

## THE TREATY OF AMSTERDAM

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Two features characterize the Treaty of Amsterdam: a dual approach to the amendment of the basic instruments of European integration (i.e. the Treaties founding the Communities and the Treaty on the Union) and a refinement of the Maastricht Treaty on European Union. The confusing result is that it is still necessary to distinguish between European Community and the European Unions as if they were different and distinct organisations of the same Member States. As a constitutional instrument the Treaty of Amsterdam is a fruit of the intergovernmental conference and, as such, it is subject to ratification of the Member States in accordance with their respective constitutions.

Before commenting on the provisions of the new Treaty it seems apposite to summarise the conclusions of the European Council which, having reached an agreement on its contents, took the opportunity of addressing the world on the state of the Union, its achievements since the previous meeting, its involvement in various parts of the world and hopes for the future. In the light of these conclusions the Amsterdam Treaty has to be seen as a significant landmark of the process of European integration.

### A. Presidency conclusions

The Presidency, conclusions of the Conference of Heads of State or Government, held on 16 and 17 June 1997, can be summarized as follows :

- (1) *Implementation of the provisions of the Second Pillar of the Maastricht Treaty* (external policy and defence), and implementation of the Schengen Conventions of 1985 and 1990 concerning the abolition of controls of the movement of persons within the Community.

(2) *Enlargement of the Community in accordance with the "Agenda 2000"* : Accordingly, after December 1997 negotiations with the object of admitting six countries (Czech Republic, Poland, Hungary, Estonia, Slovenia and Cyprus) should take place. Such negotiations should take into consideration the development of Union policies including the agricultural and structural policies as well as the future financial framework extending beyond 1999.

(3) *Resolutions with regard to the Economic and Monetary Union* : These include a resolution laying down the firm commitments of the Member States, the Commission and the Council regarding the implementation of the Stability and Growth Pact and related to it the resolution on Growth and Employment showing the common determination to keep employment on the top of the political agenda of the Union (Annex I).

Following these resolutions the Council of Ministers issued two regulations to ensure budgetary discipline of the Member States. The regulations set out a framework for effective multilateral surveillance, defined the details of the excessive deficit procedure and provided for sanctions for breaches of the discipline.

In another resolution the European Council endorsed the principles of a new Exchange Rate Mechanism (Annex II) to be in place as from 1 January 1999 and noted that the Governors of the Central Bank have cognizance of the resolution defining the  $\pm 15\%$  fluctuation margins.

Further regulations, constituting the legal framework for the Euro, will take effect early in 1998 when the Member States participating in Euro have adopted the appropriate decisions. In the view of the European Council the remaining period before the start of the third stage of the European Monetary Union on 1 January 1999 should be used to take the necessary practical steps in preparation for the introduction of the Euro.

(4) *Employment, competitiveness and Growth*

The European Council reaffirms the importance of promoting employment and reducing the high level of unemployment, particularly for young people, the long-term unemployed and the low-skilled. It reiterates the need for a positive and coherent approach to the job creation, encompassing a stable macro-economic framework, completion of the Single Market and active employment policies and the modernisation of labour markets to bring Member States further towards the goal of full employment.

The Council attaches paramount importance to creating conditions in the Member States that would promote a skilled and adaptable workforce and

flexible labour markets responsive to economic change. This requires active intervention by the Member States, a reduction of the tax burden on labour and restructuring of public expenditure, strengthening of schemes of training and lifelong learning, review of tax and social welfare systems to enhance employment opportunities.

The Council welcomes the Commission's Action Plan for the Single Market especially the first strategic target of the Plan: "to make existing rules for the Single Market more effective". To that end it emphasizes the need of timely and accurate transposition of the relevant legislation and of simplification of existing and new legal administrative regulations to improve the quality of Community legislation and reduce the administrative burden on European business, particularly small and medium-sized enterprises.

(5) *Environment*

The Council reaffirms the commitment of the European Union to the Earth Summit on Environment and Development and aspires to a leading role in the realization of the various initiatives in this field. With regard to development the Council considers that two objectives are particularly important, i.e. the eradication of poverty and the change of consumption and production patterns. It considers that economic, environmental and social policies have to be integrated and well co-ordinated.

The Council notes that the growth of new technologies in the area of genetic engineering poses acute ethical problems and has, therefore, adopted a declaration on banning the cloning of human beings (Annex IV).

(6) *Freedom, Security and Justice*

The Council expresses its satisfaction with the Action Plan drawn up by the High Level Group on Organized Crime and endorses the political guidelines submitted for its approval and instructs the Council of Ministers to take the necessary measures to implement the Plan, to monitor progress and to report back in June 1998. It stresses the key role to be played by EUROPOL in the fight against organized crime and urges the Member States to ratify the Europol Convention and the Protocol on Privileges and Immunities before the end of 1997.

To continue the action against the drug abuse the Council invites the Council of Ministers to pursue its work in co-operation with third countries and the implementation of the Joint Action on the approximation of the laws and practices of police, customs services and judicial authorities in the fight against drug addiction and illegal drug trafficking.

The Council welcomes the adoption of the Convention on Corruption by Justice and Home Affairs Ministers at their meeting in May 1997 and urges the Member States to ratify the Convention as well as the Convention on the Protection of the European Communities Financial Interests and its Second Protocol.

The Council welcomes the ratification by the Member States of the Convention on Asylum which provides a common approach to applications of asylum in one of the Member States entering into force on 1 September 1997 and an agreement establishing the European Monitoring Centre on Racism and Xenophobia in Vienna.

(7) *External Relations*

The conclusions touch upon three aspects of the external action of the Union: trade, relations with certain countries and groups of countries and control of arms exports.

The Council expresses satisfaction with the conclusion of the Information Technology Agreement and the World Trade Organization negotiations on the basic telecommunication services.

In the area of international relations the Council notes the progress in implementing the New Transatlantic Agenda and Joint EU-US Action Plan and recalls the contribution of the Marshall Plan of 1947 to European integration. The Council welcomes the conclusions of the Second Euro-Mediterranean Conference of April 1997 which established a partnership of interested countries to pursue common aims of peace, prosperity and stability in the area, and notes the progress towards the creation of a Euro-Mediterranean Free Trade Area as a key element of the partnership. In this context the Council notes with satisfaction the signing of a Euro-Mediterranean Interim Association with the Palestine Liberation Organization for the benefit of the Palestinian Authority of the West Bank and the Gaza strip and urges conclusion of appropriate agreements with Egypt, Lebanon, Jordan and Algeria.

Council notes the development of dialogue between the EU and the Russian Federation and welcomes especially the signing of the Founding Act on Mutual Relations, Co-operation and Security between NATO and the Russian Federation.

South Africa is welcomed to the fold. The signature in April 1997 of the Protocol governing South Africa's partial accession to the Lome Convention begins the process of co-operation which shall be pursued by the conclusion of agreements on trade and co-operation, fisheries and wine.

The Middle East process is covered in Annex II. The Council associates itself with the calls for lasting peace in the area made in Madrid in 1991 and Oslo in 1993, and reaffirmed in 1995 at the Euro-Mediterranean Conference in Barcelona. It appeals to Israel to recognize the right of the Palestinians to exercise self-determination, without excluding the option of an independent State and stresses its commitment to human rights, democracy and fostering of civil society in the Arab-Israel context.

The Council shows concern about the continuing turmoil in former Yugoslavia especially about the slow progress in the consolidation of Bosnia and Herzegovina as a single state in accordance with the Dayton Agreements and notes the support of the EU to the international action in this area.

Close to that trouble spot the EU reaffirms its support to Albania in her efforts to return to political and economic stability and to promote democracy.

The EU looks forward to establishing a constructive relationship with the new government of the Democratic Republic of Congo but reminds it to rebuild the country to secure the acceptance and assistance of the international community including the European Union. There must be respect for human rights as well as a genuine commitment to democracy

The Council note the transfer of Hong Kong to China and the forthcoming return of Macau to China in 1999 and expresses its hope in a peaceful transition on the basis of respect of democracy and human rights in these areas.

Looking ahead the Council expects to participate in the meeting of Heads of State and Government with Latin America, the Caribbean and Africa not later than the year 2000.

On the basis of common criteria agreed at the European Councils of June 1991 and June 1992 the Council recommends continuing efforts to achieve the control of arms exports within the framework of the Common Foreign and Security Policy.

## CONCLUSIONS

The Council's message on the occasion of the signing of the Amsterdam Treaty is a mixed record of achievements and expectations. Throughout the message rings the note of optimism which overlooks the shortcomings (e.g. progress of the

completion of the internal market, failures of the international initiatives in former Yugoslavia and Cyprus) and tends to fudge the difficulties in the scheduled time-table leading to the single currency. Issues involved in the enlargement of the Union eastwards are not mentioned beyond the statement that negotiations with the applicant states ought to commence in 1998. The implications for the institutional scheme are not considered. However the message is clear: the Union is on course for the further developments as envisaged in the Amsterdam Treaty.

## **THE FRUITS OF AMSTERDAM**

In view of the shortcomings of the Maastricht Treaty work began early on Maastricht II which was to perfect the imperfect structure of the European Union. The Maastricht Treaty provided for the convening in 1996 of an Intergovernmental Conference which has become the formal mechanism for revising the Treaties on which the Union is based. A systematic revision was undertaken according to the agenda of the Conference submitted to the European Council in Madrid in 1995 and carried through the subsequent Council's meeting in Turin (March 1996), Florence (June 1996) and Dublin (December 1996). The work was finalized in June 1997 and resulted in the Treaty of Amsterdam.

The main concern of the Council was to explain to the peoples of Europe the relevance of the Union at present and the challenge of the next millenium. Therefore the provisions of the Treaty are primarily addressed to the social issues facing the Union and the evolution of an effective external policy which should promote peace, stability and prosperity in the future. The specific provisions are comprised in the following six sections :

### **A. Freedom, Security and Justice**

This section consists of two chapters covering a number of amendments and insertions to the TEC (Treaty of European Community) and TEU (Treaty on European Union).

#### **1. Fundamental rights and non-discrimination**

The amended version of Art. F of the TEU provides that "the Union is founded on the principles of liberty, democracy, respect of human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States". It reiterates the respect for the principles of the European Human Rights Convention of

1950 as general principles of Community Law. The Union shall respect the national identities of its Member States, thus confirming that, for the time being, the Union remains an organization of states. However the Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

The preamble to the TEU confirms also the attachment of the Member States to fundamental social rights defined in the European Social Charter signed at Turin in 1961 and the 1989 Community Charter of the Fundamental Social Rights of Workers.

The new art. F.a. provides machinery for dealing with "serious and persistent" breaches by a Member State of the principles on which the Union is founded. In such a case the European Council shall consider a proposal either by one-third of the Member States or by the Commission and after obtaining the assent of the European Parliament expressed by a two-thirds majority of the votes cast, representing a majority of its members, shall, unanimously determine the existence of such a breach. Then, acting by a qualified majority in accordance with article 148 (2) of the TEC, without taking into account the vote of the representative of the State concerned, it may suspend "certain rights deriving from the application of this Treaty to the State in question, including the voting rights of that state in the Council". Nevertheless the obligations of the State concerned shall continue binding on it. The Council, acting by a qualified majority, presumably in the same manner as when determining the breach, may decide to vary or revoke measures imposed.

The procedure is patently different from the procedure provided for breaches of the TEC (arts. 169-171) and so is the sanction since suspension of Member States of the EC has not been envisaged. However the wording of art. F.a. is ambiguous as it is not clear whether the suspension of "certain rights deriving from this Treaty" includes the rights arising only from the provisions affecting the Union or also the provisions affecting the Community, bearing in mind that the Treaty affects both. It is also not clear which rights are to be suspended: political, financial, economic or social, or all of these in a selective manner. Moreover the efficacy of the sanction has been blunted by the provision that the Council has to "take into account the possible consequences of suspension on the rights and obligations on natural and legal person". Surely it is difficult to imagine sanctions imposed on the State which have no, even remote, impact upon the society.

Complementing Art. F. the Declaration to the Final Act of the Union adds respect for the status of churches and non-confessional organizations and recalls that the Protocol No. 6 to the European Convention of Human Rights provides for the abolition of the death penalty. So much for fundamental rights.

Turning to amendments of the TEC, art. 2 provides that the Community shall promote "a high level of employment and social protection, equality between men

and women, the raising of the standard of living and equality of life and economic and social cohesion and solidarity among Member States" How? - it remains to be seen. As if a declaration had been insufficient art. 3 has a supplement with a new paragraph which states that "all the activities referred to in this article, the Community shall aim to eliminate inequalities, and to promote equality between men and women".

Art. 6 of the TEC which, within the framework of the Treaty, prohibits discrimination on the ground of nationality has been extended to enjoin the Council acting unanimously on a proposal from the Commission and after consulting the European Parliament "to take appropriate action to combat discrimination based on sex, racial and ethnic origin, religion or belief, disability, age or sexual orientation". Declaration to the Final Act provides that, in drawing up measures under art. 100.a (harmonization of law aiming at the completion of the internal market) the Institutions of Community ought to take into account the needs of persons with a disability.

By virtue of the new art. 213.b. of the TEC further protection of individuals, this time with regard to the processing of personal data and the free use of it, shall apply, as from 1 January 1999, to the institutions and bodies set up by them. Presumably this will be achieved by Community legislation and the Council shall establish an independent supervisory body responsible for monitoring the application of Community acts to Community institutions. There is no corresponding responsibility of the national authorities.

## **2. Progressive establishment of an area of freedom, security and justice**

To achieve this objective the fourth indent of art. B of the TEU has been amended providing "to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, immigration, asylum and the prevention and combating of crime". In furtherance of these objectives the TEC has been endowed with a new title on "free movement of persons, asylum and immigration" comprising articles A to I and protocols X and Y applicable to the United Kingdom and Ireland, and Z applicable to Denmark. The Amsterdam Treaty has taken aboard the 1990 Schengen Convention on the abolition of checks at common borders between the Member States. The Treaty (art. A) envisages a five years programme of legislation to ensure the free movement of persons in accordance with art.7.a. of the TEC (in furtherance of the completion of the internal market) together with related measures with respect to external border controls, asylum and immigration as detailed in arts. B (2) and (3), C (1) (a) and (2) (a) as well as measures to prevent and combat crime in accordance with art. K (3) (c) of the TEU. In addition other measures in the field of asylum, immigration and safeguarding the rights of third



country nationals in accordance with art. C; measures in the field of judicial co-operation in civil matters as provided for in art. E; measures with regard to administrative co-operation as provided for in article F., and measures in the field of police in judicial co-operation in criminal matters aimed at a high level of security by preventing and combating crime within the Union, will have to be enacted.

However, with regard to the crossing of external borders the Member States may negotiate or conclude agreements with third countries as long as such agreement respect Community law and other relevant international arrangements.

By virtue of art. D. the obligations arising from the preceding articles shall not affect the exercise of the responsibilities of the Member States which they have with regard to the maintenance of law and order and the internal security in their own territory. In the event of an emergency caused by a sudden inflow of nationals from a third country the Council may, acting by qualified majority on a proposal from the Commission, adopt provisional measures lasting up to six months to enable the State concerned to cope with the emergency.

Art. E. provides that, in the field of judicial co-operation in civil matters having cross-border implications, as far as necessary for the proper functioning of the internal market, shall include :

- (a) improving and simplifying the system of cross-border service of judicial and extra-judicial documents, co-operation in the taking of evidence and the recognition and enforcement of decisions in civil and commercial cases;
- (b) promoting the compatibility of the rules concerning the conflict of laws and of jurisdiction; and
- (c) eliminating obstacles to the good functioning of civil proceedings.

However according to the Declaration to the Final Act the measures adopted in this context shall not prevent any Member State from applying its constitutional rules relating to freedom of the press and other media.

Council, acting in accordance with the procedure laid down in art. G. shall take measures to ensure co-operation between the administration of the Member States and the Commission in the area covered in the above provisions (art. F.). Article G. provides that during a transitional period of five years the Council shall act unanimously on a proposal from the Commission or on an initiative of a Member State and after consulting the European Parliament. After this period the Council shall act on proposals from the Commission and the Commission shall examine any request made by a Member State that it submit a proposal to the Council. Thereupon the Council, acting unanimously after consulting the E. P. shall take a decision to bring

these matters within the legislative procedure of art.189.b. and to adapt the jurisdiction of the Court of Justice accordingly.

Art. H. enlarges the jurisdiction of the Court of Justice under art. 177 of the TEC to include matters covered by this Title except as regards measures or decisions taken pursuant to art. B. (1) relating to the maintenance of law and order and the safeguarding of internal security.

However the Council, the Commission or a Member State may request the Court of Justice to give a ruling on a question of interpretation of this Title or of the acts of the institutions of the Community based thereon.

Since Ireland and the United Kingdom have failed to reservations, accept the Schengen Convention and Denmark accepted it subject reservations to/art. 1. purports to accommodate these countries in the provisions of Protocol X, Y and Z.

Protocol X enables Ireland and the United Kingdom to derogate from certain provisions of art.7.a. of the TEC governing the establishment of the internal market. Thus the United Kingdom is entitled to exercise at its frontiers with other Member States such controls on persons seeking to enter the country as it may consider necessary for the purpose :

- (a) of verifying the right to enter the United Kingdom of citizens of States which are parties to the Agreement on the European Economic Area and of their dependants exercising rights conferred by Community law, as well as citizens of other States; and
- (b) of determining whether or not to grant other persons permission to enter the United Kingdom.

Having regard to the existence of special travel arrangements between the U.K. and Ireland these two countries may continue to make arrangements between themselves relating to the movement of persons between their territories. As long as they maintain such arrangements the provisions of the Protocol shall apply to Ireland with the same terms and conditions as for the United Kingdom.

By the same token the other Member States shall be entitled to exercise at their frontiers or at any point of entry to their territory the same controls on persons seeking to enter their territory from the United Kingdom or from Ireland.

Protocol Y amends the voting rights in the Council in derogation from art. 148 (2) and 189.a. (1) consequent upon the provisions of Protocol X which excludes the United Kingdom and Ireland from the decision-making process in this area. Correspondingly the decisions of the Court of Justice interpreting the relevant provisions shall not be binding upon or applicable to the two countries. They may, however,

change their mind and by notification to the President of the Council, return to the fold.

The position of Denmark is defined in Protocol Z. It reflects the decision of the Edinburgh Council of 1992 which enabled Denmark to ratify the Treaty of Maastricht and which affects *inter alia* aspects of the Schengen agreements on defence policy and justice and home affairs. Specifically Denmark shall not be bound by measures determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the member States, or measures relating to a uniform format for visas. Denmark may, of course, decide to implement the whole of the Schengen agreements.

### **3. Provisions on police and judicial co-operation in criminal matters**

In Title VI of the TEU new articles have been inserted: Art. K. 1 states that the objectives of high level of safety of the citizen shall be achieved by preventing and combating crime, in particular, terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud.

The mechanism envisaged includes closer co-operation between public forces, customs authorities and other competent authorities in the Member States, both directly and through Europol; closer co-operation between judicial and other competent authorities; and approximation of criminal law. Details of the common action in the field of police co-operation are laid down in art. K. 2.

Common action on judicial co-operation in criminal matters shall include facilitating and accelerating co-operation between competent ministries and judicial or equivalent authorities of the Member States in relation to proceedings and the enforcement of decisions, facilitating extradition; ensuring compatibility of rules of co-operation; preventing conflicts of jurisdiction and adopting measures establishing minimum rules relating to the constituent elements of criminal acts and to penalties in the fields of organized crime, terrorism and drug trafficking (art. K. 3.).

Art. 4. provides that the Council shall lay down the conditions and limitations under which the competent authorities referred to in arts. K. 2. and K. 3. may operate in the territory of another Member State. However K. 5. replacing former art. K. 2, stipulates that the new provisions shall affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

Art. 6., which replaces former art. K. 3, details the procedure to be adopted by the Council for the implementation of its new responsibilities. Thus, acting unanimously on an initiative of any Member State or of the Commission it may adopt common positions defining the approach of the Union to a particular matter; adopt frame-

work decisions and establish conventions which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Where the Council is required to act by a qualified majority, the votes of the Member States shall be weighted in accordance with art. 148 (2) of the TEC, and for their adoption, acts of the Council shall require at least 62 votes in favour, cast by at least 10 members. For procedural questions, the Council shall act by a majority of its members.

New art. K. 7. provides that the Court of Justice shall have jurisdiction to give preliminary rulings on the validity and interpretation of framework decisions and decisions as well as of the conventions and the measures implementing them. It also shall have jurisdiction to review the legality of framework decisions and decisions in actions brought by a Member State or the Commission on grounds laid down in art. 173 (1) of the TEC. Moreover the Court of Justice shall have jurisdiction to rule on any dispute between Member States regarding the interpretation or the application of acts adopted under art. 6 wherever such dispute cannot be settled by the Council and to rule on any dispute between Member States and the Commission regarding the interpretation or the application of conventions established under art. K. 6.

Art. K. 8, replacing former art. K. 4, provides for the setting up of a Coordinating Committee consisting of senior officials which, in addition, shall give opinions and contribute to the preparation of the Council's discussions in the areas referred to in art. K. 1.

Art. K. 9. repeats the former art. K. 5. that within international organizations and at international conferences the Member States shall defend the common position adopted by the Council.

New art. K. 10 provides that agreements referred to in art. J. 14 (i.e. in the field of common foreign and security policy) may cover matters falling under this Title.

Art. K. 11 (formerly art. K. 6.) regulates the position of the European Parliament in this area providing for consultations and informing the European Parliament of discussions within the Council. The European Parliament may ask questions of the Council and make recommendation to it.

Art. K. 12, which replaced former art. K. 7, encourages the Member States to establish closer relations between themselves subject to authorization by the Council acting by a qualified majority at the request of the countries concerned and after inviting the Commission to present its opinion. If a member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the granting of an authorization by qualified majority, a vote shall not be taken. However the Council may, acting by a qualified majority request that the matter be referred to the European Council for decision by unanimity.

“Closer co-operation” reappears in section V of the Treaty as an object of “flexibility” but without prejudice to the provisions of the Protocol integrating achievements of the Schengen Convention into the framework of the Union.

## **B. The Union and the Citizen**

### **1. Employment**

The amended art. B. of the TEU which enumerates the aims of the Union include the promotion of economic and social progress and to achieve balanced and sustainable development and a high level of employment. Corresponding amendment of art. 2 of the TEC reflects the same sentiments adding “sustainable and non-inflationary growth respecting the environment, a high degree of competitiveness and convergence of economic performance”. Additional indent before (i) complements art. 3 of the TEC listing “the promotion of co-ordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a co-ordinated strategy for employment”. A new Title on Employment inserted after Title VI of the TEC implements the above-mentioned general principles. In this context “the Community shall contribute to a high level of employment by encouraging co-operation between Member States and by supporting and, if necessary, complementing their action” whilst respecting the competences of the Member States. Moreover the objective of a high level of employment shall be taken into consideration in the formulation and implementation of Community policies and activities.

On the instigation of the European Council, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee to be created with advisory status, shall each year draw up guidelines which the Member States shall take into account in their employment policies.

The Council, acting in accordance with the procedure referred to in art.189.b. of the TEC may adopt incentive measures to encourage co-operation between Member States and support their action through initiatives aimed at developing exchanges of information and best practices. However these measures shall not imply harmonization of national legislation.

### **2. Social Policy**

Protocol no. 14 on social policy annexed to the TEC and the Agreement on social policy attached thereto are repealed and replaced by the following provisions :

Art. 117 of the TEC embodies the Social Agreement on the basis of the European Charter of Turin (1961) and the 1989 Community Charter of the Fundamental Social Rights of Workers which entails *inter alia* improving living and working conditions, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations and the need of maintaining the competitiveness of the Community economy.

With a view to achieving the objectives of art. 117, the Community shall support and complement the activities of the Member States in the following fields :

- improvement of the working environment to protect workers' health and safety;
- working conditions;
- the information and consultation of workers;
- the integration of persons excluded from the labour market;
- equality between men and women with regard to labour market opportunities and treatment at work.

To this end the Council may adopt, by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in Member States.

The Council shall unanimously on a proposal from the Commission, and after consulting the European Parliament and the Economic and Social Committee, take measures in the following areas :

- social security and social protection of workers;
- protection of workers where their employment contract is terminated;
- representation and collective defence of workers and employers including co-determination though these provisions shall not apply to pay, the right of association, the right to strike and the right to impose lock-outs;
- conditions of employment for third-country nationals legally residing in Community territory;
- financial contributions for promotion of employment and job-creation.

Art. 118 (a) entrusts the Commission with the task of promoting the consultation of management and labour at Community level and taking any relevant measures to facilitate this dialogue.

Art. 118 (b) provides that, should management and labour so desire, the dialogue between them at Community level may lead to contractual relations, including agreements. Such agreements shall be implemented either in accordance with the procedures and practices specific to management and labour in the Member States or, in matters covered by art. 118, at the joint request of the signatory parties by a Council decision on a proposal from the Commission.

Art. 118 (c) repeats the Commission's task of encouraging co-operation between the Member States in the co-ordination of their action in all social policy fields.

Art. 119 is re-drafted in the light of art. 6 of the Social Agreement. It reiterates the principle of equal pay for equal work without discrimination based on sex. The Council, acting in accordance with the procedure referred to in art. 189 (b) shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Art. 119.a. reiterates the provision of former art. 120 with regard to paid holiday schemes.

Art. 120 provides for the drawing up by the Commission of a yearly report on progress in achieving the objectives of art. 117.

### 3. Environment

Amendments of Treaties in this area begin the seventh indent of the Preamble to the TEU in which the parties declare that they are "determined to promote economic and social progress of their peoples, taking into account the principle of sustainable development and within the context of the accomplishment of the internal market".

According to the amended art. B of the TEU the Union sets itself *inter alia*, the objective to promote economic and social progress and to achieve balanced and sustainable development..."

The amended art. 2. of the TEC, among the tasks listed therein, include "... a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States..." The new art. 3 (d) of the TEC provides that "environmental protection requirements must be integrated into the definition and imple-

mentation of Community policies and activities referred to in article 3, in particular with a view to promoting sustainable development.”

Paragraphs 3 to 5 of art. 100 (a) of the TEC, which are concerned with the harmonization of national legislation relevant to the establishment of the internal market, are replaced by the following provisions :

- The Commission, in its proposals concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts.
- If after the adoption by the Council or by the Commission of a harmonization measure, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in art. 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.
- Moreover, if after the adoption of the harmonization measures, as aforesaid, a Member State deems it necessary to introduce national provisions based on new scientific evidence it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.
- The Commission shall, within six months of the notification approve or reject the national measures involved after having verified that they are not a means of arbitrary discrimination or a disguised restriction on trade between Member States and that they shall not constitute an obstacle to the functioning of internal markets.
- When a Member State raises a specific problem on public health in a field which has been subject of prior harmonization measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures to the Council.
- The harmonization measures shall, in appropriate cases, include a safeguard clause authorizing the Member States to take, for one or more of the non-economic reasons referred to in art. 36, provisional measures subject to a Community control procedure.
- By way of derogation from the regular enforcement procedure, the Commission and any Member State may bring its complaint directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in this article.



#### **4. Public Health**

The amended version of art. 129 of the TEC reiterates the concern for human health protection which "shall be ensured in the definition and implementation of all Community policies and activities". The Community shall not only "encourage co-operation between the Member States in this area but also "with third countries and the competent international organization".

#### **5. Consumer Protection**

The amended version of art. 129.a. reiterates the objectives of Community policy in this area and specifically states that "consumer protection requirements shall be taken into account in defining and implementing other Community policies and activities". The Community shall, in particular, contribute to the attainment of the Treaty objectives through measures which support, supplement and monitor the policies pursued by the Member States.

#### **6. Other Community Policies**

Amending art. 8 of the TEC on the citizenship of the Union the Treaty makes it clear that "Citizenship of the Union shall complement and not replace national citizenship". It adds a new paragraph to art. 8. assuring every citizen of the Union that he may write to the institutions of the Community in one of the twelve official languages and have an answer in the same language.

#### **7. Culture**

The verbal amendment of art. 128 (4) of the TEC provides that "the Community shall take cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures".

#### **8. Countering fraud affecting the financial interests of the Community**

The amended version of art. 209.a. invites the Community and the Member States to jointly counter fraud and any other illegal activities affecting the financial interests of the Community through appropriate measures which shall act as a deterrent and afford effective protection in the Member States. These measures shall be adopted by the Council but they will not concern the application of national criminal law and the national administration of justice. If that is the case it is difficult to see how this provision will be put into action without engaging national repressive machinery.

### **9. Strengthening customs co-operation**

A new article provides that the Council, acting in accordance with the procedure referred to in art. 189 (b) shall take measures to strengthen customs co-operation between Member States and between the latter and the Commission. Here again there is that puzzling provision that the application of national criminal law and the national administration of justice shall not be concerned.

### **10. Outermost regions**

The territory of the Community, by virtue of the amended art. 227, includes now the French overseas departments, the Azores, Madeira and the Canary Islands. The object of this provision is to extend the economic benefits of the Community to these areas.

### **11. Island regions**

In view of the fact that island regions suffer from structural handicaps linked with their island status the amended art. 130.a. purports to redress the balance by providing that the Community shall aim at reducing disparities between the levels of development of the various regions including islands and rural areas and the rest of the Community.

### **12. Services of general economic interest**

New art. 7.d. complements the provisions regarding internal market by emphasizing the value of services of general economic interest in promoting social and territorial cohesion of the Community.

### **13. Subsidiarity**

Much has been said and written about the principle of subsidiarity enshrined in art. 3.b. of the Maastricht Treaty. The Amsterdam Treaty adds a protocol on its application. Accordingly each institution shall ensure that the principle of subsidiarity is complied with so that the Community shall not go beyond what is necessary to achieve the objectives of the Treaty. Community action is to be justified if the proposed action cannot be sufficiently achieved by Member States' action in the framework of their national constitutional system and can therefore be better achieved by the Community, Community measures should leave as much scope for national decision as possible, consistent with securing the aim of the measure and observing the requirements of the Treaty. In the course of legislative procedures the European

Parliament shall be informed of the Council's position on the application of the principle of subsidiarity by way of a statement of the reasons which led the Council to adopt its common position. The Council shall inform the European Parliament of the reasons why the Commission proposal is deemed to be inconsistent with art. 3.b. of the Treaty.

#### **14. Transparency**

The second paragraph of Art. A of the TEU has been amended to read: "This Treaty marks a new stage in the process of creating an ever closer Union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen".

Correspondingly the new art. 191.a on the TEC provides that any citizen of the Union, any natural or legal person residing or having its registered office in a Member State shall have a right of access to the European Parliament, Council and Commission documents. The Council shall legislate to implement this provision.

#### **C. An Effective and Coherent External Policy**

##### **1. The Common Foreign and Security Policy**

Title V of the Amsterdam Treaty strikes one as a verbose and repetitive reformulation of the so-called second pillar of the Maastricht Treaty. The new art. J.1. provides that "the Union shall define and implement a common foreign and security policy promoting certain objectives which include the safeguarding of common values, fundamental interests, independence and integrity of the Union; security of the Union, peace and international security, the promotion of international co-operation and the development and consolidation of democracy, the rule of law and respect for human rights and fundamental freedoms. The Member States shall support actively the Union's external and security policy and shall work together to enhance and develop their mutual political solidarity.

The amended art. J.2. states the means of achieving these objectives while art. J.3. defines the relevant implementing machinery. Thus the European Council shall define the principles and general guidance for the common foreign and security policy whilst the Council shall take the implementing decisions. The Council shall also recommend common strategies to the European Council and shall implement them by adopting joint actions and common positions. According to amended art. J.4. joint actions shall address specific situations where operational action appears to be required. Joint actions shall commit the Member States in the position they adopt and

in the conduct of their activity. Should there be any major difficulties in implementing a joint action, a Member State shall refer them to the Council which shall seek appropriate solutions. Such solutions shall not contradict the objectives of the joint action or impair its effectiveness. There is no answer to the problem arising from the fact that a Member State may consider it impossible to overcome the difficulties it is facing. Presumably such a Member may abstain or break the ranks of "mutual political solidarity" to which it is committed.

Art. J.5., in place of former art. 2 (8) provides that common positions shall define the approach of the Union to a particular matter. The Member States shall ensure conformity of their national policies to the common position.

Art. J.7. (formerly art. J.4.) links together the common foreign policy and security reiterating the role of NATO in the defence of the Union and the perspective of the development of independent defence policy based on the West European Union (W.E.U.) The Protocol on art. J.7 opens up the prospect of enhanced co-operation between the E.U. and the W.E.U.

Art. J.8. (replacing art. J.5.) describes the role of the Presidency of the Council of the European Union (formerly the Council of Ministers) in the definition and implementation of the common foreign and defence policy. The Presidency represents the Union in these matters and is responsible for implementation of common measures and, in that capacity, shall express the position of the Union in international organizations and international conferences.

The Presidency is assisted by the Secretary-General of the Council who shall exercise the function of High Representative for the common foreign and security policy. More specifically, the High Representative "shall contribute to the formation, preparation and implementation of policy decisions, and, when appropriate and acting on behalf of the Council at the request of the Presidency, through conducting dialogue with the parties (art. J.16). This is an important innovation since the Secretary-General is a permanent official of the Council whilst the Presidency changes every six months. In this way the Council shall rely on the expertise of the Secretary-General in securing consistency and continuity of the policy of the Union. Continuity will also be improved by the assistance of the next Member State to hold the Presidency, presumably by the invitation of the current President. At the Union level the Commission shall be "fully associated with the tasks of the Presidency" though neither Amsterdam Treaty nor its predecessor, Maastricht Treaty, which contain identical provision, elaborate on the role of the Commission in this respect.

Under art. J.9 (formerly art. J.2 (3) and art. J.5 (4) ) the Member States shall co-ordinate their action in international organizations and at international conferences, shall inform each other and those which are permanent members

of the Security Council of the United Nations Organization, shall ensure the defence of the positions and the interests of the Union.

Art. J.10 (formerly J.6.) provides for co-operation and exchange of information between diplomatic and consular missions of the Member States and the Commission Delegations in third countries and at international conferences so that the common positions and common measures adopted by the Council are complied with and implemented.

The Presidency consults the European Parliament on the main aspects and basic choices of the common foreign and security policy. The European Parliament may ask questions of the Council, debate the issues and make recommendations to the Council (art. J.11 (formerly art. J.7) ).

Any Member State or the Commission may refer to the Council any questions and may submit proposals in this area (art. J.12 (formerly art. J.8 (3) and (4) ). In cases requiring a rapid decision, the Presidency, of its own motion, or at the request of the Commission or a Member State, shall convene an extraordinary meeting of the Council.

By virtue of art. J. 13 decisions under this Title shall be taken by the Council acting unanimously but the Council shall act by qualified majority when adopting joint actions, common positions or taking any decision on the basis of a common strategy and also when adopting any decision implementing a joint action or a common position. If a Member of the Council declares that, for important and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. The Council, acting by a qualified majority, may request that the matter be referred to the European Council for decision.

In procedural questions the Council shall act by a majority of its members.

To conclude an agreement with one or more States or international organizations in the field of external policy or defence the Council, acting unanimously, may authorize the Presidency, assisted by the Commission, as appropriate, to open negotiations (art. J.14). The resulting agreement shall be concluded by the Council acting unanimously on a recommendation from the Presidency. It shall not be binding on a Member State whose representative in Council states that it is subject to ratification but the other Member State may agree that it will apply provisionally to them.

Art. J.18 (formerly art. J.11) and the Inter-Institutional Agreement between the European Parliament, the Council and the Commission regulate the financial provisions regarding the expenditure on the implementation of the Common Foreign and Security Policy.

## **2. External Economic Relations**

Art. 113 of the TEC concerning the Common Commercial Policy has been extended to include international negotiations and agreements on services and intellectual property.

Art. 228 (2) of the TEC concerning the conclusion of international agreements has been amended to provide that, in principle, these agreements are concluded by the Council acting by a qualified majority, except those for which art. 228 require a unanimous decision, for example, association agreements or agreements whose implementation into internal rules requires unanimity.

## **D. The Union's Institutions**

The Protocol concerning the institutions in the event of further enlargement of the Union lays down ground rules affecting the composition of the Commission and the weighting of the votes in the Council. If the membership of the Union exceeds twenty a conference of representatives of the governments of Member States shall be convened in order to carry out a comprehensive review of the Treaties on the composition and functioning of the institution. Thus the problem of institutional reform has been shelved for the time being.

### **1. European Parliament**

#### **(a) Legislative Procedure**

New provisions affect the legislative procedure as follows :

##### **(i) Assent procedure**

This procedure applies to the imposition of sanctions in the event of a serious and persistent breach of fundamental rights by a Member State (art. F.a.); accession of new members (art. 0), structural funds (art. 130.d.), proposals by the European Parliament for a uniform electoral procedure [art. 138 (3)] and the conclusion of certain international agreements [art. 228 (3)].

##### **(ii) Co-decision procedure**

The co-decision procedure applies to new and old provisions of the Treaty. The new provisions include: employment incentive measures (art. 5), equal opportunities and treatment according to social policy (art. 119), public health (art. 129), general

principles for transparency (art. 191.a.), combatting fraud affecting the financial interests of the Community (art. 209.a.), statistics (art. 213.a.), advisory authority on data protection (art. 213.b.) and customs co-operation (a new article).

Existing Treaty provisions subject to co-decision procedure include: rules to prohibit discrimination on the ground of nationality (art. 6.), the exercise of citizens' right to move and reside freely within the territory of the Member States (art. 8.a.(2) ), rules on social security for Community migrant workers (art. 51), right of establishment (art. 56 (2) ), economic activities of self-employed persons (art. 57 (2) ), transport policy (art. 75 (1) ), sea and air transport (art. 84), transposition of the agreement on social policy (art. 2 (2) ), European Social Fund (art. 125), vocational training (art. 127 (4) ), trans-european network (art. 129.d (3) ), Regional Development Fund (art. 130.e), research policy (art. 130.0 (2), environment policy (art. 130.s (1) ) and development co-operation (art. 130.w).

The amended art. 189.b. of the TEC purports to simplify the complex co-decision procedure though it retains its bizarre features.

### **(b) Organization and composition of the European Parliament**

The amended art. 137 of the TEC provides that the number of members of the European parliament shall not exceed 700 and in the event of amendment of art. 138 (e) the number of representatives elected in each Member State must ensure appropriate representation of the peoples of the States. The European Parliament is charged with drawing up a proposal for elections by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States (art. 138 (3) of the TEC). Then, the European Parliament shall, after seeking an opinion from the Commission and with the approval of the Council acting by unanimity, lay down the regulations and general conditions governing the performance of the duties of its members (art. 138 (4) of the TEC).

## **2. The Council**

The Council shall take its decisions by qualified majority in accordance with the following new provisions: employment guidelines (art. 4, new Title on Employment), incentive measures (art. 5, new Title on Employment), social exclusion [art. 118 (2)], equality of opportunity and treatment of men and women [art. 119 (3)], public health [art. 129 (4)], transparency (art. 191.a), countering fraud (art. 209.a), statistics (art. 213.a), advisory authority on data protection (art. 213.b), outermost regions [art. 227 (2)] and customs co-operation (new article).

Existing Treaty provisions subject to the principle of qualified majority include: compensatory aids for imports of raw materials [art. 45 (3)], right of establishment of

foreign nationals (art. 56 (2) ), research programmes (art. 130.i. (1) ), adaptation of research programmes (art. 130.i. (2) ) and setting up joint undertakings in research and technical development programmes (art. 130.a.).

Amended art. 151 of the TEC concerns the organization of the Committee of Permanent Representatives of the Member States (so-called COREPER) especially strengthening its Secretariat which will be organized by the Council according to the rules of procedure laid down by the Council.

### **3. The Commission**

Amended art. 158 (2) of the TEC provides that the governments of the Member States shall nominate by common accord the person they intend to appoint as President of the Commission and that his nomination shall be approved by the European Parliament. Thereupon the governments shall by common accord with the nominee for President, nominate the other members of the Commission. New sub-paragraph of art. 163 of the TEC provides that the Commission shall work under political guidance of its President.

According to the Declaration attached to the Final Act the Commission shall be reorganized in time for the appointment of a new Commission in 2,000.

### **4. The Court of Justice**

The jurisdiction of the Court of Justice remains unchanged except for the relevant amendments of arts 7 and 12 of the TEU with regard to foreign policy, art. F (2) with regard to action of the institutions and arts. L to S with regard to the operation of the founding Treaties and the admission of new members of the Union as outlined above.

### **5. Other Institutional Issues**

#### **(a) Court of Auditors**

Amended art. E of the TEU includes the Court of Auditors among the principal institutions exercising their powers in accordance with the founding Treaties and their subsequent amendments. Art. 173 (3) of the TEC enables the Court of Auditors, together with the European Parliament and the European Central Bank, to bring actions before the Court of Justice for the purpose of protecting their prerogatives.

Amended art. 188 of the TEC concerns the examination of the accounts and reports to the European Parliament and the Council which shall be published in the Official Journal, whilst art. 206 (1) of the TEC concerns the discharge of the Commis-



sion in respect of the implementation of the Budget. This discharge will be granted by the European Parliament acting on a recommendation from the Council acting by a qualified majority.

### **(b) Economic and Social Committee**

The Economic and Social Committee shall be consulted in the following new provisions to be included in the TEC: guidance and incentive measures for employment (arts. 4 and 5), legislation on social matters [art. 118 (2) and (3)], application of the principle of equal opportunities and equal treatment [art. 119 (3)], and public health [art. 129 (4)].

### **(c) Committee of the Regions**

Amended art. 198.a. of the TEC concerns the composition of the Committee and provides that membership of the European Parliament shall be incompatible with the membership of the Committee. The Committee shall adopt its own rules of procedure (art. 198.b of the TEC). It shall be consulted by the Council or by the Commission where the Treaty so provides and also in all other cases, in particular those which concern cross-border co-operation, in which one of these two institutions considers it appropriate (art. 198.c. of the TEC). It may be consulted by the European Parliament (art. 198.c. of the TEC).

It will be consulted in the following matters: employment guidance and incentives (arts 4 and 5), legislation on social matters [art. 118 (2) and (3)], public health [art. 129 (4)], environment [art. 130.s (1) (2) (3)], social fund (art. 125), vocational training [art. 127 (4)], and transport (art. 75).

### **(d) Financial provisions**

Amended art. 205 of the TEC provides that the Commission shall implement the budget in accordance with the provisions made pursuant to art. 209, on its own responsibility and within the limits of the appropriations having regard to the principles of sound financial management. Member States shall co-operate with the Commission to ensure that the budget appropriations are used in accordance with the principles of sound financial management.

### **(e) Seats of Institutions**

The Protocol annexed to the Treaty determines the location of the institutions as follows :

(a) The European Parliament shall, as hitherto, remain a travelling circus having its seat in Strasbourg where it shall hold 12 plenary sessions, including the budget session. Additional plenary sessions shall be held in Brussels. Its committees shall meet in Brussels and the General Secretariat and its departments shall remain in Luxembourg.

(b) The Council shall have its seat in Brussels but, during the months of April, June and October, shall meet in Luxembourg.

(c) The Commission shall have its seat in Brussels, but the departments listed in arts. 7, 8 and 9 of the Decision of 8 April 1965 shall be established in Luxembourg.

(d) The Court of Justice and the Court of First Instance shall remain in Luxembourg.

(e) The Court of Auditors shall have its seat in Luxembourg.

(f) The Economic and Social Committee in Brussels, and so also.

(g) The Committee of the Regions.

(h) The European Investment Bank shall remain in Luxembourg.

(i) The European Monetary Institute and the European Central Bank shall have their seats in Frankfurt, and

(j) The European Police Office in the Hague.

#### **(f) The Role of National Parliaments**

The Draft Protocol on the role of National Parliaments encouraging greater involvement in the activities of the Union provides that all Commission consultation documents shall be forwarded to national parliaments of the Member States and Commission proposals for legislation, as defined by the Council, shall be made available in good time so that the governments may ensure that the national parliaments receive them as appropriate.

The Conference of European Affairs Committee (COSAC), established in November 1989 in Paris, may examine any legislative proposals or initiative in relation to the establishment of an area of freedom, security and justice which may have a direct bearing on the rights and freedom of individuals. The European Parliament, the Council and the Commission shall be informed of any contribution made by COSAC but these contributions shall not bind national parliaments or prejudice their position.

### **E. Closer co-operation - "Flexibility".**

A new title, inserted in the Common Provisions of the TEU, contains general clauses enabling Member States, which intend to establish closer co-operation between themselves, to make use of the institutions, procedure and mechanisms laid down by the Treaties. This co-operation should aim at furthering the objectives of the Union and at protecting and serving its interests. It should be used as a last resort, where the objectives of the Treaties could not be attained by applying the relevant procedures laid down in the Treaties. It shall not affect the "*acquis communautaire*" and the measures adopted under the other provisions of the Treaties or the competences, rights and obligations and interests of those Member States which do not participate in this process. The Member States shall apply, as far as they are concerned, the acts and decisions adopted for the implementation of the co-operation in which they participate. Those which do not participate in such co-operation shall not impede the implementation by the participating Member States.

These provisions amplify the solidarity principle of art. 5 of the TEC but at the same time set the stage for a division within the Union into two classes of Member States: those which participate in the process of integration at the level of the Treaty obligations and those which forge ahead forming a close-knit elite of forerunners of European federation.

### **F. Simplification and Consolidation of the Treaties.**

The Treaty of Amsterdam sets out to simplify and consolidate the relevant Treaties, including the Treaty on European Union. This is a technical work which shall be made public "for illustrative purposes under the responsibility of the Secretary-General of the Council / and / shall have no legal value" (Declaration to the Final Act).

The general impression of the Treaty of Amsterdam is that it is as unwieldy as its predecessor the Treaty of Maastricht. It is verbose and repetitive - a far cry from the ideal of a constitution for the Union which, in law and fact, it is. A constitution ought to be brief, concise, clear and intelligible, so that an average citizen can read and comprehend it with ease.

**ANNEX I****TABLES OF EQUIVALANCES REFERRED TO IN FOOTNOTE “\*”****Consolidated Version  
TREATY ON EU****DRAFT TREATY OF AMSTERDAM*****Title I- Common Provisions***

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Article 3	Article C (Chapter 12- Common Foreign and Security Policy)
Article 5	Article E (Chapter 18- Other Institutional Issues)
Article 6	Article F (Chapter 1- Fundamental Rights and Non-Discr.)
Article 7	Article Fa (Chapter 1- Fundamental Rights and Non-Discr.)

***Title V- Provisions on a Common  
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Article 13	Article J.3 (Chapter 12- .....)
Article 14	Article J.4 (Chapter 12- .....)
Article 15	Article J.5 (Chapter 12- .....)
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Article 20	Article J.10 (Chapter 12- .....)
Article 21	Article J.11 (Chapter 12- .....)
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Article 23	Article J.13 (Chapter 12- .....)
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Article K.10 (Chapter 2- .....)

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Cooperation & Flexibility,  
A- General Clauses to be  
inserted as a new title in  
the common provisions of  
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Article L (Chapter 17- The Court of  
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Article 12	Article 6	(Chapter 14- The European Parliament)
Article 13	New Article 6a	(Chapter 1- Fundamental Rights and Non-Discrimination)
Article 16	New Article 7d	(Chapter 8- Other Community Policies Services of General Economic Interest)

**Part Two- Citizenship of the Union**

Article 17	Article 8	(Chapter 8- Other Community Policies-Citizenship of the Union)
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Persons, Services and Capital***

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Article B (Chapter 2- .....)  
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**DRAFT TREATY OF AMSTERDAM**

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Article 265

Article 198b (Chapter 18- .....)  
Article 198c (Chapter 18- .....)

***Title II- Financial Provisions***

Article 274

Article 205 (Chapter 18- Other  
Institutional Issues –  
Financial Provisions)

Article 276

Article 206 (Chapter 18- Other  
Institutional Issues –  
Financial Provisions)

Article 280

Article 209a (Chapter 8- Other  
Community Policies –  
Countering Fraud  
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**Part Six- General and  
Final Provisions**

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Article 286

New Article 213b (Chapter 1-  
Fundamental Rights  
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Article 299

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Fundamental Rights  
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## ANNEX II

TABLES OF EQUIVALENCES REFERRED TO IN ARTICLE 12 OF THE  
TREATY OF AMSTERDAM

## A. Treaty on European Union

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Article F	Article 6	Article K.6	Article 34
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		Article K.8	Article 36
TITLE II	TITLE II	Article K.9	Article 37
Article G	Article 8	Article K.10	Article 38
		Article K.11	Article 39
TITLE III	TITLE III	Article K.12	Article 40
Article H	Article 9	Article K.13	Article 41
		Article K.14	Article 42
TITLE IV	TITLE IV		
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		Article K.15 (*)	Article 43
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Article J.2	Article 12		
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(\*) New Article introduced by the Treaty of Amsterdam.

(\*\*) New Title introduced by the Treaty of Amsterdam.

(\*\*\*) Title restructured by the Treaty of Amsterdam.

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PART ONE		PART ONE	
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Article 2	Article 2	Article 16 (repealed)	—
Article 3	Article 3	Article 17 (repealed)	—
Article 3a	Article 4		
Article 3b	Article 5	Section 2 (deleted)	—
Article 3c (*)	Article 6		
Article 4	Article 7	Article 18 (repealed)	—
Article 4a	Article 8	Article 19 (repealed)	—
Article 4b	Article 9	Article 20 (repealed)	—
Article 5	Article 10	Article 21 (repealed)	—
Article 5a (*)	Article 11	Article 22 (repealed)	—
Article 6	Article 12	Article 23 (repealed)	—
Article 6a (*)	Article 13	Article 24 (repealed)	—
Article 7 (repealed)	—	Article 25 (repealed)	—
Article 7a	Article 14	Article 26 (repealed)	—
Article 7b (repealed)	—	Article 27 (repealed)	—
Article 7c	Article 15	Article 28	Article 26
Article 7d (*)	Article 16	Article 29	Article 27
PART TWO		PART TWO	
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Article 8a	Article 18		
Article 8b	Article 19		
Article 8c	Article 20		
Article 8d	Article 21		
Article 8e	Article 22		
PART THREE		CHAPTER 2	
TITLE I		CHAPTER 2	
Article 9	Article 23	Article 30	Article 28
Article 10	Article 24	Article 31 (repealed)	—
Article 11 (repealed)	—	Article 32 (repealed)	—
		Article 33 (repealed)	—
CHAPTER I		Article 34	Article 29
Section 1 (deleted)	—	Article 35 (repealed)	—
Article 12	Article 25	Article 36	Article 30
Article 13 (repealed)	—	Article 37	Article 31
Article 14 (repealed)	—		

(\*) New Article introduced by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
TITLE II	TITLE II	Article 69 (repealed)	—
Article 38	Article 32	Article 70 (repealed)	—
Article 39	Article 33	Article 71 (repealed)	—
Article 40	Article 34	Article 72 (repealed)	—
Article 41	Article 35	Article 73 (repealed)	—
Article 42	Article 36	Article 73a (repealed)	—
Article 43	Article 37	Article 73b	Article 56
Article 44 (repealed)	—	Article 73c	Article 57
Article 45 (repealed)	—	Article 73d	Article 58
Article 46	Article 38	Article 73e (repealed)	—
Article 47 (repealed)	—	Article 73f	Article 59
TITLE III	TITLE III	Article 73g	Article 60
CHAPTER 1	CHAPTER 1	Article 73h (repealed)	—
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Article 49	Article 40	Article 73i (*)	Article 61
Article 50	Article 41	Article 73j (*)	Article 62
Article 51	Article 42	Article 73k (*)	Article 63
CHAPTER 2	CHAPTER 2	Article 73l (*)	Article 64
Article 52	Article 43	Article 73m (*)	Article 65
article 53 (repealed)	—	Article 73n (*)	Article 66
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Article 55	Article 45	Article 73p (*)	Article 68
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Article 57	Article 47	TITLE IV	TITLE V
Article 58	Article 48	Article 74	Article 70
CHAPTER 3	CHAPTER 3	Article 75	Article 71
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CHAPTER 4	CHAPTER 4	Article 84	Article 80
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(\*) New Article introduced by the Treaty of Amsterdam.

(\*\*) New Title introduced by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
TITLE V CHAPTER 1 SECTION 1 Article 85 Article 86 Article 87 Article 88 Article 89 Article 90 Section 2 (deleted) Article 91 (repealed)	TITLE VI CHAPTER 1 SECTION 1 Article 81 Article 82 Article 83 Article 84 Article 85 Article 86 — —	Article 104 Article 104a Article 104b Article 104c	Article 101 Article 102 Article 103 Article 104
SECTION 3 Article 92 Article 93 Article 94	SECTION 2 Article 87 Article 88 Article 89	CHAPTER 2 Article 105 Article 105a Article 106 Article 107 Article 108 Article 108a Article 109	CHAPTER 2 Article 105 Article 106 Article 107 Article 108 Article 109 Article 110 Article 111
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CHAPTER 3 Article 100 Article 100a Article 100b (repealed) Article 100c (repealed) Article 100d (repealed) Article 101 Article 102	CHAPTER 3 Article 94 Article 95 — — — Article 96 Article 97	CHAPTER 4 Article 109e Article 109f Article 109g Article 109h Article 109i Article 109j Article 109k Article 109l Article 109m	CHAPTER 4 Article 116 Article 117 Article 118 Article 119 Article 120 Article 121 Article 122 Article 123 Article 124
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		TITLE VII Article 110 Article 111 (repealed) Article 112 Article 113	TITLE IX Article 131 — Article 132 Article 133

(\*) New Article introduced by the Treaty of Amsterdam.

(\*\*) New Title introduced by the Treaty of Amsterdam.



Previous numbering	New numbering
Article 114 (repealed) Article 115	— Article 134
TITLE VIIa (**) Article 116 (*)	TITLE X Article 135
TITLE VIII CHAPTER 1 (***) Article 117 Article 118 Article 118a Article 118b Article 118c Article 119 Article 119a Article 120 Article 121 Article 122	TITLE XI CHAPTER 1 Article 136 Article 137 Article 138 Article 139 Article 140 Article 141 Article 142 Article 143 Article 144 Article 145
CHAPTER 2 Article 123 Article 124 Article 125	CHAPTER 2 Article 146 Article 147 Article 148
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TITLE XI Article 129a	TITLE XIV Article 153
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TITLE XIV Article 130a Article 130b Article 130c Article 130d Article 130e	TITLE XVII Article 158 Article 159 Article 160 Article 161 Article 162
TITLE XV Article 130f Article 130g Article 130h Article 130i Article 130j Article 130k Article 130l Article 130m Article 130n Article 130o Article 130p Article 130q (repealed)	TITLE XVIII Article 163 Article 164 Article 165 Article 166 Article 167 Article 168 Article 169 Article 170 Article 171 Article 172 Article 173
TITLE XVI Article 130r Article 130s Article 130t	TITLE XIX Article 174 Article 175 Article 176
TITLE XVII Article 130u Article 130v Article 130w Article 130x Article 130y	TITLE XX Article 177 Article 178 Article 179 Article 180 Article 181
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(\*) New Article introduced by the Treaty of Amsterdam.

(\*\*) New Title introduced by the Treaty of Amsterdam.

(\*\*\*) Chapter 1 restructured by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
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CHAPTER 1	CHAPTER 1	Article 168	Article 224
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Article 138b	Article 192	Article 172	Article 229
Article 138c	Article 193	Article 173	Article 230
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Article 138e	Article 195	Article 175	Article 232
Article 139	Article 196	Article 176	Article 233
Article 140	Article 197	Article 177	Article 234
Article 141	Article 198	Article 178	Article 235
Article 142	Article 199	Article 179	Article 236
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Article 144	Article 201	Article 181	Article 238
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		Article 183	Article 240
		Article 184	Article 241
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		Article 187	Article 244
		Article 188	Article 245
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Article 150	Article 206		
Article 151	Article 207		
Article 152	Article 208		
Article 153	Article 209		
Article 154	Article 210		
SECTION 3	SECTION 3	CHAPTER 2	CHAPTER 2
Article 155	Article 211	Article 189	Article 249
Article 156	Article 212	Article 189a	Article 250
Article 157	Article 213	Article 189b	Article 251
Article 158	Article 214	Article 189c	Article 252
Article 159	Article 215	Article 190	Article 253
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Article 161	Article 217	Article 191a (*)	Article 255
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SECTION 4	SECTION 4	CHAPTER 3	CHAPTER 3
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(\*) New Article introduced by the Treaty of Amsterdam.

Previous numbering	New numbering	Previous numbering	New numbering
CHAPTER 4	CHAPTER 4	Article 216	Article 289
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TITLE II	TITLE II	Article 227	Article 299
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Article 201	Article 269	Article 229	Article 302
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Article 202	Article 271	Article 231	Article 304
Article 203	Article 272	Article 232	Article 305
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Article 205a	Article 275	Article 235	Article 308
Article 206	Article 276	Article 236 (*)	Article 309
Article 206a (repealed)	—	Article 237 (repealed)	—
Article 207	Article 277	Article 238	Article 310
Article 208	Article 278	Article 239	Article 311
Article 209	Article 279	Article 240	Article 312
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		Article 242 (repealed)	—
		Article 243 (repealed)	—
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Article 213	Article 284	FINAL	FINAL
Article 213a (*)	Article 285	PROVISIONS	PROVISIONS
Article 213b (*)	Article 286	Article 247	Article 313
Article 214	Article 287	Article 248	Article 314
Article 215	Article 288		

(\*) New Article introduced by the Treaty of Amsterdam.

