



EUROPEAN FREE TRADE ASSOCIATION  
ASSOCIATION EUROPEENNE DE LIBRE-ECHANGE

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An Opinion from  
the EFTA Consultative Committee

**The Amsterdam Treaty**

Rapporteur: Mr Wei Chen

1. In March 1998 the EFTA Consultative Committee, at the invitation of the EFTA Standing Committee, decided to draw up an opinion on the Treaty of Amsterdam. Mr Wei Chen from the Norwegian Confederation of Trade Unions was appointed as rapporteur. The Consultative Committee at its meeting on 30 September 1998 adopted the following opinion.

## I INTRODUCTION

2. The Treaty of Amsterdam amends the Treaties on which the European Union and the European Communities were founded. In addition to bringing in new provisions and powers, the Treaty of Amsterdam also aims at simplification and codification of the Treaties.

3. The Treaty of Amsterdam, agreed in June 1997, is still in the process of being ratified by the Member States and will probably enter into force from 1 January 1999.

4. The Treaty of Amsterdam brings new provisions and new powers in many areas such as institutions, citizens' rights and transparency, and community policies. The **emphasis** of this opinion is mostly on the consequences of the new Treaty on employment and working life for Europe generally and for the EEA EFTA States in particular. Moreover, the role and importance of the social partners from the EEA EFTA States in the current and future process will be underlined.

## II SOME NEW PROVISIONS IN THE TREATY

5. The Amsterdam Treaty introduced a **new title on employment**. The new title stipulates that "*Member States ... shall regard promoting employment as a matter of common concern and shall co-ordinate their action.*" (Article 109o para 2), and "*the objective of a high level of employment shall be taken into consideration in the formulation and implementation of Community policies and activities*" (Article 109o para 3).

6. According to the Treaty, each year, **Employment Guidelines** shall be proposed by the Commission, after consultations with amongst others, the European Parliament and the Economic and Social Committee. The guidelines are then adopted by the Council based on qualified majority voting. Each Member State should annually provide a **National Action Plan for Employment** (NAP) to implement its employment policy in accordance with the Employment Guidelines.

7. The subject of **equal opportunities** is taken up in the Treaty of Amsterdam in several places. The policy is reaffirmed as a founding principle of the Treaty in the new Article 2. Article 3 now also assigns to the Community the duty to eliminate inequalities between the sexes and to promote equality in all its activities. Article 6a TEC will allow appropriate action for the fight against all discrimination including that

based on sex and sexual orientation. The scope of Article 119 is extended and equality of treatment between men and women is given a specific judicial base.

8. The **Social Protocol** is fully integrated into the main body of the Treaty of Amsterdam as Articles 117 to 120. A new provision in Article 118 deals with social exclusion and gives the Community power to propose and adopt measures to combat social exclusion. The Social Protocol's provisions will be extended to the United Kingdom.

9. **Qualified Majority Voting (QMV)** will now also cover areas such as working conditions, information and consultation of workers, integration of persons excluded from the labour market, and equality between men and women with regard to labour market opportunities and treatment at work (Art.118 para 2), as has been the case so far in the area of health and safety of workers. Community initiatives in all these areas will be subject to **co-decision**, which gives the European Parliament an increased role. However, the Council shall still act unanimously on a proposal from the Commission in the areas such as social security and social protection of workers (Article 118 para 3) in accordance with a consultation procedure.

10. **The social partners** at Community level may take their own initiatives, and agreements concluded in the dialogue between them "*shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 118, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.*" (Article 118b).

### III GENERAL COMMENTS

11. The Committee welcomes the new title on employment in the Treaty of Amsterdam. It establishes some favourable conditions for strengthening employment, and employment policy has moved decisively to the top of the European agenda. It is a step forward by promoting employment from being a purely national matter to a common Community concern as well. The Committee is also aware that some progress has already been made in the EU, such as the forthcoming of the first Employment Guidelines and the Member States' National Action Plans. These activities are based on provisions introduced by the new title even though the ratification of the Treaty is not completed.

12. The Committee foresees that more guidelines, action plans, assessments and proposals at Community level aimed at promoting employment will emerge gradually. The EEA EFTA States will be affected by these developments. The Committee can hardly see possibilities for EEA EFTA States' direct involvement and participation in this process. However, the Committee calls for active monitoring of the developments, both in respect of examining the adopted measures in the Community, comparing them with the EEA EFTA States' own employment policies and with the intention to enhance

co-operation with the EU, e.g. by seeking association with the different steps of Community employment policy and by intensifying the exchange of information.

13. The Committee points out that the social partners in the EU, endorsed by the new Employment Chapter, were involved in the preparation of the first Employment Guidelines as well as the first NAPs in the Member States. But the degree of involvement varies between States as well as between organisations, which reflects the difficulties in exercising the increased role and responsibilities of the social partners provided by the Treaty. The Committee foresees that the partners in the Social Dialogue will be required to contribute even more to the further realisation of the Employment Chapter. The Committee is of the view that the social partners should co-operate effectively and constructively at all stages of this process and call for full involvement, not only in the preparation of, but also in the implementation, monitoring, revision and reinforcement of the guidelines and the NAPs. Furthermore, the social partners should take initiatives in calling for standards and measurements in assessing the implementation of the Guidelines and the NAPs and exploiting the provisions introduced by the Treaty on re-thinking and co-ordination of economic policies in order to promote employment.

14. The Committee welcomes the fact that equality has been highlighted in the Treaty of Amsterdam. Equal opportunities have been included in the first Employment Guidelines as a main pillar, although the responding NAPs from the Member States generally seem to be weak on this matter. The Committee foresees that equality between women and men will be mainstreamed in future major Community policies, particularly as part of the employment strategy.

15. The strengthening of the equality profile in the Community is highly relevant for EFTA States in the following ways:

- The strengthening of equality in itself is an important measure with respect to labour market policy in relation to increasing labour participation, promoting employment and securing social welfare.
- Equal treatment is a horizontal matter relevant to the four freedoms in the EEA Agreement. Therefore, the EEA EFTA States should closely monitor and assess any developments in the area.
- Co-operation and understanding between the EU and EFTA can be enhanced by exchanging information, views, experience and practices.

16. The Committee also welcomes the fact that training and life-long learning have been included in the first Employment Guidelines as a measure to improve employability, based on the provisions introduced by the new title in the Treaty. The Committee emphasises the importance of training and life-long learning, as investment in human capital, in the educational and economic policies, as well as its significance for economic growth and employment promotion.

17. The Committee welcomes the integration of the Social Protocol into the main body of the Treaty of Amsterdam as a major achievement in the area of European social policy. The Social Protocol provides a strong role for the social partners in the shaping of EU social policy. A legal framework has been created for negotiating European agreements, which can be then adopted as Council directives. Two agreements on parental leave and part-time work have already been adopted as Council directives through this procedure. The Committee believes that the Treaty of Amsterdam adds a new dimension to the objectives of the Social Protocol and creates a stronger legal base for social policy measures. In the coming years, more social legislation will presumably have its roots in agreements between the European social partners, and the Social Dialogue will be strengthened. Difficult social issues may be more easily solved when left to negotiations rather than to the political process in the EU decision-making bodies, and probably with results that are more adaptable for the needs of working life.

18. Another perspective of the integration of the Social Protocol into the Treaty of Amsterdam is that the British Government has accepted the Protocol and will implement not only the existing but also the future directives stemming from it. The Committee foresees that further developments in the area of social policy will apply to all the Member States in the Community and to the EEA EFTA States if they are relevant to the EEA Agreement.

19. The Committee also welcomes the fact that the extension of QMV to areas regarding working life will promote rapid development in these areas.

#### **IV SPECIAL COMMENTS**

20. The Committee emphasises the increased role of the social partners in light of the Treaty of Amsterdam. A clear example of this enhanced role is that the current Employment Guidelines are linking the social partners firmly to employment creation, to the debate on economic policies, to processes towards new work organisation and to education and training.

21. The social partners in the EFTA States are involved in the European Social Dialogue platform as members of ETUC, UNICE and CEEP. The EFTA social partners participate in the negotiating teams of ETUC and UNICE respectively. Their representatives are recognised as ordinary members of the teams, and experience from past negotiations has shown that their contributions are taken fully into account.

22. The Committee points out that the EEA EFTA Governments have a different position from the social partners with regard to gathering information on and influencing the content of new measures. In a situation where important parts of social legislation rest on agreements between the social partners, the role of governments - including those of the EU and the EU institutions in general - will change. While the EFTA social partners will be able to seek information on important ongoing processes and to contribute actively to EU policy making and legislation, the EEA EFTA Governments may find their position changed accordingly. The consultations between

EEA EFTA Governments and the EU in the EEA Joint Committee would in such cases be limited to establishing the EEA relevance rather than discussing the substance of the matter.

23. The Committee has an additional platform for information and co-operation: The Committee co-operates closely with the Economic and Social Committee of the EC (ESC). Through the formal set up of the Consultative Committee of the European Economic Area (EEA-CC) and more importantly through the so-called Osmosis procedure, the Committee participates directly in the work of relevant ESC sections and working groups and works out joint statements with the ESC on issues in the interests of both sides. The Committee is of the view that this co-operation has created a better mutual understanding of the functioning of the EEA Agreement on both sides.

24. With regard to these aspects, the Committee calls for a strengthened co-operation between the EEA EFTA Governments and the social partners. Through tripartite co-operation, a common ground and possible consensus can be established with respect to the process towards a legislation of relevance to EFTA, to which the EFTA social partners have the opportunity to contribute in the Social Dialogue. The Committee strongly recommends that EEA EFTA Governments, the EFTA Secretariat and the EFTA Consultative Committee should work in concert to exploit fully the possibilities of the Treaty of Amsterdam, in order to influence and contribute to the further development of employment and social policy in Europe.

25. The Committee foresees that the European social partners will work actively in the framework of the European Social Dialogue as well as within their respective institutions of the EU and the EFTA. The Committee emphasises their increased responsibility brought about by the Treaty of Amsterdam. The importance of the EFTA social partners' contribution to the European Social Dialogue lies in the following aspects:

It is an important arena

- where the EFTA social partners have the opportunity to participate in the shaping of EU's employment and social policies;
- for demonstrating the EEA aspect of European social policy;
- to make visible the involvement of EFTA States as non-EU states in the European policy process.

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