Human Resources Unit, who shall act as the secretary of the Selection Board; the secretary of the Selection Board shall have no vote in the selection procedure, nor shall he exercise any other influence on the outcome of the selection procedure; furthermore the Presidency may, if it so wishes, assign a representative to serve as a member of the Selection Board;

(c) the advertisement shall be drawn up by the Selection Board;

(d) the test(s) shall be prepared exclusively by the members of the Selection Board, who shall interview all pre-selected candidates;

(e) the list of the successful candidates in order of merit drawn up by the Selection Board shall be forwarded to the Chairman of the Management Board;

(f) as regards the Assistant Financial Controller(s), the Management Board shall select the successful candidate(s) by unanimous decision, in accordance with Article 35(7) of the Europol Convention and Article 20(1) of the Europol Financial Regulation;

(g) as regards other staff working for the Financial Controller’s Office, the Chairman of the Management Board shall select the successful candidate.

CHAPTER 3
TERM OF OFFICE, CONDITIONS OF ENGAGEMENT AND INCOMPATIBILITIES

Article 6

1. The initial term of office of the Financial Controller shall be determined by the Management Board by unanimous decision in accordance with Article 6 of the Staff Regulations. The contract may be renewed by unanimous decision of the Management Board in accordance with Article 6 of the Staff Regulations.

2. The initial term of office of the Assistant Financial Controller(s) shall be determined by the Management Board by unanimous decision in accordance with Article 6 of the Staff Regulations. The contract may be renewed by unanimous decision of the Management Board in accordance with Article 6 of the Staff Regulations.

3. The initial term of office of staff working for the Financial Controller shall be determined by the Chairman of the Management Board in accordance with Article 6 of the Staff Regulations. On the basis of advice from the Financial Controller, contracts may be renewed by decision of the Chairman of the Management Board in accordance with Article 6 of the Staff Regulations.

Article 7

1. The post of Financial Controller shall be deemed to correspond to that of a Head of Unit in accordance with Article 45 and Appendix 1 of the Staff Regulations.

2. The post of Assistant Financial Controller(s) shall be deemed to correspond to that of First Officer in accordance with Article 45 and Appendix 1 of the Staff Regulations.
Article 8

1. The initial salary scale and the incremental point at which the Financial Controller and the Assistant Financial Controller(s) shall be engaged shall be determined by unanimous decision of the Management Board.

2. In the case of the Financial Controller, all the periodical reports and decisions provided for in Chapter 3 of the Staff Regulations shall be made by the Chairman of the Management Board, who shall be assisted to that end by his predecessors as regards previous periods of service.

3. In the case of the Assistant Financial Controller(s), all the periodical reports and decisions provided for in Chapter 3 of the Staff Regulations shall be made by the Financial Controller and shall be subject to confirmation by the Chairman of the Management Board.

Article 9

1. The initial salary scale and the incremental point at which staff working for the Financial Controller’s Office shall be engaged shall be determined by the Chairman of the Management Board.

2. In the case of staff working for the Financial Controller’s Office, on the basis of advice from the Financial Controller, all the periodical reports and decisions provided for in Chapter 3 of the Staff Regulations shall be made by the Financial Controller and confirmed by the Chairman of the Management Board.

Article 10

Once their terms of office have been completed, neither the Financial Controller nor the Assistant Financial Controller(s) may be recruited for a Europol post subject to the authority of the Director for at least eighteen months.

CHAPTER 4

TERMINATION OF SERVICE

Article 11

The service of the Financial Controller or of the Assistant Financial Controller(s) shall be terminated in accordance with Chapter 10 of the Staff Regulations, subject to the following special provisions:

(a) any decision to terminate the service of the Financial Controller or of the Assistant Financial Controller(s) shall be taken by the Management Board by unanimous decision;

(b) a decision to terminate the service of the Financial Controller or of the Assistant Financial Controller(s) on disciplinary grounds shall take into account the special provisions on disciplinary proceedings set out in Chapter 5 of this Appendix.

Article 12

The service of staff working for the Financial Controller’s Office shall be terminated in accordance with Chapter 10 of the Staff Regulations, subject to the following special provisions:

(a) any decision to terminate the service of staff working for the Financial Controller’s Office shall be taken by the Chairman of the Management Board, acting on the reasoned advice of the Financial Controller;

(b) a decision to terminate the service of staff working for the Financial Controller’s Office on disciplinary grounds shall take into account the special provisions on disciplinary proceedings set out in Chapter 5 of this Appendix.
CHAPTER 5

DISCIPLINARY PROCEEDINGS

Article 13

Disciplinary proceedings against the Financial Controller and the Assistant Financial Controller(s) shall be carried out in accordance with Article 49(5) of the Financial Regulation and Chapter 8 and Appendix 7 of the Staff Regulations, subject to the following special provisions:

(a) a Disciplinary Board shall be set up by the Management Board, which shall consist of the Chairman of the Management Board, who shall serve as the Chairman of the Disciplinary Board, and of representatives of three Member States determined by the drawing of lots by the Management Board; the representatives shall be of higher or comparable rank or level of seniority to the Financial Controller or the Assistant Financial Controller(s); they shall not at the same time be members of the Management Board;

(b) a change of Presidency shall not affect the composition of the Disciplinary Board; whenever vacancies arise for other reasons, they shall be filled by the drawing of lots;

(c) the Disciplinary Board shall be assisted by a secretary, who may be the Head of the Legal Affairs Unit if that is desired;

(d) the Management Board shall have the right to issue a written warning or a reprimand by unanimous decision without consulting the Disciplinary Board, on a proposal from the Chairman of the Management Board or one of its other members; the Financial Controller or the Assistant Financial Controller(s) shall be informed thereof in writing, and shall be heard before any such action is taken;

(e) other disciplinary measures shall be ordered by the Management Board by unanimous decision once the disciplinary procedure provided for in this Appendix and in Appendix 7 to the Staff Regulations has been completed; that procedure shall be initiated by the Chairman of the Management Board, once he has heard the Financial Controller or the Assistant Financial Controller(s);

(f) the right of suspension provided for in Article 90 of the Staff Regulations and the right to decide on a request for the removal of all references to disciplinary measures from the personal file provided for in Article 91 of the Staff Regulations shall be exercised by the Chairman of the Management Board, who shall consult the members of the Management Board;

(g) a report shall be submitted to the Disciplinary Board by the Management Board, stating clearly the facts complained of and, where appropriate, the circumstances in which they arose;

(h) at the first meeting of the Disciplinary Board, the members shall appoint one of their number to prepare a general report on the matter;

(i) the reasoned opinion of the Disciplinary Board provided for in Article 15 of Appendix 7 shall be sent to the Financial Controller and to the Management Board, which shall take its decision by unanimity within one month of receiving the opinion, after hearing the Financial Controller or the Assistant Financial Controller(s);

(j) where there are new facts which are supported by relevant evidence, the disciplinary procedure may be reopened by the Management Board on its own initiative or at the request of the Financial Controller or the Assistant Financial Controller(s).

Article 14

Disciplinary proceedings against staff working for the Financial Controller’s Office shall be carried out in accordance with Chapter 8 and Appendix 7 of the Staff Regulations, subject to the following special provisions:

(a) a Disciplinary Board shall be set up by the Management Board, which shall consist of three representatives of Member States determined by the drawing of lots by the Management Board; the representatives shall be of a higher or comparable rank or level of seniority to the member of staff working for the Financial Controller’s Office; they shall not at the same time be members of the Management Board; they shall agree that one of their number shall act as Chairman of the Disciplinary Board:
(b) a change of Presidency shall not affect the composition of the Disciplinary Board; whenever vacancies arise for other reasons, they shall be filled by the drawing of lots;

(c) the Disciplinary Board shall be assisted by a secretary, who may be the Head of the Legal Affairs Unit if that is desired;

(d) the Management Board shall have the right to issue a written warning or a reprimand by unanimous decision without consulting the Disciplinary Board, on his own initiative or on a proposal from one of the members of the Management Board; the member of staff working for the Financial Controller's Office shall be informed thereof in writing, and shall be heard before any such action is taken;

(e) other disciplinary measures shall be ordered by the Chairman of the Management Board once the disciplinary procedure provided for in this Appendix and in Appendix 7 to the Staff Regulations has been completed; that procedure shall be initiated by the Chairman of the Management Board, once he has heard the member of staff working for the Financial Controller's Office;

(f) the right of suspension provided for in Article 90 of the Staff Regulations and the right to decide on a request for the removal of all references to disciplinary measures from the personal file provided for in Article 91 of the Staff Regulations shall be exercised by the Chairman of the Management Board;

(g) a report shall be submitted to the Disciplinary Board by the Chairman of the Management Board, stating clearly the facts complained of and, where appropriate, the circumstances in which they arose;

(h) at the first meeting of the Disciplinary Board, the members shall appoint one of their number to prepare a general report on the matter;

(i) the reasoned opinion of the Disciplinary Board provided for in Article 15 of Appendix 7 shall be sent to the member of staff working for the Financial Controller's Office and to the Chairman of the Management Board, who shall take his decision within one month of receiving the opinion, after hearing the member of staff working for the Financial Controller's Office;

(j) where there are new facts which are supported by relevant evidence, the disciplinary procedure may be reopened by the Chairman of the Management Board on his own initiative or at the request of the official concerned.

CHAPTER 6

LIABILITY

Article 15

1. As regards the liability of the Financial Controller and the Assistant Financial Controller(s) under Article 49(5) and (6) of the Financial Regulation, the Financial Controller and the Assistant Financial Controller(s) shall insure themselves against such risks.

2. Europol shall cover the insurance costs relating thereto.

CHAPTER 7

APPEALS

Article 16

1. Complaints by the Financial Controller, an Assistant Financial Controller or a member of staff working for the Financial Controller's Office pursuant to Article 92(2) of the Staff Regulations shall be submitted to, and dealt with by, the authority which took the definitive decision in the matter.

2. Appeals by the Financial Controller, an Assistant Financial Controller or a member of staff working for the Financial Controller's Office pursuant to Article 93 of the Staff Regulations shall lie only if the authority which took the definitive decision in the matter previously had a complaint submitted to it pursuant to paragraph 1 and that complaint was rejected by express decision or implicit decision. However, the person concerned may, after submitting a complaint pursuant to paragraph 1, immediately file an appeal with the Court of Justice of the European Communities, under the conditions laid down in Article 93(4) of the Staff Regulations.
CHAPTER 8

SPECIAL PROVISIONS CONCERNING THE FINANCIAL CONTROLLER AND TRANSITIONAL PROVISIONS

Article 17

Where the Financial Controller is unable to exercise his functions for a period of more than one month, or the position of Financial Controller is vacant, his duties shall be performed by an Assistant Financial Controller. For that purpose the Management Board shall indicate the order of replacement whenever an Assistant Financial Controller is appointed.

Article 18

When decisions concerning the Financial Controller, the Assistant Financial Controller(s) or staff working for the Financial Controller's Office or contractual arrangements concerning a person occupying the post of Financial Controller, Assistant Financial Controller or staff working for the Financial Controller's Office were made before the entry into force of this Appendix, such decisions or contractual arrangements shall continue to apply.

6) the following appendix shall be added after Appendix 10:

APPENDIX 11

Special provisions concerning the Secretary of the Management Board and staff working for the Management Board Secretariat

CHAPTER 1

FUNCTION AND DUTIES

Article 1

1. The Management Board shall be given the support of a Secretary and of additional staff working for the Management Board Secretariat so that it may carry out its duties.

2. In carrying out their duties, the Secretary of the Management Board and staff working for the Management Board Secretariat shall be accountable solely to the Management Board and shall be responsible to it for their performance. However, if authorised by the Management Board in advance, under its authority they may also carry out other duties in the interests of Europol.

Article 2

1. Unless provided otherwise in this Appendix, where the Staff Regulations provide for the exercise of authority or control by the Director or by Europol over members of Europol staff, any such provision shall be read, in respect of the Secretary of the Management Board and of staff working for the Management Board Secretariat, as referring to the Chairman of the Management Board.

2. Any decision taken in accordance with this Appendix by the Management Board or by the Chairman of the Management Board that requires legal implementation shall be formalised by the Director, acting as the legal representative of Europol in accordance with Article 29(5) of the Europol Convention.

CHAPTER 2

ELIGIBILITY AND SELECTION PROCEDURES

Article 3

The posts of Secretary of the Management Board and of additional staff working for the Management Board Secretariat shall not be restricted to staff engaged from the competent authorities referred to in Article 2(4) of the Europol Convention.
Article 4

Recruitment for the post of Secretary of the Management Board shall be carried out in accordance with Chapter 3 and Appendix 2 of the Staff Regulations, subject to the following special provisions:

(a) a Selection Board shall be set up by the Chairman of the Management Board, which shall consist of the representatives of three Member States, including the Presidency, the others being determined by the drawing of lots by the Management Board; those three members shall elect one of their number as the Chairman of the Selection Board;

(b) the advertisement shall be drawn up by the Management Board;

(c) the Head of the Human Resources Unit shall act as the secretary of the Selection Board and shall provide administrative support as required; he shall have no vote in the selection procedure, nor shall he exercise any other influence on the outcome of the procedure;

(d) the test(s), if any, shall be prepared exclusively by the members of the Selection Board, who may decide against the need for written test(s); all pre-selected candidates shall be interviewed by the Selection Board;

(e) the list of the successful candidates in order of merit drawn up by the Selection Board shall be forwarded to the Chairman of the Management Board;

(f) the Management Board shall select the successful candidate by majority decision.

Article 5

Recruitment of staff working for the Management Board Secretariat shall be carried out in accordance with Chapter 3 and Appendix 2 of the Staff Regulations, subject to the following special provisions:

(a) for the post of First Officer, a Selection Board shall be set up by the Chairman of the Management Board, which shall consist of the Secretary of the Management Board and two representatives of Member States, including the Presidency, the other being determined by the drawing of lots by the Management Board, one of whom shall serve as the Chairman of the Selection Board, and the Head of the Human Resources Unit, who shall act as the secretary of the Selection Board; the secretary of the Selection Board shall have no vote in the selection procedure, nor shall he exercise any other influence on the outcome of the selection procedure;

(b) for any post below First Officer, a Selection Board shall be set up by the Chairman of the Management Board, which shall consist of the Secretary of the Management Board, who shall act as the Chairman of the Selection Board, and the Head of the Human Resources Unit, who shall act as the secretary of the Selection Board; the secretary of the Selection Board shall have no vote in the selection procedure, nor shall he exercise any other influence on the outcome of the selection procedure; furthermore the Presidency may, if it so wishes, assign a representative to serve as a member of the Selection Board;

(c) the advertisement shall be drawn up by the Selection Board;

(d) the test(s) shall be prepared exclusively by the members of the Selection Board, who shall interview all pre-selected candidates;

(e) the list of the successful candidates in order of merit drawn up by the Selection Board shall be forwarded to the Chairman of the Management Board;

(f) the Chairman of the Management Board shall select the successful candidate.

CHAPTER 3

TERM OF OFFICE AND CONDITIONS OF ENGAGEMENT

Article 6

1. The initial term of office of the Secretary of the Management Board shall be determined by the Management Board in accordance with Article 6 of the Staff Regulations. The contract may be renewed by the Management Board in accordance with Article 6 of the Staff Regulations.
2. The initial term of office of staff working for the Management Board Secretariat shall be determined by the Chairman of the Management Board in accordance with Article 6 of the Staff Regulations. On the basis of advice from the Secretary of the Management Board, contracts may be renewed by decision of the Chairman of the Management Board in accordance with Article 6 of the Staff Regulations.

Article 7

The post of Secretary of the Management Board shall be deemed to correspond to that of a Head of Unit in accordance with Article 45 and Appendix 1 of the Staff Regulations.

Article 8

1. The initial salary scale and the incremental point at which the Secretary of the Management Board shall be engaged shall be determined by the Management Board.

2. In the case of the Secretary of the Management Board, all the periodical reports provided for in Chapter 3 of the Staff Regulations shall be made by the Chairman of the Management Board, who shall be assisted to that end by the Head of the Human Resources Unit and who shall also prepare the decision of the Management Board on the award of additional incremental points following every two years of service.

Article 9

1. The initial salary scale and the incremental point at which staff working for the Management Board Secretariat shall be engaged shall be determined by the Chairman of the Management Board on a proposal from the Selection Board.

2. In the case of staff working for the Management Board Secretariat, on the basis of advice from the Secretary of the Management Board, all the periodical reports provided for in Chapter 3 of the Staff Regulations shall be made by the Chairman of the Management Board, who shall also decide on the award of additional incremental points following every two years of service.

CHAPTER 4

TERMINATION OF SERVICE

Article 10

The service of the Secretary of the Management Board shall be terminated in accordance with Chapter 10 of the Staff Regulations, subject to the following special provisions:

(a) any decision to terminate the service of the Secretary of the Management Board shall be taken by the Management Board;

(b) a decision to terminate the service of the Secretary of the Management Board on disciplinary grounds shall take into account the special provisions on disciplinary proceedings set out in Chapter 5 of this Appendix.

Article 11

The service of staff working for the Management Board Secretariat shall be terminated in accordance with Chapter 10 of the Staff Regulations, subject to the following special provisions:

(a) any decision to terminate the service of staff working for the Management Board Secretariat shall be taken by the Chairman of the Management Board;

(b) a decision to terminate the service of staff working for the Management Board Secretariat on disciplinary grounds shall take into account the special provisions on disciplinary proceedings set out in Chapter 5 of this Appendix.
CHAPTER 5

DISCIPLINARY PROCEEDINGS

Article 12

Disciplinary proceedings against the Secretary of the Management Board shall be carried out in accordance with Chapter 8 and Appendix 7 of the Staff Regulations, subject to the following special provisions:

(a) a Disciplinary Board shall be set up by the Management Board, which shall consist of the Chairman of the Management Board, who shall serve as the Chairman of the Disciplinary Board, and of representatives of three Member States determined by the drawing of lots by the Management Board; the representatives shall be of a higher or comparable rank or level of seniority to the Secretary of the Management Board; they shall not at the same time be members of the Management Board;

(b) a change of Presidency shall not affect the composition of the Disciplinary Board; whenever vacancies arise for other reasons, they shall be filled by the drawing of lots;

(c) the Disciplinary Board shall be assisted by a secretary, who may be the Head of the Legal Affairs Unit if that is desired;

(d) the Management Board shall have the right to issue a written warning or a reprimand by majority decision without consulting the Disciplinary Board, on a proposal from the Chairman of the Management Board or one of its other members; the Secretary of the Management Board shall be informed thereof in writing, and shall be heard before any such action is taken;

(e) other disciplinary measures shall be ordered by the Management Board by majority decision once the disciplinary procedure provided for in this Appendix and in Appendix 7 to the Staff Regulations has been completed; that procedure shall be initiated by the Chairman of the Management Board, once he has heard the Secretary of the Management Board;

(f) the right of suspension provided for in Article 90 of the Staff Regulations and the right to decide on a request for the removal of all references to disciplinary measures from the personal file provided for in Article 91 of the Staff Regulations shall be exercised by the Chairman of the Management Board, who shall consult the members of the Management Board;

(g) a report shall be submitted to the Disciplinary Board by the Management Board, stating clearly the facts complained of and, where appropriate, the circumstances in which they arose;

(h) at the first meeting of the Disciplinary Board, the members shall appoint one of their number to prepare a general report on the matter;

(i) the reasoned opinion of the Disciplinary Board provided for in Article 15 of Appendix 7 shall be sent to the Secretary of the Management Board and to the Management Board, which shall take its decision by majority within one month of receiving the opinion, after hearing the Secretary of the Management Board;

(j) where there are new facts which are supported by relevant evidence, the disciplinary procedure may be reopened by the Management Board on its own initiative or at the request of the Secretary of the Management Board.

Article 13

Disciplinary proceedings against staff working for the Management Board Secretariat shall be carried out in accordance with Chapter 8 and Appendix 7 of the Staff Regulations, subject to the following special provisions:

(a) a Disciplinary Board shall be set up by the Management Board, which shall consist of three representatives of Member States determined by the drawing of lots by the Management Board; the representatives shall be of a higher or comparable rank or level of seniority to the member of staff working for the Management Board; they shall not at the same time be members of the Management Board; they shall agree that one of their number shall act as Chairman of the Disciplinary Board;
(b) a change of Presidency shall not affect the composition of the Disciplinary Board; whenever vacan-
cies arise for other reasons, they shall be filled by the drawing of lots;

(c) the Disciplinary Board shall be assisted by a secretary, who may be the Head of the Legal Affairs
Unit if that is desired;

(d) the Chairman of the Management Board shall have the right to issue a written warning or a reprim-
and without consulting the Disciplinary Board, on his own initiative or on a proposal from one
of the members of the Management Board; the member of staff working for the Management Board
Secretariat shall be informed thereof in writing, and shall be heard before any such action is taken;

(e) other disciplinary measures shall be ordered by the Chairman of the Management Board once the
disciplinary procedure provided for in this Appendix and in Appendix 7 to the Staff Regulations
has been completed; that procedure shall be initiated by the Chairman of the Management Board,
once he has heard the member of staff working for the Management Board Secretariat;

(f) the right of suspension provided for in Article 90 of the Staff Regulations and the right to decide
on a request for the removal of all references to disciplinary measures from the personal file
provided for in Article 91 of the Staff Regulations shall be exercised by the Chairman of the
Management Board;

(g) a report shall be submitted to the Disciplinary Board by the Chairman of the Management Board,
stating clearly the facts complained of and, where appropriate, the circumstances in which they
arose;

(h) at the first meeting of the Disciplinary Board, the members shall appoint one of their number to
prepare a general report on the matter;

(i) the reasoned opinion of the Disciplinary Board provided for in Article 15 of Appendix 7 shall be
sent to the member of staff working for the Management Board Secretariat and to the Chairman of
the Management Board, who shall take his decision within one month of receiving the opinion,
after hearing the official concerned;

(j) where there are new facts which are supported by relevant evidence, the disciplinary procedure
may be reopened by the Chairman of the Management Board on his own initiative or at the request
of the official concerned.

CHAPTER 6

APPEALS

Article 14

1. Complaints by the Secretary of the Management Board or a member of staff working for the
Management Board Secretariat pursuant to Article 92(2) of the Staff Regulations shall be submitted to,
and dealt with by, the authority which took the definitive decision in the matter.

2. Appeals by the Secretary of the Management Board or a member of staff working for the Manage-
ment Board Secretariat pursuant to Article 93 of the Staff Regulations shall lie only if the authority
which took the definitive decision in the matter previously had a complaint submitted to it pursuant to
paragraph 1 and that complaint was rejected by express decision or implicit decision. However, the
person concerned may, after submitting a complaint pursuant to paragraph 1, immediately file an
appeal with the Court of Justice of the European Communities, under the conditions laid down in
Article 93(4) of the Staff Regulations.

CHAPTER 7

TRANSITIONAL PROVISIONS

Article 15

When decisions of the Management Board or contractual arrangements of a person occupying the post
of Secretary of the Management Board or of a member of staff working for the Management Board
Secretariat were made before the entry into force of this Appendix, such decisions or contractual
arrangements shall continue to apply.’.
Article 2
This Act shall enter into force on the first day after that of its adoption.

Article 3
This Act shall be published in the Official Journal of the European Union.

Done at Brussels,

For the Council
The President