



European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities

Madrid, 21.V.1980

Model inter-states Agreements on Transfrontier Co-operation between Territorial Communities or Authorities ^(*)

Status as of 1 September 1999.

This graduated system of model agreements was devised by distinguishing between two main categories defined according to the level at which the agreement is concluded:

- model inter-state agreements on transfrontier co-operation at local and regional level;
- outline agreements, contracts and statutes capable of providing a basis for transfrontier co-operation between territorial authorities or communities (*available in the separate document "Outline agreements, statutes and contracts on Transfrontier Co-operation between Territorial Communities or Authorities"*).

As shown in the table hereafter, only the two model inter-state agreements for the promotion of transfrontier co-operation and regional transfrontier liaison fall exclusively within the jurisdiction of States. The other inter-state agreements merely establish a legal framework for the conclusion of agreements or contracts between territorial authorities or communities, the outlines of which have been placed in the second category.

1. Model inter-state agreements

General clauses for model agreements

- 1.1 Model inter-state agreement for the promotion of transfrontier co-operation
- 1.2 Model inter-state agreement on regional transfrontier consultation
- 1.3 Model inter-state agreement on local transfrontier consultation
- 1.4 Model inter-state agreement on contractual transfrontier co-operation between local authorities
- 1.5 Model inter-state agreement on organs of transfrontier co-operation between local authorities
- 1.6 Model agreement in interregional and/or intermunicipal economic and social co-operation

- 1.7 Model agreement on inter-governmental co-operation in the field of spatial planning
- 1.8 Model agreement in interregional and/or intermunicipal transfrontier co-operation in the field of spatial planning
- 1.9 Model agreement on the creation and management of transfrontier parks
- 1.10 Model agreement on the creation and management of transfrontier rural parks
- 1.11 Model inter-state agreement on transfrontier co-operation in matters concerning lifelong training, information, employment and working conditions
- 1.12 Model inter-state agreement for the promotion of transfrontier or transnational school co-operation
- 1.13 Model agreement on transfrontier or interterritorial co-operation concerning land use along transfrontier rivers
- 1.14 Model inter-state agreement (bilateral or multilateral) on transfrontier co-operation groupings having legal personality and Appendix

(*) As stated in Article 3, first paragraph, second sub-paragraph, of the Convention, the model and outline agreements, statutes and contracts are intended for guidance only and have no treaty value.

1. Model inter-state agreements

Introductory note: The system of inter-state agreements aims above all to define precisely the context, forms and limits which States favour for territorial authority action, and to eliminate legal uncertainties likely to create problems (definition of the applicable law, judicial authorities, possible avenues of appeal, etc).

Further, the conclusion of inter-state agreements between the States concerned promoting transfrontier co-operation between local authorities would undoubtedly be advantageous in the following respects:

- official recognition of the legitimacy of such co-operation procedures and encouragement for local authorities to use them;
- purpose and conditions of intervention by supervisory or controlling authorities;
- exchange of information between States;
- links which may be established between such forms of co-operation and other procedures for concerted action in frontier areas;
- amendment of legal rules or interpretations thereof which hinder transfrontier co-operation etc.

The system of multiple choice model agreements enables governments to place frontier co-operation within whatever context is best suited to their needs by using the inter-state agreement for the promotion of transfrontier co-operation (1.1) as a foundation and supplementing it with any of the various options (model agreements 1.2 to 1.5). States could have recourse either to one option only or to more or even all of them, and they could do so either simultaneously or in stages. In the case of agreements between States which already have similar legal systems, such as the Scandinavian states, recourse to agreements of such a specific kind might prove unnecessary.

General clauses for model agreements 1.1 to 1.5 ^(*)

Article a

- 1 For the purposes of this agreement "local authorities" shall mean authorities, communities, or bodies exercising local functions under the domestic law of each State.
- 2 For the purposes of this agreement "regional authorities" shall mean authorities, communities or bodies exercising regional functions under the domestic law of each State.⁽¹⁾

Article b

This agreement shall not prejudice various existing forms of transfrontier co-operation between the States parties, particularly those based on an international agreement.

(*) Additional model and outline agreements have been authorized for publication; they are appended to the Convention and numbered 1.6 to 1.14 and 2.7 to 2.16.

(1) Paragraph 2 will not be included in draft agreements 1.3, 1.4 and 1.5.

Article c

The Parties shall inform regional and local authorities of the scope for action afforded to them and shall help them to avail themselves thereof.

Article d

"Higher authorities" shall in the present agreement mean such authorities as shall be designated by each Party.

Article e

The extent and nature of local authorities' power as defined in the domestic law of the States parties shall in no way be modified by this agreement.

Article f

Each State may at any time specify the areas of its territory, the objectives and forms of co-operation which are excluded from the application of this agreement.

Such a specification shall not, however, prejudice rights acquired in the context of existing co-operation.

Article g

The Parties shall keep the Secretary General of the Council of Europe informed of the activities of the commissions, committees and other bodies entrusted with a task under this agreement.

Article h

The Parties may make minor changes to this agreement in the light of experience, by simple exchange of notes.

Article i

- 1 Each Party shall notify the other of the completion of the procedures required under its domestic law for the implementation of this agreement, which shall take effect as from the date of the last notification.
 - 2 This agreement is concluded for a period of five years from its entry into force. Unless six months' notice of termination be given prior to its expiry, it shall be tacitly renewed on the same terms for successive further periods of five years.
 - 3 The Party giving notice of termination may signify that it applies only to specified articles, geographical regions or fields of activity. In such a case, the agreement shall remain in force for the remainder, unless terminated by the other Party or Parties within four months of receiving notice of partial termination.
 - 4 The Parties may at any time suspend application of the present agreement for a specific period. They may similarly agree that the activity of a particular committee be suspended or discontinued.
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1.1 Model inter-state agreement for the promotion of transfrontier co-operation

Introductory note: This is a model inter-state agreement containing general basic provisions which could be concluded either on its own or in conjunction with one or more of the model inter-state agreements appearing below.

The governments of

and

aware of the advantages of transfrontier co-operation as defined in the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, have agreed as follows:

Article 1

The Parties shall undertake to seek and promote means for transfrontier co-operation at regional and local level.

By transfrontier co-operation they understand all concerted administrative, technical, economic, social or cultural measures to consolidate and enhance neighbourly co-operation between the areas situated on either side of the frontier, and the conclusion of appropriate agreements for the purpose of resolving such problems as may arise in this field.

These measures should seek, *inter alia*, to improve the conditions for regional and urban development, the protection of natural resources, mutual aid in case of a disaster or calamity and the improvement of public services.

Article 2

The Parties shall endeavour, through mutual consultation, to secure to the regional authorities within their jurisdiction the resources needed to permit them to establish co-operation.

Article 3

They also undertake to encourage local authority action aimed at establishing and developing transfrontier co-operation.

Article 4

Local and regional authorities engaging in transfrontier co-operation in accordance with this agreement shall be entitled to the same facilities and protection as if they were co-operating at national level.

The competent authorities of each Party shall see to it that budget provision is made for the appropriations needed to cover the running expenditure of the bodies responsible for promoting the transfrontier co-operation covered by this agreement.

Article 5

Each Party shall instruct such body, commission or institution as it shall designate to study current national legislation and regulations with a view to suggesting changes in any provisions liable to hinder the development of local transfrontier co-operation. Such bodies shall give particular consideration to improving fiscal and customs regulations, foreign exchange and capital transfer rules and procedures governing intervention by higher authorities, particularly as regards supervision or control.

Before taking the steps referred to in the above sub-paragraph, the Parties shall consult with each other as necessary and exchange any relevant information.

Article 6

The Parties shall endeavour, by arbitration or other means, to resolve matters in dispute of local importance whose prior settlement would be necessary for the success of transfrontier co-operation projects.

1.2 Model inter-state agreement on transfrontier regional consultation

Introductory note: This agreement may be concluded either individually or in conjunction with one or more of the model inter-state agreements (Texts 1.1 to 1.5) ^(*).

Article 1

In order to promote transfrontier consultation between the regions defined in the appendix to this text, the Parties shall establish a joint commission (hereinafter referred to as "the Commission"), and if necessary one or more regional committees (hereinafter referred to as "Committees") to deal with matters relating to transfrontier consultation.

Article 2

- 1 The Commission and Committees comprise delegations whose members are chosen by each of the Parties.
- 2 Delegations to the Commission shall comprise not more than 8 members, of whom at least 3 shall represent the regional authorities. The chairman of delegations to the Committees, or their representatives, shall take part, in an advisory capacity, in the proceedings of the Commission. ⁽¹⁾
- 3 The Committees shall be composed of ... delegations, each comprising ... members, and shall be formed at the instigation of the Commission in agreement with the regional and local authorities of the frontier areas covered by this agreement. Delegations to the Committees shall be composed of representatives of those authorities or of regional or local bodies. One delegate shall be appointed by the central authorities. He shall, where appropriate, be chosen from among the bodies representing the central authorities in the frontier areas for which the Committees are responsible.
- 4 The Commission shall meet at least once per year. The Committees shall meet as required, but at least twice per year.
- 5 The Commission and the Committees shall draw up their own rules of procedure.

(*) Additional model and outline agreements have been authorized for publication; they are appended to the Convention and numbered 1.6 to 1.14 and 2.7 to 2.16.

(1) The figures given for the number of members of the Commission are intended for guidance only and should be adapted to individual situations, as indeed should all the provisions in this model agreement. By giving figures the authors of the model agreements intended to highlight the need for efficient commissions with relatively few members. They also wanted to give an indication of the ratio to be maintained between representatives of central authorities on the one hand and of regional authorities on the other.

Article 3

Each Party shall defray the expenditure of its own delegation to the Commission.

The expenditure of delegations to the Committees shall be defrayed by the authorities forming such delegations.

Article 4

For the purposes of co-ordination and continuity in the work of the Commission and the Committees, the Parties shall if need be establish a Secretariat whose composition, headquarters, manner of operation and financing shall be laid down in an *ad hoc* arrangement between them, as proposed by the Commission. Failing agreement between the Parties, the Commission itself may establish such a Secretariat.

Article 5

The frontier areas covered by this agreement shall be specified in an Annex thereto, the content of which may be amended simply by an exchange of notes.

Article 6

- 1 The matters dealt with under transfrontier consultations shall be those arising in the following fields ⁽¹⁾:
 - urban and regional development;
 - transport and communications (public transport, roads and motorways, joint airports, waterways, seaports, etc);
 - energy (power stations, gas, electricity and water supplies);
 - nature conservation (places requiring protection, recreation areas, natural parks, etc);
 - water conservation (pollution control, treatment plants, etc);
 - protection of the atmosphere (air pollution, noise abatement, noise-free zones, etc);
 - education, training and research;
 - public health (eg use of medical facilities in one of the areas by the inhabitants of another);
 - culture, leisure and sport (theatres, orchestras, sports centres, holiday homes and camps, youth centres, etc);
 - mutual assistance in disaster relief (fire, flood, epidemics, air crashes, earthquakes, mountain accidents, etc);
 - tourism (joint projects for the promotion of tourism);

(1) This list is given merely for guidance and should be adapted to each co-operation project. It is not to be interpreted as modifying the powers vested in territorial authorities by domestic law. Both central and regional authorities are, after all, represented on the Commission.

- problems relating to frontier workers (transport facilities, housing, social security, taxation, employment, unemployment, etc);
- economic projects (new industry, etc.);
- miscellaneous projects (refuse disposal plant, sewerage, etc);
- improvement of the agrarian system;
- social facilities.

2 The Parties may agree to amend this list by simply exchanging notes.

Article 7

- 1 Unless otherwise provided, the Commission shall be responsible for dealing with general matters and matters of principle, such as drawing up programmes for the Committees, co-ordination and contact with the central administrations concerned and with joint Commissions established before the entry into force of this agreement.
- 2 The Commission shall in particular be responsible for referring to the respective governments, as appropriate, its own and the Committees' recommendations and any projects for the conclusion of international agreements.
- 3 The Commission may avail itself of the services of experts for the investigation of particular questions.

Article 8

- 1 The primary function of the Committees shall be to investigate problems arising in the fields specified in Article 6 and to make proposals and recommendations accordingly. Such problems may be referred to them by the Commission, by the Parties' central, regional or local authorities and by institutions, associations or other public or private bodies. They may also take up matters on their own initiative.
- 2 The Committees may, for the purpose of studying these matters, set up working parties. They may also avail themselves of the services of experts, and request legal opinions or technical reports. The Committees shall, through the fullest possible consultation, seek to obtain results in keeping with the interests of the population concerned.

Article 9

- 1 The Committees shall inform the Commission of matters referred to them and of the conclusions which they have reached.
- 2 Where their conclusions require decisions by the Commission or by the respective governments, the Committees shall make recommendations to the Commission.

Article 10

- 1 Both the Commission and the Committees shall be empowered to settle matters of common interest which are referred to them with the members' agreement, provided that their members hold powers in respect thereof according to the legislation of the Parties.
- 2 The Commission and the Committees shall exchange information on the decisions reached in this respect.

Article 11

- 1 The delegations to the Commission or the Committees shall exchange information on the action taken by the competent authorities on recommendations made or agreements drafted in accordance with Article 7.2 and Article 9.2.
 - 2 The Commission and the Committees shall consider the action required on the measures taken by the competent authorities referred to in paragraph 1.
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1.3 Model inter-state agreement on local transfrontier consultation

Introductory note: This agreement may be concluded either individually or in conjunction with one or more of the model inter-state agreements (Texts 1.1 to 1.5) ^(*).

Article 1

With a view to ensuring a fuller exchange of information and developing consultation between local authorities on either side of frontiers, the Parties call on such authorities to make a joint study of problems of common interest through consultation committees.

Article 2

The rules of procedure of such committees shall be agreed by their members. Higher authorities shall be associated with their proceedings or kept informed of them.

The consultation committees shall be associated with the work of regional transfrontier consultation commissions on terms to be decided by the latter, should such commissions have been set up in the regions in question. Similarly, these commissions shall give their assistance to the work of the consultation committees.

They may also act as advisory bodies in connection with the implementation of special inter-state agreements concluded in the context of transfrontier co-operation.

Article 3

The function of the consultation committees shall be to organise exchanges of information and consultations on both sides as well as to study matters of common interest and determine common aims.

Their activities shall be governed by respect for the responsibilities of their members and no transfer of powers shall be involved.

The members of these committees may, however, within the framework of co-operation agreements, decide together what measures or restrictions are to guide their respective activities or what preliminary consultation procedures they wish to see followed.

Article 4 (alternative)

To assist these consultation committees in their work, the local authorities concerned may, within the limits of the powers conferred on them under domestic law, form associations to provide a legal framework for their co-operation.

(*) Paragraph 2 will not be included in draft agreements 1.3, 1.4 and 1.5.

Such associations shall be set up under the civil law or commercial law applicable to associations in one of the States concerned. For the application of the legal system chosen, should the occasion arise, the conditions, formalities and particular authorisations concerning the nationality of members of the associations should be disregarded.

The information provided to the higher authorities, conforming to Article 2, will include all information on the activities of the associations mentioned in the present article.

1.4 Model inter-state agreement on contractual transfrontier co-operation between local authorities

Introductory note: This agreement may be concluded either individually or in conjunction with one or more of the draft inter-state agreements (Texts 1.1 to 1.5) ^(*).

Article 1

Transfrontier co-operation between local authorities shall be conducted *inter alia* by means of administrative, economic or technical contracts.

Article 2

Transfrontier co-operation contracts shall be concluded by local authorities within the limits of their powers under domestic law.

They shall *inter alia* relate to the provision of supplies or services, the taking of joint action, the creation of associations established on the basis of civil or commercial law of one of the States parties or the membership of such an association. ⁽¹⁾

Article 3

The Parties to such a contract shall specify the law applicable thereto by reference to the law of contracts (both public and private) of one of the States parties to this agreement.

They shall also specify, as far as is necessary, those derogations that may be made from such provisions of that law as are not binding.

Failing any relevant stipulation in the contract, the law applicable shall be that of the State of whichever local authority is responsible thereunder for providing the principal service, or failing this, the local authority with the most important financial involvement.

Under all circumstances the persons subject to the local authorities parties to the contract shall retain any right to take action against or seek remedy from the said authorities which they would have enjoyed with regard to the authorities if the latter had retained their duty to provide the said persons with the supplies or services in question. The local authorities against which such action is taken or from which remedies are sought shall be entitled to institute proceedings against those local authorities which have assumed responsibility for providing the supplies or services.

(*) Paragraph 2 will not be included in draft agreements 1.3, 1.4 and 1.5.

(1) The coherence of this agreement remains the same whether or not this paragraph is included.

Article 4

Proposals for the conclusion or amendment of contracts shall be simultaneously subject in each State to the ordinary rules governing intervention by higher authorities. However, no approval shall be required from authorities parties to the contract. Any decision taken by a higher authority which may prevent the conclusion or application, or which may provoke the cancellation, of a transfrontier co-operation contract, should imply previous consultations with the corresponding higher authorities of the other States concerned.

Article 5

In the event of a dispute, the competent judicial authority shall be determined by the applicable law. However, transfrontier co-operation contracts may include arbitration clauses. Notwithstanding any such clauses users and third parties shall retain any existing legal remedies against the local authorities of the State to which they belong, it lying with those authorities to seek redress against the defaulting co-contractor.

Higher authorities shall take all measures in their power to secure prompt execution of judicial decisions, whatever the nationality of the court from which they emanated.

Article 6

Contracts concluded under this agreement shall remain in effect after its denunciation. However, the contracts will include a clause authorising the parties to terminate such contracts, subject to five years' notice, in the event of the denunciation of the present agreement. The States parties will have the power to bring about the application of this clause.

1.5 Model inter-state agreement on organs of transfrontier co-operation between local authorities

Introductory note: This agreement may be concluded either individually or in conjunction with one or more of the model inter-state agreements (Texts 1.1 to 1.5) ^(*).

Article 1

For the purposes which they are permitted under domestic law to pursue through an association or consortium, local authorities and other public-law bodies may take part in associations or consortia of local authorities formed in the territory of another Party in accordance with the latter's domestic law.

Article 2

Within the limits of their members' powers, the associations or consortia referred to in Article 1 shall be entitled to pursue their activities arising out of their statutory purpose in the territory of each of the Parties concerned. In so doing, they shall be subject to the rules laid down by that State, unless exceptions are allowed by that State.

(*) Paragraph 2 will not be included in draft agreements 1.3, 1.4 and 1.5.

Article 3

- 1 The instrument of establishment of the association or consortium, the articles of association and any alterations thereto shall be subject to approval by the higher authorities of all the local authorities participating. The same shall apply to admission to an already existing association or consortium.
- 2 The population concerned shall be notified of such instruments and the approval thereof, in accordance with each country's normal publicity arrangements. The same shall apply to any change in official headquarters and to any decisions regarding the persons authorised to act on behalf of the association or consortium and the limits of their powers.
- 3 The above instruments shall be drawn up in the official languages in use in each of the States where they are to have effect. Each such version of the text shall be authentic.

Article 4

- 1 The articles of association shall specify rules governing the association's or consortium's relations in law. They shall include the subjects required by the relevant legislation, in accordance with Article 1. In every case, they shall designate its members, its name and its headquarters. They shall determine the purpose of the association or consortium and, where appropriate, the functions of its installations and the location thereof. They shall determine the manner of appointment of the managerial and administrative bodies, the extent of the members' obligations and their contribution to joint expenditure. The management bodies shall include at least one representative of the member local authorities of each country. The articles of association shall determine the composition and the mode of deliberation of the General Assembly, the form of minutes of sittings, the mode of dissolution or liquidation and the rules governing budgets and accounts.
- 2 The articles shall also include a provision whereby members may withdraw from the association on giving a period of notice which will be fixed by the articles, after settlement of any debts to the association and on payment to the association of compensation, as assessed by experts, in respect of investment effected or expenditure incurred by the association for or on behalf of the members concerned. They shall also specify rules governing members' dismissal or exclusion for failure to honour their undertakings.

Article 5

The Parties undertake to give the authorisation necessary to the accomplishment within their territory by the association or consortium of its task, subject to the requirements of public policy and public safety.

Article 6

Where, pursuant to domestic law, the association or consortium may not, on the territory of a State, exercise certain powers, rights or advantages necessary to the accomplishment of its task for the benefit of that State's member local authorities, the latter shall have the right and the duty to act for and on behalf of the association or consortium for the purpose of exercising or securing these powers, rights or advantages.

Article 7

- 1 Powers of supervision or control over the association or consortium shall be exercised, in accordance with domestic law, by the responsible authorities of the State in which its headquarters are located. Such authorities shall also ensure that the interests of local authorities of other States are safeguarded.

- 2 The responsible authorities of the other States shall have a right to information on the activities and decisions of the association or consortium and on action taken in the exercise of supervision or control. They shall, in particular, be supplied on request with the adopted texts and minutes of meetings of the bodies of the association or consortium, the annual accounts and the draft budget, if any, insofar as domestic law requires that these be communicated to the authorities responsible for supervision or control. They may communicate directly with the bodies of the association or consortium and with the supervisory or controlling authorities, submit observations to them or ask to be directly consulted in specific instances and on specific matters.
- 3 The responsible authorities of the other States shall also have the right to notify the association or consortium that they object to those authorities falling under their jurisdiction continuing to take part in the association or consortium. Such notification, duly justified, shall be deemed to be grounds for exclusion and shall be specified as such in the association's articles. The authorities referred to in paragraphs 1 and 2 of this article shall also be entitled to be represented by a delegate to the management bodies of the association or consortium; such delegate shall be entitled to attend all the bodies' meetings and to receive their agendas and minutes.

Article 8

The supplies or services with which the association or consortium is to be entrusted, in accordance with its articles, in the territory of its members shall be provided on its responsibility, thereby completely releasing its members from their obligations in respect thereof. The association or consortium shall also be responsible vis-a-vis users and third parties. The latter shall, however, retain, with regard to the local authorities for and on whose behalf the supplies or services are provided, all such rights of action and legal remedy as they would enjoy if the authorities themselves had retained the obligation to provide them with the supplies and services concerned. The authorities against whom such action or recourse is directed may themselves take action against the association.

Article 9

- 1 Failing conciliation, disputes between the association and its members, or between several members, regarding its operation shall be referred to the administrative and judicial authorities of the State in which the headquarters of the association or consortium are located.
- 2 All disputes other than those referred to in paragraph 1 may be referred to the administrative and judicial authorities according to the ordinary rules applying in the territory of the State parties, unless those interested decide to refer such disputes to a tribunal which they may designate.
- 3 The State parties will take the necessary measures in order to ensure the execution on their territory of decisions and judgments, relating to the above provisions.

Article 10

The associations or consortia created according to this agreement shall remain in effect after the denunciation of this agreement, though without prejudice to the provisions of Article 7, paragraph 3.

1.6 Model agreement on interregional and/or intermunicipal economic and social co-operation

(Alternative 1)

Inter-State agreement

The Governments of

and of

(Alternative A)

- wishing to promote interregional economic and social co-operation in the interest of developing their respective frontier regions, have agreed as follows:

(Alternative B)

- wishing to promote economic and social co-operation between the regions of and of in the interests of the development of both regions, have agreed as follows:

(Alternative 2)

Interregional and/or intermunicipal agreement

The regional/local authorities of

and of

The states of

and of

- wishing to promote and facilitate interregional co-operation so as to afford opportunities for improving transfrontier economic relations;
- wishing to strengthen the socio-economic structure of the regions concerned with a view to improving their employment and revenue situation;
- believing that the regions' endogenous assets and potential can be used to better advantage from an economic and social standpoint to the benefit of both parties,

have agreed as follows:

Article 1

The Parties agree to appoint a joint interregional Commission for economic and/or social co-operation.

Article 2

The Commission is instructed.

(Alternative 1)

to explore the possibility of carrying through joint projects, drawing up a programme of joint action in the field of regional development and settling the details for its implementation.

(Alternative 2)

to consider the following project ⁽¹⁾:

and work out details for its implementation.

Article 3

The Commission shall comprise places, divided equally between the Contracting Parties, and each Party shall decide on the balanced distribution of places of its delegation, under its own national law, between the territorial authorities covered by this agreement (governments, cantons, Länder, regions and/or local authorities).

In accordance with its terms of reference, the Commission shall be made up as follows:

Party A: [from the side:]

[... members designated by national authorities]

.... members designated by regional authorities

[... members designated by local authorities];

Party B: [from the side:]

[... members designated by national authorities]

.... members designated by regional authorities

[... members designated by local authorities];

Article 4

The Commission shall meet as often as necessary and shall hold at least meetings per year.

The chairmanship shall alternate between the two countries (... years).

The Commission may co-opt experts.

The Commission shall adopt its own rules of procedure and the rules governing the work and funding of its Secretariat.

(1) In this connection, see the list of subject areas contained in Article 6 of the Model Inter-State Agreement on Transfrontier Regional Consultation which appears as Model Agreement No. 1.2 in the Appendix to the European Outline Convention on Transfrontier Co-operation.

Article 5

Each Party shall defray the expenses of its own delegation.

Article 6

The present agreement is concluded:

<– for the duration of the project identified under Article 2, *alternative 2*>;

<– for a period of ... years from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry.> ⁽¹⁾

Article 7

Each Party shall notify the other of the completion of the procedures required under its national law ⁽²⁾ for the implementation of the present agreement, which shall take effect from the date of the later notification ⁽³⁾.

Done at, thisday of, in copies in the and languages, each text being equally authentic.

(1) Additional protocols may be concluded, in particular on the models appearing in the Appendix to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

(2) The agreement shall specify, providing details, where appropriate:

a the procedures required by the national law of Parties to the agreement which may apply to the following questions:

- name and address of the Commission;
- precise definition of the powers assigned to the Commission;
- regulations governing decision-making methods;
- reference to the public nature of deliberations;
- definition of the relevant rules with regard to budget and estimates;
- definition of the methods of funding projects;
- definition of the methods of amending the rules (ie the terms of the agreement);
- definition of the methods of admission to and withdrawal from membership;
- etc.

b specifications required by Community directives and regulations for access to the structural Funds.

(3) For other wordings, the parties may refer to the general clauses for Model Inter-State Agreements 1.1 to 1.5 (see footnote (1), page 3) suggested in the Appendix to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

1.7 Model agreement on intergovernmental co-operation in the field of spatial planning

[creation of intergovernmental commissions on transfrontier spatial planning]

Inter-State agreement

The Government of

and the Government of

- bearing in mind the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (1980);
- bearing in mind the European Regional/Spatial Planning Charter (1983);
- anxious to promote and facilitate co-operation in spatial planning where it relates to common frontier regions,

have agreed as follows:

Article 1

A joint spatial planning commission (hereinafter referred to as "the Commission") shall be appointed.

Article 2

[In Article 2, the development projects to be undertaken and the exact objectives of the Commission are determining factors in choosing the most suitable representation.]

The Commission shall comprise members:

- ... members from the side and
- ... members from the side;

In accordance with its terms of reference, the Commission shall be made up as follows:

Party A: [from the side:]

... members designated by national authorities

... members designated by regional authorities

[... members designated by local authorities];

Party B: [from the side:]

... members designated by national authorities

... members designated by regional authorities

[... members designated by local authorities];

Article 3

Within the framework of spatial planning activities undertaken by the parties, the Commission shall be responsible for ensuring co-operation between the frontier regions covered by these activities, for co-ordinating objectives in this field between those regions and for developing concerted action by all appropriate means within the scope of current legislation and regulation.

For this purpose, it shall:

- make proposals and recommendations on spatial planning in the said regions and present them to the competent bodies:
- promote co-ordination and harmonisation of the following measures:

Article 4

The Commission may set up committees and/or working parties with the task of dealing with specific questions relating to a given region or a particular problem.

Article 5

The Commission shall meet as often as necessary and shall hold at least ... meetings per year.

The chairmanship shall alternate between the two countries (every two years).

The Commission may co-opt experts.

The Commission shall adopt its own rules of procedure and the rules governing the working and funding of its Secretariat.

Article 6

Each party shall defray the expenses of its own delegation.

Article 7

The present agreement is concluded for a period of ... years from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry ⁽¹⁾.

Article 8

Each Party shall notify the other of the completion of the procedures required under its national law (2) for the implementation of the present agreement, which shall take effect from the date of the later notification (3).

Done at, this day of, in copies, in the and languages, each text being equally authentic.

(1) (2) (3) See footnotes page 16.

1.8 Model agreement on interregional and/or intermunicipal transfrontier co-operation in the field of spatial planning

(Alternative 1)

Inter-State agreement

[The Governments of

and of

wishing to promote transfrontier co-operation in the field of spatial planning, have agreed that co-operation machinery shall be set up

between the regional/local authority of

and the regional/local authority of]

(Alternative 2)

Interregional and/or intermunicipal agreement

The regional/local authorities of

and of

The states of

and of

- bearing in mind the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (1980);
- bearing in mind the European Regional/Spatial Planning Charter (1983);
- wishing to promote and facilitate co-operation in the field of spatial planning, in particular in their common frontier regions;
- convinced of the need to promote co-ordination and harmonisation of spatial planning measures in their common frontier regions;
- bearing in mind the existing national and regional plans and programmes on spatial planning,

have agreed as follows:

Article 1

- a Within the framework of current laws and regulations, the Parties undertake to institute and develop a procedure for mutual consultation to precede the stage of planning preparation in the field of spatial development and, where appropriate, of regional development.

- b They shall endeavour to co-ordinate objectives and to work out joint policies in the field of spatial planning with regard to the development of their respective territories.
- c The Parties undertake to put in hand the measures necessary for implementing the projects co-ordinated by the competent [national] [regional] [local] authorities.

(Alternative 1):

Article 2

In order to implement Article 1, the Parties shall set up a Joint Commission [a group of experts] on spatial planning.

Article 3

The Commission [group of experts] shall comprise ... representatives, members from the side and ... members from the side.

In accordance with its terms of reference, the Commission [group of experts] shall be made up as follows:

Party A: [from the side:]

([... members designated by national authorities])

.... members designated by regional authorities

[... members designated by local authorities];

Party B: [from the side:]

([... members designated by national authorities])

.... members designated by regional authorities

[... members designated by local authorities];

Article 4

The terms of reference of the Commission [group of experts] shall be:

- to organise and conduct information exchange on all aspects of spatial planning in the region under review;
- to devise a procedure for consultation prior at the planning stage;
- to harmonise, within their own competence, spatial development plans;
- to confer together on the co-ordinated implementation of spatial development plans and projects.

[Article 5

The Commission shall be served by a permanent Secretariat.]

Article 6

The Commission shall meet as often as necessary, and shall hold at least ... meetings per year.

The chairmanship shall alternate between the two countries (every two years).

The Commission may co-opt experts.

The Commission shall adopt its own rules of procedure and the rules governing the working and funding of its Secretariat.

Article 7

Each party shall defray the expenses of its own delegation.

Article 8

The present agreement is concluded for a period of ... years from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry ⁽¹⁾.

Article 9

Each Party shall notify the other of the completion of the procedures required under its national law ⁽²⁾ for the implementation of the present agreement, which shall take effect from the date of the later notification ⁽³⁾.

Done at, this day of, in copies, in the and languages, each text being equally authentic.

(Alternative 2)

Article 2

The Parties shall instruct their competent spatial and regional planning services to take whatever measures are necessary for implementing Articles 1a, b and c.

Article 3

The Parties' competent services shall defray the expenses incurred in connection with Article 2.

(1) (2) (3) See footnotes page 16.

Article 4

The present agreement is concluded for a period of ... years from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry ⁽¹⁾.

Article 5

Each Party shall notify the other of the completion of the procedures required under its national law ⁽²⁾ for the implementation of the present agreement, which shall take effect from the date of the later notification ⁽³⁾.

Done at, this day of, in copies, in the and languages, each text being equally authentic.

1.9 Model agreement on the creation and management of transfrontier parks

The Governments of

and of

[and of]

and/or the competent territorial authorities of

and of

- aware of the need to work together in protecting nature, landscapes and the environment and developing the natural areas which are necessary to the quality of human life;
- wishing to harmonise their decisions affecting the management of an area of outstanding value overlapping their common frontiers;
- intent on preserving the area's natural assets and landscape features and providing the public with exceptional facilities for learning about nature and the environment,

have agreed as follows:

Article 1

1 The Parties agree that this area shall be designated

"..... TRANSFRONTIER PARK".

(1) (2) (3) See footnotes page 16.

- 2 The park shall comprise:
- . on the side, the area situated
 - . on the side, the area situated
 - [. on the side, the area situated
- 3 The precise boundaries of the park are shown on the map which is attached to this agreement and is an integral part thereof.

Article 2

- 1 The Parties undertake, each in accordance with its own laws:
- to maintain and improve the natural landscape and its specific character;
 - to protect and enrich its natural heritage (fauna, flora, habitats);
 - to take the necessary steps to preserve the factors likely to influence the above-mentioned ecological and physical assets of the transfrontier park and the environment;
 - to protect and enhance the cultural heritage (whether architectural, archaeological, rural or historical);
 - to promote information, education and reception facilities as part of a general policy for environmental appreciation and the interpretation of the natural and cultural heritage;
 - to supervise and guide the economic, social and cultural activities in the park which further the aims stated above without transforming its character.
- 2 To this end, the Parties undertake to harmonise their methods of management and to co-ordinate all development projects or improvements by means of a comprehensive action programme leading ultimately to joint management of the park based on a joint management plan. The Parties will promote the exchange of information and experience.

Article 3

- 1 A Joint Committee ⁽¹⁾ of ... members shall be set up, comprising: [representatives of the State as well as regional authorities]
- ... members from the side
 - ... members from the side
 - [... members from the side]
- 2 The Joint Committee shall establish a local Committee, whose membership shall include representatives of the States and the regional and local authorities concerned, to take charge of implementing this agreement.

(1) In establishing a Joint Committee, one can take into account the existing institutions for transfrontier co-operation.

Are also included representatives of recognised private nature conservation organisations and organisations which contribute to the safeguarding of the landscape and the environment.

At least once a year the local Committee shall submit a progress report to the Joint Committee with any proposals relevant to management and development of the park.

- 3 The Joint Committee may set up any other committee or working party.
- 4 The Joint Committee's terms of reference shall be:
 - to ensure transfrontier co-operation through co-ordinated implementation of the objectives listed in Article 2 of this agreement;
 - to deal with all other matters relating to management of the park.
- 5 The Joint Committee shall hold ... meetings each year. It may call in experts at these meetings.
 - It adopts its own rules of procedure.
 - The Chairmanship of the Joint Committee shall be held alternately by a member of each national delegation; the length of the chairman's term of office will be laid down in the rules of procedure.

Article 4

Each party shall defray the expenditure of its own delegation to the Joint Committee.

Article 5

This agreement is concluded for a period of ... years as from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry ⁽¹⁾.

Article 6

Each Party shall notify the other of the completion of the procedures required under its national law ⁽²⁾ for the implementation of the present agreement, which shall take effect from the date of the later notification ⁽³⁾.

Done at, this day of, in copies, in the and languages, each text being equally authentic.

(1) Protocols may be added, notably on the lines of the models appended to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

(2) See footnote 2 page 16

(3) For all other arrangements the Parties may refer to the general clauses for model inter-State agreements appended to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

1.10 Model agreement on the creation and management of transfrontier rural parks

The Governments of and/or

the regional authorities of and/or

the local authorities of

- aware of the need to co-operate in protecting the environment and developing the areas of particular scenic beauty and natural value which are necessary to the quality of life;
- acknowledging the need of the local population to continue and develop economic and socio-cultural activities which do not damage the above mentioned values;
- wishing to establish and extend facilities for natural education and outdoor recreation for the public and the population of these areas;

have agreed as follows:

Article 1

1 The Parties agree that this area shall be designated

"..... TRANSFRONTIER RURAL PARK".

2 The park shall comprise:

. on the side, the area situated

. on the side, the area situated

[. on the side, the area situated]

3 The precise boundaries of the nature park are shown on a map which is attached to this agreement and is an integral part thereof.

Article 2

1 The Parties undertake, each in accordance with its own laws:

- to maintain and improve the natural landscape and its specific character;
- to protect and enrich its natural heritage (fauna, flora, habitats);
- to protect and enhance the cultural heritage (whether architectural, archaeological, rural or historical);
- to help educate people towards a better appreciation and wider knowledge of other area's natural and cultural heritage;
- to take the necessary steps to preserve the factors likely to influence the above-mentioned ecological and physical assets of the transfrontier park and the environment;

- to promote and guide economic and socio-cultural activities through integrated development capable of contributing to the well-being of the population in the area concerned, conservation of the qualities of its natural and cultural heritage and enhancement of its recreational value.
- 2 To this end, the Parties undertake to harmonise their methods of management and to co-ordinate all development projects or improvements by means of a comprehensive action programme leading ultimately to joint management of the park based on a joint management plan. The Parties will promote the exchange of information and experience.

Article 3

- 1 A Joint Committee of ... members shall be set up, comprising:
- ... members from the side
 - ... members from the side
 - [– ... members from the side]
- 2 The Joint Committee may set up ⁽¹⁾ a local Committee, whose membership shall include representatives of the States and the territorial authorities concerned, to take charge of implementing the present agreement.
- A least once a year the local committee shall submit a progress report to the Joint Committee together with any proposals relevant to management and development of the park.
- 3 The Joint Committee may set up any other committee or working party.
- 4 The Joint Committee's terms of reference shall be:
- to ensure transfrontier co-operation through co-ordinated implementation of the objectives listed in Article 2 of this Agreement;
 - to deal with all other matters relating to management of the park.
- 5 The Joint Committee shall hold ... meetings each year. It may call in experts at these meetings.
- It adopts its own rules of procedure.
 - The Chairmanship of the Joint Committee shall be held alternately by a member of each national delegation; the length of the chairman's term of office will be laid down in the rules of procedure.

Article 4

Each party shall defray the expenditure of its own delegation to the Joint Committee.

(1) The need for local committee to be set up will depend on the composition of the Joint Committee and the status of the Signatories to this model agreement.

Article 5

This agreement is concluded for a period of ... years as from its entry into force. It shall then be automatically renewed, for a further period of ... years, unless denounced by one of the Parties one year prior to expiry ⁽¹⁾.

Article 6

Each Party shall notify the other of the completion of the procedures required under its national law ⁽²⁾ for the implementation of the present agreement, which shall take effect from the date of the later notification ⁽³⁾.

Done at, this day of, in copies, in the and languages, each text being equally authentic.

1.11 Model inter-state agreement on transfrontier co-operation in matters concerning lifelong training, information, employment and working conditions

Introductory note: This agreement may be concluded either individually or in conjunction with one or more of the model inter-state agreements (Texts 1.1 to 1.5) ^(*).

The governments of and, aware of the need to ensure that populations living in the areas lying on either side of frontiers enjoy equivalent conditions with regard to lifelong training, employment and work, and information, have agreed as follows:

Article 1

All nationals of a state which is party to this agreement who reside in the area defined as the "frontier area" have right of access to the labour market of the other party(ies) on an equal footing with nationals of the said party(ies).

The regional authorities or, subsidiarily, government authorities have defined the territory to be regarded as the "frontier area" as follows: (definition).

Article 2

Frontier workers shall enjoy the same conditions of employment and work as national workers of the employing state.

Article 3

Frontier workers shall enjoy the same occupational mobility – at least within the limits of the frontier area – as workers who are nationals of the employing state.

Depending on the competence of the authorities concerned, jobless workers shall qualify for all job creation schemes.

(1) Protocols may be added, notably on the lines of the models appended to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

(2) See footnote 2 page 16

(3) For all other arrangements the Parties may refer to the general clauses for model inter-State agreements appended to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

(*) See footnote (1), page 3.

Article 4

All institutions providing general and occupational training and all agencies providing lifelong occupational training, retraining, resettlement, etc. should be accessible to frontier populations and workers under the same conditions as for national populations and workers.

Article 5

A system will be set up for the recognition of occupational qualifications and certificates issued by institutions within the frontier area, in order to guarantee equality of treatment for people living in the frontier area of one party who wish to work or undergo further training or study in the other or one of the other party(ies).

In order to ensure equal conditions, steps should be taken to promote knowledge of the language and culture of the neighbouring border region.

Article 6

Each party shall acknowledge the capacity of the other party(ies) to issue certificates and other documents whose legal validity it shall undertake to recognise.

Article 7

The competent administrative authorities of frontier regions shall enter into agreements to update the provisions of the present inter-state agreement.

Article 8

The Contracting Parties undertake to promote and implement co-operation among public employment bodies in frontier regions in order to ensure or, where applicable, improve the exchange and joint management of information concerning the employment and working conditions of frontier workers.

They shall promote the establishment of joint information centres for frontier workers, enabling the latter to obtain detailed and accurate information on all questions concerning them.

1.12 Model inter-state agreement for the promotion of transfrontier or transnational school co-operation

This model agreement is not concluded between local authorities, but between states. It provides, in the form of a simplified technical agreement concluded at the level of the relevant ministerial authorities, for participation by local authorities in transfrontier or transnational school co-operation schemes.

Such an agreement is not indispensable for the intervention of local authorities in such forms of co-operation, but it may constitute a very useful support for such intervention.

The main objective of this type of agreement is to provide for and constitute the general framework for specific local agreements.

Article 1

This agreement forms an extension of the relations of co-operation established between the administrative authorities of the contracting parties that are responsible for education and the objectives set out in the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

Its purpose is to define an appropriate framework for participation by territorial communities or authorities in the development of school exchanges between the states concerned.

Article 2

The school co-operation forming the subject of this agreement shall be aimed at promoting knowledge of the language (or languages) and culture (or cultures) of the partner country and developing, on that basis, personal relations and exchanges of experience and information.

Such co-operation shall be aimed in particular at implementing forms of early bilingualism in the school system.

It shall especially be aimed at the introduction of an international approach to teaching.

Article 3

Participation by territorial communities or authorities in the co-operation schemes defined in Article 2 is a factor for the effectiveness of that co-operation and shall be encouraged by the authorities of the signatory states with responsibility for school activities.

Article 4

In order to establish consistent schemes of school co-operation, as referred to in Article 2, co-operation projects may be defined by agreements concluded between the administrations and the territorial communities or authorities concerned.

These agreements shall define:

- the general and specific objectives of the co-operation, as well as the methods considered appropriate for achieving them;
- the resources in terms of staff, equipment and funds allocated to the implementation of the co-operation project, as well as the authorities providing them;
- the schemes of which the co-operation consists;
- practical arrangements for the settlement of concrete matters connected with co-operation schemes (accommodation, staffing, insurance, etc.);
- the monitoring of the co-operation scheme by a steering committee made up of representatives of the school authorities and the territorial communities or authorities concerned, as well as representatives of the parents and pupils and qualified individuals;
- the manner in which periodic assessments of the results of the co-operation are drawn up.

Article 5

On the basis of these agreements, the school authorities concerned may undertake to ensure the implementation of the co-operation schemes provided for in the agreements and, in particular, the implementation of bilingual teaching programmes and timetables.

To the extent required by the co-operation schemes, exceptions to the standard programmes and timetables may be agreed upon.

Article 6

The school authorities shall be authorised to arrange exchanges of teaching staff, in order to implement the co-operation schemes. In this context, the teachers shall continue to be remunerated by the administration of origin, but shall be placed under the authority of the host administration. The agreements mentioned in Article 4 shall define conditions concerning the defrayal of specific expenses (travel, subsistence, etc.).

Article 7

In the context of the co-operation agreements provided for in Article 4, specific tuition, particularly of or in the language of the partner country, may be dispensed by outside teachers, whatever their nationality.

These teachers shall be approved by the education authorities or by the committee provided for in Article 2. The agreements referred to in Article 4 shall specify the terms on which their expenses shall be covered.

Article 8

A bilateral council on school co-operation shall be set up, for the purpose of monitoring the execution of this agreement. It shall be composed of representatives of the authorities signing this agreement, representatives of the territorial communities and authorities and qualified individuals chosen by the signatories. It shall meet at least once a year and shall submit a public report on the action taken in pursuance of this agreement.

Article 9

In the event of damage being sustained by pupils or teachers during international school co-operation activities, the state in whose territory the damage arose shall be liable, but may take action against any liable third party, if appropriate.

Article 10

This agreement has been concluded for an indefinite duration. It may be terminated by either party subject to six months' prior notice.

1.13 Model agreement on transfrontier or interterritorial co-operation concerning land use along transfrontier rivers

The [states / regional authorities / local authorities] ⁽¹⁾ of, (hereinafter: Contracting Parties) each traversed by the river,

Recalling the role and achievements of the Council of Europe in fostering transfrontier co-operation between territorial communities or authorities in Europe,

Having regard to the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities of 1980, the European Water Charter of 1968 and the European Regional/Spatial Planning Charter of 1983,

Determined to coordinate their use and management of the river for the purpose of reducing negative effects on the territories traversed by the river,

Have agreed as follows:

Article 1 (Joint Committee)

- 1 The Contracting Parties shall institute a joint committee (hereinafter: Joint Committee), which shall consist of one representative of each Contracting Party and hold regular meetings.
- 2 The Joint Committee shall decide on its terms of reference, its duration, its rules of procedure, the dates and the agenda of its meetings and any other matters deemed relevant by the Contracting Parties.
- 3 Decisions of the Joint Committee shall be binding upon the Joint Committee members. They shall be taken by simple majority vote of the Contracting Parties' representatives present at a meeting, each representative having one vote.
- 4 The Joint Committee shall be represented vis-a-vis any third party by the Contracting Parties jointly ⁽²⁾.
- 5 Each Contracting Party shall cover the costs for the participation of its representative in the Joint Committee. Common costs of the Joint Committee shall be borne equally between the Contracting Parties.

ALTERNATIVE TO ARTICLE 1

Article 1 (Consultative Meetings)

- 1 The Contracting Parties shall have regular meetings (hereinafter: Consultative Meetings) for the purpose of implementing this agreement and consulting each other on matters relevant to the use or non-use of the river

(1) For the purpose of this agreement, it is advisable to have the authorities participate, which have competencies in the field of regional/spatial planning, land use planning, shipping and navigation, forestry, tourism and environment concerning the territories traversed by the river in question. In accordance with the respective national laws, it can thus be necessary to have local, regional and/or central authorities of one state sign this agreement or to have higher authorities delegate the powers necessary for the participation to authorities on a lower tier of administration.

(2) The Contracting Parties may wish to create a co-operation body which has legal personality. In such a case, the Additional Protocol of 1995 to the European Outline Convention on Transfrontier Co-operation can be taken as a reference.

- 2 The dates, the agenda and other relevant matters of the Consultative Meetings shall be decided by simple majority vote, each Contracting Party having one vote. The same applies to other decisions taken during the Consultative Meetings.
- 3 Each Contracting Party shall cover the costs for its participation. Common costs arising from the activities decided upon at the Consultative Meetings shall be borne equally.

Article 2 (Fields of Activity)

- 1 The Contracting Parties shall regularly measure the water level, speed and quality of the river; they shall produce regularly land maps of the river, its linked waters and the surrounding area of up to kilometres from the river banks ⁽¹⁾; such maps indicating the land use, the use of the river and linked waters, and the water and land quality.
- 2 The Contracting Parties shall provide [the Joint Committee / each other at the Consultative Meetings] with any information relevant to the use and management of the river, and especially the following:
 - a up-dated land maps of the territories specified in paragraph 1 of this Article;
 - b major planned or undertaken construction work (or such work which is in progress at the time of entry into force of this agreement), or changes in the land use, which might affect the flow of the river or linked waters, its traffic, its usability (in particular its navigability) or its water quality;
 - c the average introduction of substances into the river emanating from their territory according to direct or implied permissions granted by an authority as well as any known but unauthorised introductions;
 - d major diversions of river water.
- 3 The [Joint Committee / Contracting Parties at their Consultative Meetings] shall formulate guidelines for the use or non-use of the river and the territories specified in paragraph 1 of this Article, as far as such use or non-use might affect the flow of the river or linked waters, its traffic, its usability (in particular its navigability) or its water quality. Such guidelines shall not be legally binding, but shall be taken into account by the Contracting Parties when exercising their discretion.
- 4 The [Joint Committee / Contracting Parties at their Consultative Meetings] may, after having agreed on the financial terms by unanimous vote, commission studies or undertake positive action concerning the flow of the river, its traffic, its usability (in particular its navigability) or its water quality. If a unanimous vote on the financial terms cannot be reached, individual Contracting Parties can agree to realize the activity in question.

Article 3 (Work Objectives)

The Contracting Parties shall endeavour to support the goals of this agreement and, in particular, to comply with the following objectives ⁽²⁾:

(1) The Contracting Parties may wish to adapt the range of the territory in question to their particular situation.

(2) These objectives are not exhaustive and the Contracting Parties may wish to amend them according to their particular situation and competencies.

a (Anti-Flood Measures)

- the natural flow of the river and its linked waters should not be altered;
- the speed of the water flow should not be increased, directly or indirectly;
- meanders, natural river banks, river branches, marshlands and flood plains should be preserved or recreated;
- commercial or private land use close to the river, possibly aggravating flood situations, should be avoided;
- backwater installations, sluices and floodgates should be maintained or installed, where appropriate;
- the natural seepage of rain water should be fostered;
- mountain areas bordering the river or its linked waters should receive special attention with respect to the aforementioned objectives.

b (Anti-Pollution Measures)

- the introduction of toxic substances into the river and its linked waters as well as the ground water should be avoided;
- the use, especially agricultural use, of land traversed by the river or its linked waters which has negative consequences on the water quality should be avoided;
- the transportation of dangerous cargo on the river should be limited and relief measures should be set up for accidents.

Article 4 (Emergency Actions)

- 1 The Contracting Parties shall immediately inform each other of any significant change or likelihood of a significant change in the flow of the river, its level or its water quality, if such a change is likely to threaten the inhabitants or the environment of the area referred to in Article 2, paragraph 1, or the users of the river and linked waters. For this purpose, each Contracting Party shall name a contact address to be provided with such information.
- 2 If the case referred to in paragraph 1 of this Article arises, the Contracting Parties shall convene an *ad hoc* meeting in order to decide on appropriate emergency relief measures.
- 3 Each Contracting Party shall refrain from any measures aggravating the negative effects of the above-mentioned change during the emergency.

Article 5 (Final Provisions)

- 1 Each Contracting Party can withdraw from this agreement by written notice to the [Joint Committee / other Contracting Parties], notwithstanding the validity of any prior financial commitments. New Contracting Parties can be admitted with the consent of the existing Contracting Parties ⁽¹⁾.

(1) Special requirements will apply, if the Contracting Parties choose to create a Joint Committee with legal personality under Article 1.

- 2 Any dispute concerning or arising from this agreement shall be settled among the Contracting Parties themselves in good faith. The rights of third parties to legal recourse against individual Contracting Parties before competent courts shall not be limited.
- 3 The Contracting Parties shall inform the Secretary General of the Council of Europe of this agreement.
- 4 This agreement shall be concluded [indefinitely / for a period of ... years, renewable for subsequent terms of ... years unless cancelled by unanimous vote of the Contracting Parties before the end of a term].

Done at, this day of, in and (languages), each text being equally authentic.

1.14 Model inter-state agreement (bilateral or multilateral) on transfrontier co-operation groupings having legal personality

Article 1 – Definitions and scope

- 1 For the purposes of this interstate agreement, the term "transfrontier co-operation" shall be understood within the meaning of Article 2 of the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (hereinafter "the Outline Convention"); the term "transfrontier co-operation agreement" shall be understood within the meaning of Articles 1 and 3 of the Additional Protocol to the Outline Convention.
- 2 This agreement shall apply:
 - a in respect of Contracting Party A: to local authorities, their public law groupings or associations and ...
 - b in respect of Contracting Party B: to local authorities, their public law groupings or associations and ...
 - c
- 3 Each Contracting Party may, with the consent of the other Contracting Parties and in accordance with its own domestic law, designate other territorial communities or local public bodies, or other legal persons governed by public law, to which the provisions of this agreement shall apply. It shall forward this information to the Secretary General of the Council of Europe.
- 4 For the purposes of this agreement, "territorial communities or authorities" shall be the public institutions specified in paragraphs 2 and 3.

Article 2 – Constitution of groupings

- 1 In frontier, areas, from (to be specified by the Contracting Parties), territorial communities or authorities falling within the jurisdiction of the Contracting Parties may, on the conditions specified in Articles 1 and 3 of the Additional Protocol to the Outline Convention, set up public groupings for transfrontier co-operation (hereinafter "public groupings"), for the purpose of jointly discharging functions which may, under each Contracting Party's domestic law, be undertaken by public associations or groupings set up between territorial communities or authorities.

- 2 To the extent that these territorial communities or authorities are permitted by the laws of their own states to participate in associations or groupings governed by civil or commercial law, they may also, on the conditions specified in Articles 1 and 3 of the Additional Protocol to the Outline Convention, set up private groupings for transfrontier co-operation (hereinafter "private groupings"), with a view to facilitating the joint performance of their tasks.

Article 3 – Personality, capacity, law applicable to public or private groupings

- 1 The Grouping shall have a legal capacity subject to the domestic law of the Contracting Party on whose territory its headquarters is located. The transfrontier co-operation agreement setting it up shall determine whether it is a public or private law entity by making it subject, unless otherwise provided for in this agreement, to the rules which apply in that Contracting Party's legal system to one of the categories of association or grouping in which these territorial communities or authorities are permitted to participate.
- 2 The Grouping shall have legal personality. Each Contracting Party shall recognise, in accordance with its domestic law, a public or private grouping's legal personality to the extent required for performance of its tasks and realisation of its aims, from the date on which the transfrontier co-operation agreement setting it up comes into force.

Article 4 – Absence of profit-making

The Grouping shall not share in any profits. The rights of its members may not be represented by negotiable securities.

Article 5 – Accession of territorial communities or authorities to existing groupings

In frontier areas, territorial communities or authorities belonging to one or more Contracting Parties may participate in a public or private grouping set up in accordance with the domestic law of another Contracting Party.

Article 6 – Taking and supervision of decisions to participate in the Grouping

Decisions by territorial communities or authorities to take part in setting up the Grouping or to join it shall be subject to the same procedures and supervision as those applying in the domestic law of each Contracting Party to the acts and deliberations of those territorial communities or authorities.

Article 7 – Participation in a Public Grouping by persons [...] governed by private law

Natural or legal persons governed by private law may co-operate in setting up a Public Grouping or may join it, provided that the domestic law of the Contracting Party in which the Grouping's headquarters is located permits this.

Article 8 – Statutes of the Grouping

- 1 The territorial communities or authorities which co-operate in setting up the Grouping shall approve its Statutes. These shall be an integral part of the transfrontier co-operation agreement establishing the Grouping.
- 2 The Grouping's Statutes shall be drawn up in the language or languages prescribed by the domestic law of each of the Contracting Parties for use in the acts and deliberations of territorial communities or authorities.

Article 9 – Content of the Grouping's Statutes

The Grouping's Statutes shall contain provisions, in particular, on:

- the Grouping's title, the location of its headquarters, the geographical area it covers;
- its aim, functions, competencies and powers;
- the law by which it is governed;
- the composition and powers of its statutory bodies, representation of the territorial communities or authorities which belong to it, the way in which their representatives to the statutory bodies are appointed;
- the procedure for convening meetings, their public or non-public character;
- quorums, decision-making procedures and majorities required;
- the language and form of minutes of meetings;
- the Grouping's relationships with the territorial communities or authorities which participate in it, particularly with regard to responsibility for tasks performed on their behalf;
- the Grouping's operating procedures, and particularly its staff management;
- the funding of its activities;
- the budgetary and accounting rules which apply to it;
- conditions for amendment of the Statutes, and particularly for new members and withdrawals;
- the period for which the Grouping is set up, conditions for its winding up and liquidation.

Article 10 – statutory bodies of the Grouping

- 1 The statutory bodies of the Grouping shall be the General Assembly, the Board and the Chairman. The Statutes may provide for additional statutory bodies, subject to the domestic law which applies.
- 2 The General Assembly shall be the Grouping's principal statutory body. It shall provide the member territorial communities or authorities with information at regular intervals.
- 3 Each territorial community or authority participating in the Grouping shall have at least one seat in the General Assembly. The appointment and mandates of representatives of territorial communities or authorities in the General Assembly shall be governed by the domestic law of the Party to which each territorial community or authority concerned belongs. These representatives shall report regularly to the statutory bodies of the territorial community or authority which has appointed them on the way in which they have exercised their mandate.
- 4 The Board shall prepare and implement the decisions of the General Assembly.
- 5 The Chairman shall direct the work of the General Assembly and the Board; he shall represent the Grouping in matters judicial and extrajudicial.

Article 11 – Competencies and powers of the Grouping

- 1 The Grouping shall have no authority to enact legal rules of general application (= regulations), to take decisions which may affect the rights and freedoms of individuals (= police powers) or to raise taxes.
- 2 The Grouping may not be given competencies which the territorial communities or authorities exercise as agents of their states or which have been delegated to them by those states (= devolved powers).

(Where appropriate:

- 3 The transfrontier co-operation agreement setting up the Grouping may provide in particular that the public or private grouping may perform tasks in the name of, on behalf of and on the instructions of a territorial community or authority belonging to a Contracting Party other than that whose law applies to the Grouping. In such cases, the delegation of tasks to the Grouping shall be subject to the provisions and procedures laid down in the domestic law of the two Parties concerned.
- 4 Public procurement contracts concluded by a public grouping shall be subject to the domestic law of the Party on whose territory it has its headquarters. However, in respect of procedures for advertising, calls for tender and choice of firms, territorial communities or authorities participating directly or indirectly in the funding of such operations shall indicate, in the transfrontier co-operation agreement providing for their participation, the obligations imposed on them by the law of their own countries, having regard to the nature and cost of the operation. Without prejudice to the law applying to the contract, they shall take measures enabling each of them to respect its obligations under the domestic law of the Contracting Party to which it belongs.
- 5 The territorial communities or authorities belonging to the Grouping must take the measures necessary for implementation or execution of its decisions, within the limits of the competencies conferred on them by the domestic law of the Contracting Party to which they belong.

Article 12 – Funding and supervision of the Grouping

Article 4, paragraphs 2c and 2d, and Article 6, paragraph 2, of the Additional Protocol to the Outline Convention shall apply to groupings for transfrontier co-operation set up under this interstate agreement.

Article 13 – Staff of the Grouping

- 1 Staff directly recruited by the Grouping shall be paid out of its budget.
- 2 Such staff shall be subject to the law of the Contracting Party on whose territory the Grouping's headquarters is located.

Article 14 – Winding up and liquidation of the Grouping

- 1 The Grouping shall be wound up ipso facto either when the period for which it was established has expired or upon termination of the activity which it aimed to achieve. It may also be wound up by unanimous decision of its members.
- 2 The terms governing its liquidation shall protect the rights of third parties.

Article 15 – Nullity of the Grouping

Transfrontier co-operation agreements setting up groupings and establishing their Statutes shall be null and void if they are in breach of the provisions of this interstate agreement. They shall be so declared in accordance with the domestic law of the Contracting Party concerned, and the other Parties notified forthwith.

Article 16 – Disputes

- 1 In the event of a dispute between the Grouping and one or more of its members concerning its functioning, jurisdiction shall be determined by the domestic law of the Contracting Party on whose territory the defendant's headquarters is located.
- 2 When tasks incumbent on territorial communities or authorities belonging to the Grouping are delegated to it, third parties shall retain vis-à-vis those territorial communities or authorities all the rights, actions and legal remedies which they would enjoy if the latter had themselves performed those tasks.
- 3 All other disputes arising from the functioning of a public or private grouping shall be referred to the courts having jurisdiction under the domestic law of any Contracting Party or under an international agreement.

Final article

The provisions of this agreement shall derogate from the domestic law of each Contracting Party only to the strict extent that they are incompatible with it.

Appendix – Explanatory Note concerning the model interstate agreement and the model statutes on transfrontier co-operation groupings having legal personality

I General considerations

- 1 Article 3 of the Additional Protocol to the European Outline Convention of 21 May 1980 on Transfrontier Co-operation between Territorial Communities or Authorities provides for the creation of a (local) transfrontier co-operation body. This body may have legal personality and may be of a public or private law nature, depending on the case.

A number of difficulties were encountered in the preparation of model statutes for such a transfrontier co-operation body. The first was a possible broadening of the basis of the statutes in international law (no. 2); the second was whether the body in question should be of a public or private law nature (no. 3). The third problem was deciding whether it was necessary to prepare draft statutes which would also be suitable for bodies without legal personality (no. 4). A fourth issue concerned legal arrangements for setting up transfrontier co-operation bodies (no. 5). The fifth difficulty was deciding which domestic legal rules would apply (no. 6). Lastly, a decision had to be made about certain substantive provisions concerning the body's organisation, powers and operation (no. 8).

- 2 **Respective roles of international and domestic law vis-à-vis statutes.** Article 3 of the Additional Protocol to the European Outline Convention did not seem to provide an adequate basis for the model statutes of a (local) transfrontier co-operation body. It was necessary for the statutes to refer to one or more national legislation(s) in connection with such questions as the body's particular rights under public law, the working and pension regulations for its staff, and the tax regulations governing the body and its staff. In fact, the Protocol itself refers

explicitly to one or more national legal systems, that of the State in which the body is established and those of all the States concerned, in connection with the legal personality, decisions and supervision of the body.

Given that the application of national laws could not be completely excluded, the question which arose was whether the body's statutes could be drawn up with virtually exclusive reference to one or more domestic legal systems or whether, on the contrary, Article 3 of the Additional Protocol should be complemented with a model interstate agreement (based on model 1.5 as appended to the Outline Convention) regulating the extent of the applicability of the domestic legislation of one or more of the States involved (applicability on principle or subsidiary reference).

The second alternative was taken on board. A model interstate agreement was prepared (see Part II) to provide member States with a draft instrument offering a legal framework for the setting up of transfrontier co-operation groupings between territorial communities or authorities, laying down the basic principles of their legal systems and otherwise referring to domestic legislation(s). In this way, the draft treaty completes the Additional Protocol without contradicting it. It also respects the domestic legal systems, departing from them strictly only in the case of incompatibility (see the final articles of the draft interstate agreement). It forms the frame of reference within which the model statutes were drawn up (see Part III).

- 3 **Public or private status of the transfrontier co-operation body.** Such status can only be legally established by comparison with the categories of associations or foundations falling under the domestic law of each State concerned. The Statutes of a transfrontier co-operation body cannot possibly grant it public powers or public law status without referring to a form of public law body established either under a treaty or by a national law.

It is claimed that the advantage of public law transfrontier co-operation over private law co-operation is that the former guarantees a structured organisation, more efficient public services stronger democratic control.

In comparing the rules used for a public law body with those which might be applied to a private law body, it was noted, however, that the only variations in legal regulations concerned the conditions for setting up the body (Part II, Articles 2 and 7), the participation of legal persons governed by private law to a public body (*loc. cit.* Article 7) and the conclusion of public contracts (*loc. cit.*, Article 11, paragraph 4). A single model interstate agreement was then drawn up covering all transfrontier bodies – public and private – with legal personality under the domestic legal system.

- 4 **Joint bodies devoid of legal personality.** Should the existence of working communities or co-ordination groupings be formalised by making them subject to specific rules? As such groupings could already be set up on a wholly informal basis, it was decided that detailed regulations would simply make this harder and in any case serve no purpose, since it would be difficult to monitor compliance and punish violations. This is why, on reflection, it was decided not to draw up any model statutes for such bodies. Nevertheless, it must be pointed out that certain conditions may be imposed on the setting-up of a body devoid of legal personality, which can be summarised as follows:

- 1 In frontier areas, territorial communities or authorities within the jurisdiction of the Contracting Parties might, on the conditions specified in Articles 1 and 3 of the Additional Protocol to the Outline Convention, set up joint transfrontier co-operation bodies, without legal personality, to exchange information, study questions of common interest, make proposals on co-operation to their member territorial communities or authorities, and agree to take the necessary action to implement the solutions envisaged.
- 2 The transfrontier co-operation agreement which would set up a joint body without legal personality should contain provisions on:

- the areas in which the body is to be active;
 - the establishment and functioning of the body;
 - the period for which it is set up;
 - the body's financing and supervision;
 - the domestic law of one of the Contracting Parties, to which it is to be subject.
- 3 Joint bodies for transfrontier co-operation might not adopt decisions which are binding on their members or third parties, unless their member territorial communities or authorities had given them authority to do this. In such cases, third parties should retain vis-à-vis the territorial communities or authorities all the rights, actions and legal remedies which they would enjoy if the decisions had been taken by the territorial communities or authorities themselves.

The wording of this article is based on Article 9 of the agreement concluded in Karlsruhe on 23 January 1996 and Article 7 of the Franco-Spanish Treaty signed in Bayonne on 10 March 1995, subject to the possibility of this joint body being delegated power to adopt decisions binding upon its members or third persons. See Section 10 below.

- 5 **Legal procedures for setting up transfrontier co-operation bodies.** Several western European countries wishing to strengthen the legal framework provided by the European Outline Convention with bilateral or multilateral agreements facilitating its implementation, particularly in order to enable territorial communities or authorities to join transfrontier co-operation societies, associations, groupings or federations. These agreements generally stipulate that a transfrontier co-operation agreement within the meaning of Articles 1 and 3 of the Additional Protocol to the Outline Convention must be concluded before setting up a local transfrontier co-operation body.

This is the method proposed to be used not only for the setting up of a transfrontier body in accordance with Article 3 of the Additional Protocol but also for the drafting of its Statutes. The latter will therefore be an integral part of the agreement setting up the body.

This being the case, consideration of procedures for setting up bodies with legal personality leads us to identify three different hypotheses which are usually covered by such international agreements.

The first hypothesis is to allow foreign territorial communities or authorities to participate in a body holding the status of a legal entity within a given national system. In this case it is immaterial whether the legislation in question explicitly or implicitly provides for participation by foreign territorial communities or authorities.

The second formula, the so-called "Franco-German" one, allows territorial communities or authorities from different States to set up a transfrontier grouping, provided the latter enters into a legal category existing in one of the national legal systems. The legal system in question is that of the State in which the body is based (see Section 6 below).

The third hypothesis involves setting up public law transfrontier bodies. It permits public transfrontier groupings to be set up for the joint performance of tasks which, under the domestic law of each State concerned, can be carried out by public groupings made up of territorial communities and authorities from the same State. In this case, recourse is had to national categories of public bodies, for which equivalents are found in the domestic law of the other States concerned.

All three hypotheses are reconcilable with Articles 3, 4 and 5 of the Additional Protocol.

A combination of hypotheses 2 and 3 was chosen. This option is set out in Article 2 of the model interstate agreement (see Part II).

- 6 **Law applicable to the transfrontier co-operation body.** In the system set out in Article 4 of the Additional Protocol to the European Outline Convention, as in most international conventions on transfrontier co-operation in western Europe, the legal system governing local transfrontier co-operation bodies with legal personality and, more generally, the domestic legal system to which it is subject, are those of the State in which its headquarters is based, subject to any exemptions provided for in the aforementioned treaties.

On the other hand, in the system set out in Article 5 of the Additional Protocol, the statutes of a transfrontier body must comply with the domestic law of all the States to which the territorial communities or authorities founding the body belong; thus, the decisions taken by the body have the same value within each State's legal system as if they had been taken by the founding territorial communities or authorities.

The principle that the statutes of the body shall not be in conflict with the law of any of the States concerned implies that these statutes shall constitute the biggest common denominator between the legal requirements of these States. When the requirements imposed by the domestic laws are of a different strictness, it is therefore appropriate to apply the most severe legal system in order to comply with the rules in force in the States concerned.

This approach, which is inspired by the Benelux Convention of 16 September 1986, only concerns public law bodies. Moreover, it is only practicable in countries with fairly similar legislative provisions on the statutes of associations or groupings of territorial communities or authorities.

For these two reasons, it was preferable to keep the system set out in Article 4 of the Additional Protocol, in the draft model interstate agreement (see Part II). The law of the State in which the body's headquarters is based will determine not only the rules applicable to the transfrontier body, its legal personality, its decisions and the authority responsible for supervising it, but also the rules which the latter authority must apply to such supervision, the tax and social regulations governing the body and its staff, the rules on public contracts, etc.

- 7 **Legal form of the transfrontier co-operation body.** If the law of the State in which the local transfrontier body's headquarters is based is applicable to the said body, it also applies to the overall category to which it belongs. It may have the status of an association or foundation and take the form, for instance, of a private non-profit-making association, a public law association, a public establishment, an inter-municipal syndicate, a commercial society, a "consorzio", a "consorzio", a "Zweckverband" or an "openbaar lichaam". Since such a body will embrace several territorial communities or authorities, the title transfrontier co-operation "grouping" (groupement) was preferred to transfrontier co-operation "body" (organisme). Consequently, it is proposed to christen the new legal entity as follows: "Transfrontier Co-operation Grouping". This title was adopted for the model interstate agreement (see Part II) and for the model statutes for a transfrontier co-operation body (see Part III) within the meaning of Articles 3 of the Additional Protocol to the Outline Convention.
- 8 **Substantives rules on the transfrontier co-operation body.** A number of choices have had to be made on some fundamental provisions of the statutes of the Transfrontier Co-operation Grouping (hereinafter referred to as the "Grouping"):
- a The Grouping should be non-profit-making.
 - b Natural or legal persons governed by private law may join a Public Grouping provided that it is not in contradiction with the law of the State where the headquarters is located.
 - c The main organs of the Grouping are its General Assembly, Board and Chairman.

- d The Grouping may not be endowed with powers which are exercised by the territorial communities or authorities as agents of the State to which they belong or under powers delegated by such State.
 - e The Grouping may not have regulatory, police or tax-raising powers.
 - f Disputes between the Grouping and any of its members shall be judged by the courts responsible for assessing the domestic law of the State in which the respondent is based; all other disputes shall be brought before the courts responsible under the domestic law of any Contracting Party or by virtue of an international agreement.
 - g Delegation by territorial communities or authorities of specific tasks to a Grouping of which they are members shall be subject concurrently to the rules that are applicable in all the States to which these bodies belong; in the event of a dispute, third persons retain all the rights, actions and legal remedies against the members of the grouping which would be available to them if such members had themselves been performing these tasks.
 - h Public Groupings may conclude public contracts in accordance with the domestic law of the State in which they are based.
 - i The Grouping must call in independent auditors to certify its balance sheet and profit and loss account.
- 9 **Terminology.** The terms used in the model interstate agreement and statutes correspond to the terminology of the European Outline Convention and its Additional Protocol.
- 10 **Sources.** The model interstate agreement is primarily based on the following international treaties:
- Benelux Convention on Transfrontier Co-operation between Territorial Communities or Authorities, signed in Brussels on 12 September 1986;
 - Germano-Dutch Agreement on transfrontier co-operation between territorial communities or authorities, signed in Isselburg-Anholt on 23 May 1991;
 - Franco-Spanish Treaty on transfrontier co-operation between territorial communities, signed in Bayonne on 10 March 1995;
 - Agreement on transfrontier co-operation between territorial communities and local public bodies, signed in Karlsruhe on 23 January 1996.

In drafting the model statutes, the authors particularly looked at the following international treaties, regulations, statutes and models:

- the Statutes appended to the Franco-Swiss Agreement on the construction and operation of the Basle-Mulhouse airport, signed in Bern on 4 July 1949;
- (EEC) Regulation No. 2137/85 of 25 July 1985 on the establishment of a European economic interest grouping;
- the Agreement on transfrontier co-operation between territorial communities and local public bodies, signed in Karlsruhe on 23 January 1996;

- French Decree No. 93-571 of 27 March 1993 on public interest groupings set up under Section 133 of the Outline Act No. 92-125 of 6 February 1992 on the territorial administration of the Republic [French General Code of Territorial Communities, part 1, article L. 1112-2];
 - French Decree No. 95-635 of 6 May 1995 on public interest groupings established to operate in the nature conservation field;
 - The model statutes for transfrontier public authorities, drawn up under Article 3, paragraph 5, of the Benelux Convention on Transfrontier Co-operation between Territorial Communities and Authorities, signed in Brussels on 12 September 1986;
 - The model agreement setting up a public interest grouping for inter-regional and transfrontier co-operation, appended to the French interministerial circular (interior, budget) of 16 June 1994 on public interest groupings comprising territorial communities in European Union member countries;
 - The joint regulations on the Rhine-Waal Euregio.
- 11 **Drafts statutes for the transfrontier co-operation body.** The model statutes have a classic structure. Section I (Articles 1-11) covers the constitution, aims, duration and territorial scope of the Grouping. It also covers members' rights and obligations, new members, withdrawals and expulsions. Section II (Articles 12-17) lists the Grouping's resources: members' contributions to the Grouping's financing, other funding, facilities and equipment and staff. Section III (Articles 18-33) deals with the Grouping's organisation and management. It covers in turn the composition, powers and working methods of the General Assembly, the Board and the working parties. It also defines the status of the Grouping's Chairman and Director/Secretary General, and lays down rules on administrative supervision. Section IV (Articles 34-38) deals with finance. Section V (Articles 39-40) covers extension of the Grouping's duration, its winding-up and liquidation. Section VI (Articles 41-47) contains "miscellaneous provisions" on such questions as the liability of statutory bodies and officers, rules of procedure, the procedure for amending the statutes and their entry into force.

II Comments on the articles of the model interstate agreement

Article 1

Paragraph 2 should list the territorial communities and local public bodies to which the States intend to apply the model interstate agreement. Under paragraph 3, the scope of the agreement can be extended to newly created communities or public bodies, as well as to other public law legal entities.

Article 2

Article 2 of the model interstate agreement juxtaposes the rules on setting up public law groupings with the rules on setting up private law groupings. The former type of grouping must be set up with a view to performing, in border areas, tasks which the domestic law of each country stipulates can be carried out by public groupings of local public institutions. The latter type must be allowed to participate in civil and commercial law associations or groupings in the legal systems of their respective States. In both cases, the creation of the body necessitates concluding a transfrontier co-operation agreement.

Article 3

The law applicable to the Grouping is that of the State in which its headquarters is located. The regulations applicable within this State's legal system are either those governing public groupings made up of territorial communities or authorities or those governing the category of

private law bodies to which the territorial communities or authorities founding the Grouping wish to assign it.

Paragraph 2 is in conformity with Article 4, paragraph 1, of the Additional Protocol to the European Outline Convention.

Article 4

See in addition General Considerations concerning the model interstate agreement (n° 6 and 7).

Article 5

It was decided to specify that local public institutions were entitled to participate in a transfrontier co-operation grouping which had already been set up in accordance with another State's domestic law.

Article 6

Decisions to participate in the setting up or to join a Grouping are subject to this rule by virtue of Article 6, paragraph 1, of the Additional Protocol to the European Outline Convention.

Article 7

It was considered appropriate to allow private law entities to join a public transfrontier co-operation Grouping on the following conditions:

- public institutions in the border area must be members;
- the law of the State in which the Grouping is based must not prohibit such participation.

Article 8

These provisions are based on Article 6 of the Bayonne Treaty of 10 March 1995 and Articles 8 and 12 of the Karlsruhe Agreement of 23 January 1996.

Article 9

Each of the treaties mentioned in the General considerations (paragraph 10) require the Statutes of the transfrontier Grouping whose setting up it authorises to contain provisions on a series of items (name, headquarters, duties, members, tasks of the organs, arrangements for financing activities, applicable budgetary and accounting rules, accession and withdrawal of members, dissolution and liquidation, etc).

International texts have been drawn upon in Article 9 of the draft interstate agreement listing the provisions to be included in the Statutes of the future transfrontier co-operation Groupings.

Obviously, this minimum content only applies to bodies which have legal personality under the applicable domestic law. Bodies without legal personality are unaffected by it.

Article 10

These provisions are based on the Karlsruhe Agreement.

Article 11

Paragraph 1 corresponds to the prohibition set out in Article 4, paragraph 2 b, of the Additional Protocol to the European Outline Convention.

Paragraph 2 is based on the Bayonne Treaty and the Karlsruhe Agreement.

Paragraph 3 concerns cases where the Grouping performs work on behalf of one of its members. Exceptionally in such cases, the law of the State in which the Grouping's headquarters is located is applied concurrently with that of another State to which one of the territorial communities or authorities in the Grouping belongs. Such parallel or concurrent application occurs where the members of the Grouping are directly or indirectly contributing to the financing of public contracts (paragraph 4).

Lastly, paragraph 5 stipulates that the members of the Grouping must always ensure the implementation or enforcement of the Grouping's decisions.

Article 12

In this respect, the funding and supervision of the Grouping are governed by the provisions set out in the Additional Protocol to the European Outline Convention.

Article 13

The law of the State in which the Grouping's headquarters is located is applicable to its own specific staff.

Article 14

This provision is based on Article 15 of the Karlsruhe Agreement.

Article 15

This provision is based on Article 10 of the Bayonne Treaty and Article 7, paragraph 2, of the Karlsruhe Agreement.

Article 16

These regulations are aimed, in accordance with Article 7 of the Additional Protocol to the Outline Convention, at preventing any change in the national judicial protection available to third persons before the conclusion of the interstate agreement under consideration; it can also be used to exempt territorial communities or authorities which are members of the Grouping from the jurisdiction of a foreign court.

III Comments on the articles of the model Statutes

Article 1

In accordance with Article 1 of the model interstate agreement, legal persons governed by public law which are neither territorial communities nor local public bodies may co-operate in setting up the Grouping or may join it. In accordance with Article 7 of the model agreement, this also applies to persons governed by private law, provided that the domestic law of the state in which the Grouping's headquarters is located does not prohibit this. The participation of natural persons must be on an exceptional basis and be justified by the considerations relating to the public service which they supply.

Article 2

In application of Article 1 of the interstate agreement, all public institutions forming part of the Grouping are considered "territorial communities or authorities". The members of the General Assembly, however, are not the legal persons belonging to the Grouping, but their representative(s).

Article 3

By establishing the Grouping's headquarters on the territory of a state, the Statutes make it subject to the domestic law of that state. For this reason, it is not desirable to move the headquarters outside that national territory without amending the Statutes.

Article 4

By making the Grouping subject to legislation governing one of the types of association or grouping to which territorial communities or authorities in that state may belong, the Statutes determine its public or private law status and give it a legal form provided for in the law of the state where its headquarters is located.

Article 5

The date on which the Grouping acquires legal personality is determined by the competent authorities in the states to which the territorial communities or authorities belong, in accordance with Article 47 of the Statutes.

Article 6

The Grouping's aims may be general or may, on the contrary, be limited to the provision or management of facilities of general interest.

Members of the Grouping may delegate certain tasks to it which are to be undertaken on their behalf.

Under Article 4 of the model interstate agreement, the Grouping may not seek to make a profit.

If the Grouping is a public law entity, it may conclude public procurement contracts, governed by the law of the state in which it has its headquarters, provided that members which participate in funding these operations comply with their obligations under the law of their own countries in respect of procedures for advertising, calls for tender and choice of firms. This is a restatement of the terms of Article 11 § 4 of the model interstate agreement.

Lastly, it is stipulated that the Grouping may have no regulatory, police or fiscal powers, in accordance with Article 11 of the interstate agreement.

Article 7

If the Grouping is established for a limited period, but this may be extended on one or more occasions for a period not exceeding that for which it was originally set up (Article 39 of the Statutes).

Article 8

The rule is that each member's representation is proportional to its statutory rights, which are themselves proportional to its contribution. There is, however, no reason why some other criterion should not be used - for example, the population of the various territorial communities or authorities (as in the case of the Rhine-Waal Euregio).

Members are liable for the Grouping's debts in proportion to their statutory rights. This also applies to their obligations towards other members or third parties. They are not jointly and severally liable.

Article 9

It did not seem expedient to lay down conditions for the accession of new members in the draft Statutes. New members' rights and obligations will be specified in an addendum to the Statutes.

Article 10

The same goes for withdrawals. Members wishing to withdraw may do so only at the end of a budget year. They will take over facilities established for their benefit and compensate the Grouping for them.

The authority responsible for supervising a territorial community or authority belonging to the Grouping may require it to withdraw (Article 32 of the Statutes).

Article 11

The same system applies to expulsions, and any member expelled must also compensate the Grouping for damage caused by its failure to meet its obligations.

Article 13

Apart from members' contributions, the Grouping may levy charges and, if the law of the state in which it has its headquarters permits this, contract loans.

Article 15

Staff are never recruited on a statutory basis, they are recruited on a contractual basis.

Article 17

In accordance with Article 13 of the model interstate agreement, only staff directly recruited by the Grouping are subject to the law of the state in which it has its headquarters.

Article 18

Each member of the Grouping sends to the General Assembly a number of representatives proportional to its statutory rights (see above the note on Article 8 of the Statutes).

In accordance with Article 10, paragraph 3, of the interstate agreement, the appointment and mandates of these representatives are governed by the law of the state to which each legal person concerned belongs.

Article 21

Votes in the General Assembly are taken by absolute majority of the votes cast, except in the case of decisions to amend the Statutes, extend the Grouping's duration or wind it up early (Articles 39, 40 and 46 of the Statutes).

Article 22

The language rules on minutes are similar to those on the Statutes themselves (Article 45 of the Statutes).

Article 23

Article 10 of the model interstate agreement requires that the legal persons belonging to the Grouping be given information regularly.

Article 26

Votes at Board meetings are taken by an absolute majority of the votes cast - more "fors" than "againsts".

Article 29

If it wishes, the Grouping may appoint a Director/Secretary General to act as the Board's executive officer.

Article 31

In accordance with Article 6, paragraph 2, of the Additional Protocol to the European Outline Convention and with Article 12 of the model interstate agreement, measures taken by the Grouping are subject to the supervision provided for in the law of the state in which it has its headquarters, although the interests of territorial communities or authorities in other states must also be respected.

Article 32

The authorities responsible for supervision of territorial communities or authorities belonging to the Grouping are, moreover, entitled to require them to withdraw from the Grouping (Article 10 of the Statutes).

Article 34

Since the Grouping is a non-profit-making entity, any build-up of surplus income must lead in due course to reduction of the annual financial contributions payable by members.

Article 36

The independent auditors' role in certifying the balance sheet and profit and loss account is based on Article 14, paragraph 2, of the Karlsruhe Agreement and on Article 6, final paragraph, of the Treaty of Bayonne of 10 March 1995.

Article 37

The article on recovery of incorrect payments is based on Article 20 of the model agreement setting up an interest grouping for inter-regional and transfrontier co-operation, appended to the French interministerial circular of 16 June 1994. This relates to use of the European Union's structural funds as part of the Union's regional policy.

Article 38

Application of the tax laws of the state in which the headquarters is located is consistent with the principle laid down in Article 3 of the model interstate agreement.

Article 39

See note on Article 21 of the Statutes.

Article 42

The rules on liability of the Chairman, Vice-Chairman, Board members and Director/Secretary General are consistent with the laws generally applying to limited companies.

Article 43

This article contains a jurisdiction clause, making it possible for any dispute between the Grouping and its members to be decided by the court which has jurisdiction under the law of the state where the defendant is based, thus avoiding a situation in which member territorial communities or authorities may find themselves subject to the jurisdiction of a foreign state. This rule is based on Article 11, paragraph 1, of the German-Dutch agreement on transfrontier co-operation between territorial communities or authorities, signed in Isselburg-Anholt on 23 May 1991. It follows from Article 16, paragraph 1, of the model interstate agreement.

Article 45

This provision, which is based on Article 6 of the Bayonne Treaty of 10 March 1995, is consistent with Article 8, paragraph 2, of the model interstate agreement.

Article 46

See note on Article 21 of the Statutes.

Article 47

See note on Article 5 of the Statutes.

Transitional provisions

As an exception to Article 12, paragraph 2, and Article 19 of the model statutes, the financial contribution of each Grouping member is determined the first year in the transitional provisions.