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## Conférence Intergouvernementale

### Union Politique

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The Treaty on european union

A summary

The Treaty on European Union agreed in Maastricht is wider in scope than any previous EC treaties. It expands many of the existing responsibilities of the European Community and brings in new policy areas, both within the Treaty of Rome and outside it. The Treaty introduces the concept of Union citizenship and increases the decision-making powers and right of enquiry of the European Parliament. A social chapter agreed by 11 member states will not feature in the Treaty, but will be implemented via the EC institutions.

A common foreign and security policy and a common policy on judicial affairs will form separate pillars standing beside the EC treaties. Each will have its own ways of working, but the Treaty says that the Union should have a single institutional framework.

Significant changes in the Treaty define the limits on Community action (subsidiarity), set out the rights of the citizen of the Union, increase the powers and responsibilities of the European Parliament, and strengthen financial control.

A. Citizenship of the Union

"Every person holding the nationality of a member state shall be a citizen of the Union" says a new chapter in the Treaty. This means:

- . every citizen free to move and reside freely within the territory of the member states; the Council to take the necessary measures by unanimous decision;
- . right to vote and stand as a candidate in local elections for people living outside their own country. Detailed arrangements to be agreed before the end of 1994;
- . similar right to vote and stand as a candidate for European Parliament subject to rules to be agreed by the end of 1993 (ie before the next EP elections)
- . a Union citizen in a non-EC country shall be entitled to diplomatic or consular protection by any member state. Rules to be agreed between member states by the end of 1993 and international negotiations to begin;
- . right to petition European Parliament or apply to Ombudsman.

B. Subsidiarity

Though the scope of the new Treaty is broad, the principle of subsidiarity sets the limits of Community action. It runs through the new text. It is explained in a new Article 3b, which says that for policy areas outside the Community's exclusive jurisdiction, the Community will act "only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the member states" and can better be achieved by the Community.

"Any action by the Community shall not go beyond what is necessary to achieve the objectives of the Treaty".

C. Powers of the European Parliament

Joint decision making: In certain major sectors the Parliament is to have new powers of co-decision with the Council of Ministers allowing it to reject a proposal by an overall majority of its members if agreement cannot be reached between the two institutions in a joint Conciliation Committee.

This procedure (which applies mainly to policies where qualified majority voting is provided for the Council) covers the following:

- . internal market legislation, including right of establishment and free circulation of workers;
- . common policies for research and development, trans-European networks, training, education, culture, health, consumer affairs and the multi-annual environment programme.

Powers of control: The Commission and its President will be subject to Parliament approval at the start of their mandate, which is to be for five years rather than four from the beginning of 1995, coinciding with the Parliament term.

- . The Parliament can request the Commission to submit any proposal where it decides by overall majority vote that new EC legislation is needed.
- . At the request of a quarter of its members, the EP can set up a temporary Committee of Enquiry to investigate contravention or maladministration in implementation of Community law. Citizens will have the right to petition the Parliament. An ombudsman will be appointed by the Parliament to follow up complaints.

Representation: The Parliament is to draw up proposals for a uniform election procedure which must be agreed unanimously by the Council.

- . member states are to agree on the size of the European Parliament in the light of enlargement.

#### D. Budgetary control

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Various steps have been agreed to tighten up control of the Community's finances:

- . when proposing new measures, the Commission must give assurances that these can be financed within the limits of EC financial resources;
- . status of the Court of Auditors is to be increased: it becomes a full EC institution;
- . the European Parliament will be able to ask the Commission to give evidence regarding spending and financial control and the Commission will act on the decisions and observations of the Parliament;
- . governments will deal with fraud affecting the Community's financial interests in the same way that they deal with national fraud.

## COMMON FOREIGN AND SECURITY POLICY

A common foreign and security policy will be central to the European Union. The opening provisions of the Treaty state that the Union should assert its identity on the international scene "through the implementation of a common foreign and security policy which shall include the eventual framing of a common defence policy". The new policy has special significance at a time when Europe is undergoing such fundamental changes as the disintegration of the Soviet Union.

The policy will be implemented through inter-governmental procedures in the Council of Ministers, fully associating the European Commission with the work and keeping the European Parliament informed, but not using the mechanisms of the Treaties.

The Commission has always had reservations about this approach, and President Delors explained to the European Parliament the difficulty of ensuring coherence between foreign policy in the strict sense of the term and those areas such as external economic relations and development co-operation which are the responsibility of the Community institutions. He hoped member states would nonetheless be able to act rapidly.

The new provisions do allow for joint actions which would be binding on member states. It is already clear from a declaration by the European Council that these would include:

- the CSCE process
- disarmament and control of armaments in Europe
- non-proliferation and economic aspects of security

Foreign ministers will now be examining other areas of joint action to report to the next European Council.

The formal procedure will be for the European Council to give general guidelines for joint action; the Council of Ministers to take decisions unanimously, but defining matters where a qualified majority vote could be used. Joint actions would be binding on the positions and actions of member states.

Where the Council had not taken any decision on a foreign policy issue, a member state would be free to act, informing the Council accordingly. Issues with defence implications would be excluded from these procedures.

### Defence

The common foreign and security policy will include all questions related to the security of the Union, including the framing of defence policy "which might, in time, lead to a common defence". Western European Union (WEU), of which nine member states are members, becomes "the defence component of the Union" and issued a declaration at Maastricht confirming this position. The main elements of the agreement were:

- the policy of the Union should not prejudice national defence policies and should respect NATO obligations;
- the new Treaty defence provisions are to be revised by 1998 on the basis of a report to be presented to the European Council in 1996;
- WEU is to elaborate and implement decisions and actions of the Union which have defence implications;
- WEU to be developed as the defence component of the European Union and as the means to strengthen the European pillar of the Atlantic Alliance and to formulate a common European defence policy;
- the operational role of WEU to be strengthened, with a planning cell, closer military co-operation, regular meetings of Chiefs of Defence Staff and more co-operation in the armaments field with the aim of creating a European armaments agency;
- EC countries not currently in WEU (especially Greece and Denmark) are invited to join. Other European states could become associate members.

## JUSTICE AND HOME AFFAIRS AND IMMIGRATION

Justice and home affairs remain an inter-governmental pillar of the Union Treaty, although the European Commission is associated with decision-making and has limited powers of initiative. The provisions identify areas of common interest:

- asylum policy
- crossing of the Community's external borders
- immigration policy
- combating drug addiction
- combating fraud
- judicial co-operation in civil and criminal matters
- customs co-operation
- police co-operation

In these areas, joint positions and joint action can be taken by the Council, which can decide that certain measures may be adopted by qualified majority. Only member states will have powers of initiative in criminal matters, and not the Commission, but the Commission will be fully associated with the work. The European Parliament will be informed and consulted and its views "duly taken into consideration". The provisions make special reference to the European Convention on Human Rights and to Convention on the Status of Refugees "and having regard to the protection afforded by member states to persons persecuted on political grounds".

Immigration is singled out for a twin-track approach:

- Treaty of Rome procedure: Council will decide by unanimity on the basis of a Commission proposal which third countries require a visa to enter the EC. Qualified majority voting will apply from January 1 1996. Emergency action can be taken for six months to deal with a sudden crisis. A uniform visa format will be decided.
- co-operation provisions: areas of "common interest" to include asylum policy (aim to agree harmonisation of aspects of asylum policies by end of 1993), rules and controls on persons crossing EC external borders, conditions of movement and residence for immigrants and illegal immigration.

A Union-wide system for exchanging information between European police forces (Europol) is to be set up.

## SOCIAL AGREEMENT

There will be no change to the existing social articles in the Treaty of Rome as modified by the Single European Act. However, eleven member states concluded an agreement for implementation of the 1989 Social Charter (from which the UK excluded itself). No significant text has yet been agreed under the Social Charter.

In effect the Twelve have agreed in a protocol that eleven member states can borrow the Community institutions, with the Commission, Parliament and Court of Justice doing their normal jobs and the Council adopting measures by unanimity in some cases and qualified majority in others. This majority will consist of 44 votes out of 66 instead of 54 out of 76.

Any measures should take account of diverse national practices, especially in the field of contractual relations, and the need to maintain the competitiveness of the Community economy. They should "avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings".

It is assumed that normally the Council will try to get agreement on the basis of 12 member states, but where the UK does not accept this, the British government will not take part in the deliberations or decisions. Work will continue normally on those proposals which are currently under consideration in the Council such as conditions for pregnant women, working time and social security for migrant workers.

The Eleven have agreed that the following issues can be decided by qualified majority vote:

- health and safety
- working conditions
- information and consultation of workers
- equality at work between men and women
- integration of persons excluded from the labour market

Issues for unanimous vote:

- social security and social protection of workers
- protection of workers made redundant
- representation, collective defence of workers and employers
- conditions of employment for third-country nationals
- financial contributions for promoting jobs

Pay, the right of association, the right to strike or the right to impose lock-outs are not covered by these provisions.

A procedure is introduced allowing management and labour to come up with proposals in these fields. These can be adopted by the Council by qualified majority or unanimity depending on the subject and a member state could then give the two sides of industry the job of implementing the measures.

The agreement of the Eleven also reinforces Community rules on equal pay for member and women.



## NEW POLICY INITIATIVES

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Some areas of Community policy are expanded in the Union Treaty, and new ones introduced. Here are some of the main innovations:

### Cohesion

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Measures to reduce the gaps between the prosperity of different regions include a Cohesion Fund to be set up by December 31, 1993 to finance projects in fields of environment and transport infrastructure (see Trans-European networks). The Council may decide unanimously where actions are needed outside the structural funds. Designed to help member states whose GDP head is less than 90 per cent of the EC average.

### Committee of the Regions

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This committee will consist of representatives of regional and local authorities. It will be consulted by the Council or the Commission and may submit its own opinion on a matter where it believes that specific regional interests are involved. The Committee will consist of 189 members, ranging from 24 each for the large member states to six for Luxembourg. It will share an organisational structure with the Economic and Social Committee.

### Transeuropean networks

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Community to contribute to establishment and development of trans-European networks in transport, telecommunications and energy infrastructure. Support can be given to national programmes, especially through feasibility studies, loan guarantees or interest rate subsidies, as well as through the Cohesion Fund for transport infrastructure.

### Own resources

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Decision to examine the own resources system to take better account of the relative prosperity of the poorer member states.

### Consumer policy

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High level of protection through internal market measures or specific action.

## Culture

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The Community is to encourage co-operation in the cultural field, working closely with the Council of Europe. Any incentive measures to be taken must be decided by unanimity in the Council.

## Education, vocational training, youth

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Development of quality education; language teaching; mobility for students and teachers; vocational training policy;  
. respect for member states' responsibility for content of teaching and organisation of education systems and their cultural and linguistic diversity; no EC harmonisation of laws and regulations of member states.

## Environment

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Restatement of objectives, including promoting measures at an international level. Aim for high level of protection "taking into account the diversity of situations in the various regions of the Community". Community inspection procedure for national provisional measures. Qualified majority voting except for fiscal provisions, town and country planning, land use, choice of energy sources.

## Health

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The Council will be able to adopt Recommendations in the public health field by qualified majority, with the aim of ensuring a high level of human health protection. Member states will coordinate their policies and programmes in conjunction with the Commission.

## Industry

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Council may decide by unanimity on measures to help competitiveness of EC industry, speeding adjustment to structural change, encouraging favourable environment for co-operation and making better use of innovation, research and technological development;  
. these provisions not to provide a basis for measures which may distort competition.

## Insurance

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A protocol to the Treaty will resolve the confusion over equal pension rights arising from the Barber case in the European Court. There will be no retroactivity of pension rights before May 17, 1990, when the Court made its judgement under equal pay conditions of the Treaty.

#### Access to information

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Commission is asked to submit a report by the end of 1993 on measures to improve public access to the information available to the EC institutions. The IGC believes that transparency strengthens the nature of the institutions and the public's confidence in the administration.

#### Implementation of EC law

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The European Court of Justice will be able to fine a member state for failing to respect a judgment of the Court. It can act on the basis of a reasoned opinion from the Commission, which should tell the Court what lump sum or penalty it thinks appropriate.

#### National parliaments

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More contact is planned between the European Parliament and national parliaments through the exchange of information and granting of appropriate reciprocal facilities. National parliaments should receive Commission proposals in good time.

#### Ombudsman

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The European Parliament is to appoint an ombudsman to look into instances of maladministration by any of the EC institutions except the Court. Individuals, companies and other legal persons will be entitled to lay complaint complaints. The ombudsman will conduct enquiries either on his own initiative or as a result of complaints and where he finds maladministration, he will draw up a report for the institution concerned after receiving their view. The term of office will run concurrently with the European Parliament mandate.

The Treaties allows for new policies for energy, civil protection and tourism, but no detailed provisions are to be laid down. These will be examined on the basis of a report from the Commission in 1996. Community action will meantime be based on the existing Treaty provisions.

## HOW EUROPEAN PARLIAMENT CO-DECISION WILL WORK

- i) Commission makes a proposal to the European Parliament and the Council of Ministers
- ii) Parliament gives its opinion; Council adopts common position, acting by qualified majority
- iii) Council informs EP of its common position
- iv) Parliament has three months. It can:
  - approve the common position or take no decision: Council then adopts;
  - vote to reject the common position by an absolute majority and inform the Council, which can call a meeting of the Conciliation Committee comprising equal numbers from Council and Parliament; the EP may then:
  - reject again by absolute majority, so the proposal is not adopted, or
  - propose amendments by an absolute majority
- v) If the Parliament proposes amendments at this stage, the Council has a further three months. It may:
  - approve the amended text by qualified majority except for amendments opposed by the Commission, which will require unanimity in the Council
  - refuse to approve, in which case the Conciliation Committee is convened again. In this case:
- vi) The Conciliation Committee has six weeks to work on the text. If it approves a joint text, then this is adopted as long as the EP votes in favour by a majority of votes cast and the Council approves by qualified majority. Failure by either institution to approve means that the proposal is not adopted.
- vii) If the Conciliation Committee fails to agree, the Council has a further six weeks to confirm its original position (point ii), perhaps with some EP amendments. The Parliament then has a further six weeks following confirmation to reject the text by an absolute majority of members.