

E U R O P E A N E C O N O M I C A R E A

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EEA JOINT PARLIAMENTARY COMMITTEE

Report

Attached is the Report on the Amsterdam Treaty and its implications for the EEA as forwarded by the European Parliament.

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**EUROPEAN ECONOMIC AREA
JOINT PARLIAMENTARY COMMITTEE**

REPORT

on

the Amsterdam Treaty and its implications for the EEA

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HO/vt

THE TREATY OF AMSTERDAM

LEGAL BASIS

The Treaty of Amsterdam, which was signed on 2 October 1997 following the 1996/1997 Intergovernmental Conference, and is not expected to enter into force until the beginning of 1999, only partly lives up to expectations and itself provides for subsequent institutional adjustments to be made in conjunction with the process of enlargement.

It modifies and expands the substance of the founding Treaties in five major areas:

- freedom, security and justice;
- the Union and the citizen;
- external policy;
- the institutions of the Union;
- closer cooperation - 'flexibility';

it also includes clauses intended to simplify and consolidate the Treaties.

SUBSTANCE

The Treaty of Amsterdam includes substantive advances in respect of the 'constitutional' basis of the policies of the Union and of the Communities, and also as regards the process of democratization. By contrast, it does not include all the institutional reforms that are needed in conjunction with enlargement. The new Treaty, while dispensing with the regrettable opt-out on social policy, lays the foundations for closer cooperation between some Member States within the institutions of the Union. In addition, the new Treaty has achieved a certain simplification of primary Union law, and in particular a new numbering of the Treaties.

Where the objectives are concerned, particular emphasis has been placed on balanced and sustainable development and on a high level of employment.

A mechanism for coordinating the employment policies of the Member States, and the possibility of certain Community measures in this field have been created.

The Agreement on Social Policy has been incorporated into the EC Treaty, with a few improvements.

The Community method will now be used for major areas which have hitherto come under the 'third pillar', such as asylum, immigration, the crossing of external frontiers, the fight against fraud and customs cooperation, and also for a portion of what is known as 'Schengen' cooperation, the full *acquis* of which has been taken on by the Union and the Communities.

Intergovernmental cooperation in the fields of judicial and police cooperation has been strengthened by the definition of precise objectives and tasks and by the creation of a new legal instrument similar to a directive.

Adjustments have been made to the areas covered by environmental, public health and

consumer protection policies.

New clauses have been introduced covering specific issues such as services of general interest, cultural diversity, the use of languages, and the arrangements applicable to the remotest and island regions and to the overseas countries and territories.

The instruments of the common foreign and security policy have been developed further, in particular by the creation of a new instrument, the common strategy, the implementation of which will normally be based on a majority decision, a new function, the Secretary-General of the Council responsible for the CFSP, and a new structure, the Policy Planning and Early Warning Unit. Where security is concerned, a reference to what are known as 'Petersberg' tasks indicates the scope of possible future joint actions.

With regard to external economic policy, the Council has been empowered to extend its scope to cover services and intellectual property rights.

The codecision procedure now applies to most areas of legislation.

Under the simplified codecision procedure (Article 251), the European Parliament and the Council have become co-legislators on a virtually equal footing.

The Treaty of Amsterdam expressly confirms the protection of fundamental rights in the context of the application of Community law.

For the first time, the founding Treaties include general provisions enabling Member States, under certain conditions, to make use of the common institutions to establish closer cooperation between themselves. This option is in addition to the cases of closer cooperation which are governed by specific provisions, such as Economic and Monetary Union, the creation of an area of freedom, security and justice and the integration of the *acquis* of what is known as 'Schengen' cooperation.

The Treaty of Amsterdam provides for the Council to use qualified majority voting in a number of newly created areas.

In a declaration presented when the Treaty of Amsterdam was signed, the Governments of Belgium, Italy and France stressed that they consider reinforcement of the institutions an indispensable condition for enlargement and that the Treaty of Amsterdam has not brought with it the substantial progress needed, including a significant extension of the use of qualified majority voting.

In order to create the political conditions in which a future IGC can speedily be successful, Parliament advocates a new *modus operandi* which will take, as its starting-point, a report from the Commission with proposals for a comprehensive reform of the Treaties. The Commission has pledged to Parliament, meeting in plenary, that it will submit such a document to it in good time before the European Council meeting in December 1998. After consideration by the European Parliament and the parliaments of the Member States, this document should become the focal point for a wide-ranging political dialogue, with the aim of crystallizing worthwhile guidelines for a future IGC; this might possibly be launched by initiatives taken by the future German and Portuguese Presidencies.

The European Economic Area (EEA) currently comprises 18 countries: Norway, Iceland and Liechtenstein.

The Treaty of Amsterdam contains no provisions concerning relations between the European Union and the EEA as a separate entity in international law. However EFTA EEA countries are either expressly referred to or implicitly concerned in connection with the implementation of the following three areas of Union policy:

- common foreign and security policy,
- visas, asylum and immigration,
- the removal of border controls (SCHENGEN).

The Amsterdam Treaty does not directly affect the EEA Agreement in that it does not necessitate any amendments to the Agreement. However, there may be a variety of indirect effects on the Agreement and its functioning, as well as some effects on the EFTA EEA countries and their relationship with the union. A major change with possible implications for the functioning of the Agreement is the fact that the Amsterdam Treaty will change the institutional balance within the EC by extending the co-decision procedure to an increased number of fields, strengthening the role of the EP. This could in future affect parliamentary cooperation in the EEA, increasing the need for dialogue on specific legislative proposals.

Furthermore, the COSAC cooperation could be looked at in the context of EEA parliamentary cooperation.

COMMON FOREIGN AND SECURITY POLICY

Article J.7 of the Treaty of Amsterdam states that:

'1. The common foreign and security policy shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy (...) which might lead to a common defence, should the European Council so decide. (...)

The Western European Union (WEU) is an integral part of the development of the Union providing the Union with access to an operational capability (...) It supports the Union in framing the defence aspects of the common foreign and security policy (...) The Union shall accordingly foster closer institutional relations with the WEU with a view to the possibility of the integration of the WEU into the Union, should the European Council so decide.'

Paragraph 2 of Article J.7 specifies the type of actions involved: 'humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peace-making'.

Paragraph 3 states: 'The Union will avail itself of the WEU to elaborate and implement decisions and actions of the Union which have defence implications'.

The implementation of a defence policy and the possibility of actions involving the WEU affects the two EEA states which are associate members of the WEU: Norway and Iceland.

Although they are only associate members, the role conferred on the WEU gives these countries a potentially active role in European defence and directly concerns them.

Any decision to integrate the WEU into the European Union, would certainly confront these countries with the problem of whether to remain within the WEU.

VISAS, ASYLUM AND IMMIGRATION

Article 73i of the Treaty of Amsterdam states that 'in order to establish progressively an area of freedom, security and justice' the Council should adopt, within five years of the entry into force of the Treaty of Amsterdam, 'measures aimed at ensuring the free movement of persons' and 'other measures in the fields of asylum, immigration and safeguarding the rights of nationals of third countries'.

Article 73j states that, within the same period, the Council should adopt 'measures with a view to ensuring (...) the absence of any controls on persons, be they citizens of the Union or nationals of third countries, when crossing internal borders'; these should be accompanied by 'rules on visas for intended stays of no more than three months', including a list of third countries whose nationals must be in possession of visas and those whose nationals are exempt from that requirement (Article 73j).

Finally the Council should also adopt, within the specified five-year period, measures on asylum and on immigration policy (Article 73k), including conditions of entry and residence.

The European Union is required, in other words, to formulate common rules in the relevant domains that will apply to third countries. Measures taken within this framework of Community law will affect the three EEA countries.

REMOVAL OF BORDER CONTROLS

A Protocol 'integrating the Schengen *acquis* into the framework of the European Union' has been annexed to the Treaty on European Union and to the Treaty establishing the European Community.

One of the protocol's recitals refers to 'the need to maintain a special relationship with the Republic of Iceland and the Kingdom of Norway, both States having confirmed their intention to become bound by the provisions mentioned above' (relating to the Schengen *acquis*) 'on the basis of the Agreement signed in Luxembourg on 19 December 1996'.

Article 6 of the protocol states that:

'The Republic of Iceland and the Kingdom of Norway shall be associated with the implementation of the Schengen *acquis* and its further development on the basis of the Agreement signed in Luxembourg on 19 December 1996. Appropriate procedures shall be agreed to that effect in an Agreement to be concluded with those States by the Council, acting by the unanimity of its Members mentioned in Article 1.'

As Ireland and the United Kingdom of Great Britain and Northern Ireland are not party to the Schengen Agreements, the second paragraph of Article 6 reads as follows:

'A separate Agreement shall be concluded with Iceland and Norway by the Council, acting unanimously, for the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland on the one hand, and Iceland and Norway on the other, in domains of the Schengen *acquis* which apply to these States'.

RESOLUTION

on the Amsterdam Treaty and its implications for the EEA

The European Economic Area Joint Parliamentary Committee:

- A. Notes that the Amsterdam Treaty will affect in various ways the EFTA EEA countries and their relationship with the EU, but will only indirectly affect the EEA Agreement itself, as there would not seem to be any imperative to amend the Agreement as a result of the Treaty.
 - B. Notes that there is a direct effect in areas such as the Common Foreign and Security Policy, visa, asylum and immigration policy and the removal of border controls (Schengen).
 - C. Notes that the institutional changes regarding the increased use of the co-decision procedure, the changes to Community activities related to the internal Market and the planned enlargement will have consequences for the functioning of the EEA Agreement.
 - D. Refers to the resolution on the Treaty of Amsterdam adopted by the European Parliament on 19 November 1997.
1. Considers that the Treaty of Amsterdam gives the WEU a more active role as the European Union's operational machinery for various kinds of peace-keeping missions and crisis-management missions with the use of combat forces. It therefore hopes that this increased role will not prevent or render more difficult the form of association with the WEU chosen by Norway and Iceland;
 2. Considers that the integration of the WEU into the European Union, presented as a possibility for the future by the Treaty of Amsterdam, may make it more difficult for Norway and Iceland to be associate members of the WEU. The committee considers that the Council and the countries concerned should find forms of cooperation to deal with this possible integration;
 3. Notes that the Treaty requires the European Union to establish common rules in the areas of visas, asylum and immigration policy within five years. It considers it important to stress that the EEA EFTA countries should be consulted before common EU rules are introduced in the following areas:
 - change of visa requirements for citizens of the EFTA EEA countries;
 - changes within the passport-free area among the Nordic countries.
 4. Notes that the Treaty Protocol which provides for the integration of the Schengen acquis in the EU framework recognises the need to maintain the privileged relations with Iceland and Norway;

5. Notes that the same Treaty Protocol provides for the involvement of Iceland and Norway in the implementation and further development in the Schengen acquis on the basis of the Agreement signed on 19 december 1996 in Luxembourg;
6. Considers that an agreement should be established as soon as possible between the countries which are involved in Schengen cooperation but are not members of the European Union (Norway and Iceland), and those Member States which do not participate in Schengen cooperation (Ireland and the UK);
7. Notes that the extended use of the co-decision procedure in the EU, following the entry into force of the Amsterdam Treaty, may entail significant consequences for the functioning of certain areas within the EEA Agreement.

Requests that the EEA Joint Committee elaborates an analysis as to which extent cooperation within the EEA Agreement would be affected on the entry into force of the Amsterdam Treaty, and that this document be forwarded to the EEA Joint Parliamentary Committee and the EEA Council;

8. Calls on the JPC Bureau to look into the possibility of associating the national parliaments of the EFTA EEA states to COSAC.

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