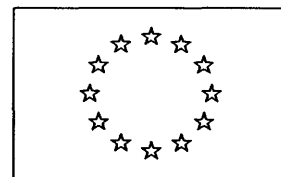


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# European Trade Union Information Bulletin



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## The Amsterdam Treaty A Trade Union Guide

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Background to the Treaty  
Treaty Objectives  
The Main Provisions  
The New Social Chapter

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## The Amsterdam Treaty : A Trade Union Guide

The new Treaty of Amsterdam will change the way the European Union works and help prepare it to meet the challenges of the twenty-first century. Several of these changes will have an important impact on industrial relations and workers' rights. This Guide examines the background to the Amsterdam Treaty, and looks at the key changes which will be of interest to trade unionists in the European Union. It also contains the complete text of the revised "Social Chapter".

The key changes which will be of interest to trade unionists are:

- The preamble to the Treaty on European Union (TEU) is amended to confirm the attachment of Member States to the European Social Charter.
- A new article in the Treaty Establishing the European Community (TEC) gives the Council, acting unanimously the power to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.
- A specific objective of promoting a high level of employment is added to the objectives of the Union as set out in Article B of the TEU.
- A new "Employment Chapter" is added to the TEC which sets an objective for Member States and the Community of working towards the development of "a co-ordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change".
- Article 4 of the Employment Chapter requires the Council each year to examine the employment situation in the Community and draw up guidelines for the employment policies of Member States.
- Article 5 of the Employment Chapter allows the Council to adopt incentive measures designed to encourage co-operation between Member States and support their actions in the field of employment.
- The Treaty repeals the Agreement on Social Policy (currently annexed to the TEC) and incorporates its provisions within the main Treaty itself extending their application to all Member States.
- A new paragraph added to Article 118 of the TEC gives the Council the ability to adopt measures to "encourage co-operation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences in order to combat social exclusion"
- A new Article 7d of the TEC calls on the Community and Member States to recognise the special role of "services of general interest" and ensure that services operate on the basis of principles and conditions which enable them to fulfil their mission.
- The "co-operation" procedure (the decision making procedure involving the Council and the European Parliament) is virtually removed and replaced by the co-decision procedure. The scope of the co-decision procedure is considerably widened.
- Qualified majority voting (via the co-decision procedure) is extended to include employment incentive measures, measures to combat social exclusion and measures on equal opportunities and equal treatment, amongst others.
- Decisions on a nominee to act as Commission President will, in future, require the approval of the European Parliament.

The Intergovernmental Conference meeting in Amsterdam in June 1997 agreed the text of the draft Treaty and this is due to be formally signed by the Foreign Ministers of Member States in October 1997. Like all EU treaties it will then require ratification by each Member State and come into force after its ratification by the final Member State.

The notes in this Guide were based on the first draft of the Treaty released immediately after the Amsterdam IGC and there may be a number of textual changes incorporated in the final draft.



## 1. BACKGROUND:

At their meeting in Amsterdam on the 16th and 17th of June 1997, the leaders of the fifteen European Union Member States adopted a new draft Treaty - the Treaty of Amsterdam. Like its predecessor, the Maastricht Treaty, the new Treaty attempts to facilitate the continued growth and enlargement of the European Union whilst at the same time introducing changes to increase the effectiveness of decision-making procedures. It also attempts to strengthen Community activity in certain key policy areas such as employment creation and environmental protection.

At the beginning of the Intergovernmental Conference (IGC), one of the stated objectives of treaty reform was to simplify the various treaties in order to make them more comprehensible to the average citizen. A brief look at the full text of the Amsterdam Treaty will show that, in terms of this objective at least, success has not been achieved. The Treaty is, in fact, nothing more than a series of fairly complex amendments to the existing Treaty Establishing the European Community (TEC), which is usually referred to as the Treaty of Rome, and the Treaty on European Union (TEU) or Maastricht Treaty as it is more generally known. The document makes little sense unless it is read in conjunction with these two earlier treaties.

The aim of this brief guide is to provide a fairly simple guide to the draft Treaty of Amsterdam, with particular emphasis on those sections of the Treaty which are likely to have an important impact on European social and industrial relations policy.

### The 1996/97 Intergovernmental Conference

The sixth IGC in the history of the European Community was launched in March 1996. IGC's are special committees of representatives of the governments of Member States and the means by which the European Union changes the treaties which govern its activities. Previous IGC's have led to changes incorporated into such measures as the Single European Act and the Maastricht Treaty.

The need to convene a IGC in 1996 came about for three main reasons:

#### 1. Treaty Requirements:

The Maastricht Treaty on European Union had built into it the need for reviews in four specific areas before the end of 1996.

- The workings of the new decision-making process introduced by the Maastricht Treaty which is known as the "Co-Decision" (or more formally "Article 189b") Procedure.
- The operation of the provision on a common foreign and security policy and, in particular, the relationship between the EU and the Western European Union (WEU).
- Attached to the Treaty of Rome is a Declaration (No. 16) which was adopted at Maastricht and requires a review of the classification of Community legal acts by the 1996 IGC.
- A similar Maastricht Treaty Declaration (No. 1) requires the examination of policy making in the areas currently covered by Article 3t of the Treaty of Rome ("measures in the spheres of energy, civil protection and tourism") by the 1996 IGC.

Thus, minimally, the above areas have to be examined by the 1996 IGC. This requirement is clearly stated in Article N(2) of the Treaty on European Union.

#### 2. Practical Requirements:

There were a number of urgent practical reasons for a review of the workings of the EU. In particular, these concern the forthcoming enlargement of the Union. Negotiations with several countries wishing to join the European Union are due to start in the near future. The current institutional structure of the European Community was originally designed for just six Member States. As the Community has expanded to its current 15 Member States, amendments to these structures have been introduced, but it is generally agreed that further enlargement cannot be undertaken until a full review was carried out. Of particular importance are questions of relative representation on Community bodies by Member States whose domestic populations are of a variety of different sizes. To continue with the existing formulae of representation in a Community with 20 or 25 Member States would produce institutions that were unwieldy and potentially inefficient.



### 3. Political Requirements:

In addition, there was a strong political reason for a review of the working of the treaties. It was commonly accepted that public support for European unification has diminished. Whilst much of this was due to the harsh economic climate that had existed, and still exists, in Europe (support for European integration tends to be directly related to growth in the European economy) some of it was no doubt due to failings during the last treaty reform process. The Maastricht Treaty failed to carry popular support amongst the citizens of the European Union it created. It was over-complex and it resulted from a process of deliberation which was seen as "closed" and "elitist". Little was done to encourage a wide involvement of different organisations within a broad consultation process. Nor did the Maastricht Treaty do very much to correct what has been called the "democratic deficit" within the EU. The European Parliament only received a very limited increase in its decision-making role and the creation of the two new "pillars" outside the formal structures of the European Community merely concentrated more decision-making power in the hands of closed meetings of the Council of Ministers which represents the governments of the Member States.

There were several other political demands which needed to be examined by the 1996 IGC. These included demands for new policy objectives being incorporated into the Treaty (on employment and the environment for example), demands for the re-incorporation of the "social chapter" within the main Treaty, and demands for the incorporation of a charter on human rights.

#### The IGC Reflection Group

Even before the IGC got underway, a clear indication of the issues it would need to tackle, and the problems it would need to surmount, was provided by the so-called "Reflection Group" chaired by Carlos Westendorp. Composed of representatives from Each Member State, the Group had the task of preparing the groundwork and identifying the key issues. Its Report suggested that the results of the IGC must lead to progress in three key areas:

- Making Europe more relevant to its citizens.
- Enabling the Union to work better and preparing it for enlargement.
- Giving the Union a greater capacity for external action.

The IGC itself, had just over a year in order to translate these various objectives into a set of practical proposals which could be incorporated into a draft treaty. During this period (March 1996 - June 1997) it met at regular intervals at both Permanent Representative and Government Minister level. Work in certain important areas (social chapter, employment etc.) was effectively delayed pending the outcome of the UK General Election.

By December 1996, the IGC had achieved some progress, but this tended to be limited to the non-controversial areas. Whilst the Irish Presidency produced a working version of a Draft Treaty, this did not include proposals in areas such as employment and social policy or institutional reform.

The situation changed rapidly following the change in government in the United Kingdom on the 1st of May 1997. The election of a Labour Government immediately meant that one major potential problem (the future of the Agreement on Social Policy) was removed. The UK now agreed to accept the "Social Chapter" and therefore the way was open to its re-incorporation within the body of the main Treaty. Equally the new UK Government had a radically different approach to questions such as employment policy which further facilitated agreement in this area.

Nevertheless, many problems remained, particularly the need to agree new institutional arrangements to ensure that the Union could operate effectively following enlargement. There were also obvious differences in relation to the continued development of a common foreign and security policy. Inevitably, the final meeting of the IGC - at Head of State and Government level - in Amsterdam on the 16th and 17th of June did not solve all these problems. Whilst progress was made in some areas, difficult decisions were effectively postponed in others. The draft Amsterdam Treaty which emerged is, by no means, a radical new blueprint. Rather it represents the gradual development of a Union responding, perhaps somewhat slowly, to external pressures for change.



## 2. THE TREATY OF AMSTERDAM

The Treaty of Amsterdam can be said to have five major objectives:

1. Enhancing the rights of EU citizens and emphasising the basic principles of the Union.
2. Establishing an area of free movement, freedom, security and justice.
3. Strengthening EU policy-making in areas such as employment, social policy and the environment.
4. Introducing further changes to decision-making procedures and institutional structures.
5. Strengthening the external policy of the Union.

These objectives are achieved by means of:

- Amendments to the two most important existing treaties - the Treaty Establishing the European Community (TEC) -or Treaty of Rome - originally adopted in March 1957 and amended by subsequent treaties, and the Treaty on European Union (TEU) adopted in Maastricht in February 1992. Amendments include both changes to existing treaty articles and the introduction of new ones.
- The introduction of new Protocols to these treaties. Protocols have full legal force - exactly the same as the main treaty they are annexed to - but deal with specific details rather than general principles.
- The introduction of Declarations which are annexed to the treaties. Declarations do not have legal force as such, but are meant to be indications of a joint political commitment to take action in certain fields.

The following sections provide for those areas of interest to trade unionists, a brief analysis of actions taken within the Treaty of Amsterdam to meet the major objectives set out above.

### 1. Enhancing the Rights of EU Citizens and Emphasising the Basic Principles of the Union.

#### 1.1 Amendments to the General Principles of the European Union

A new paragraph is added to the Preamble of the TEU, as follows: *CONFIRMING their attachment to fundamental social rights as defined in the European Social Charters signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers.*

#### 1.2 Fundamental Principles To Be Respected by Applicant States

An amendment to Article O of the TEU states that the right to apply for membership of the EU will be granted to any European State which respects the basic principles set out in Article F(1) - i.e. governments must be founded on the principles of democracy.

#### 1.3 Non-Discrimination

A new Article 6a of the TEC gives the Council - acting unanimously on a proposal from the Commission - power to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. A Declaration states that, in drawing up measures under Article 100a of the TEC (i.e. in relation to the Single European Market), the Community shall take account of the needs of persons with a disability. The words "equality between men and women" are added to the list, in Article 2 of the TEC, of general principles to be promoted by the European Community. A new sentence is also added to Article 3 of the TEC making it plain that the aim of eliminating inequalities and promoting equality between men and women, should be incorporated into all the policy objectives of the Community.

#### 1.4 Rights of EU Citizens

A re-worded Article 8 of the TEC makes it clear that citizenship of the European Union complements rather than replaces national citizenship. An addition to Article 8d of the TEC states that all citizens may write to any of the Community institutions in any one of the twelve official languages of the Community and have an answer in the same language.

#### 1.5 Flexibility

A new chapter of the TEU will be inserted which will allow Member States which intend to establish closer co-operation between them to make use of the institutions, procedures and mechanisms laid down by the Treaties. Effectively this will allow a group of Member States to establish closer co-operation in certain areas, for example free movement and economic and monetary union. Over recent years there have been a number of examples of this "two-speed" approach, and the new chapter of the TEU provides a formal recognition of this. A number of conditions are listed in the event of such closer co-operation taking place. It must be aimed at furthering the objectives of the Union, it must respect the principles of the treaties and it must not affect the "acquis communautaire" (the existing body of Community rules and regulations). Such initiatives must concern at least a majority of Member States and must not affect the "competencies, rights, obligations and interests of those Member States which do not participate therein".



## 2. Establishing an Area of Free Movement, Freedom, Security and Justice.

### 2.1 Basic Provisions on Freedom, Security and Justice

The objectives of the EU in the sphere of justice and home affairs, as set out in Article B of the TEU, are strengthened.

### 2.2 Free Movement, Asylum and Immigration

A new chapter is added to the TEC dealing with the free movement of persons, asylum and immigration. The new chapter basically pledges to abolish all restrictions on free movement within five years of the Treaty coming into force (although there are exceptions for the UK and Ireland) by effectively incorporating the Schengen Treaty (the separate Treaty already agreed by a majority of Member States and guaranteeing free movement between them) into the EU treaties.

A separate Protocol (Protocol Y) effectively allows the United Kingdom not to participate in this area of free movement and therefore maintain their own existing frontier controls. Equally it provides the other Member States with the right to retain frontier controls on EU citizens travelling from the UK and Ireland. Denmark is also given the right not to participate in certain aspects of the new Treaty provisions in relation to justice, home affairs and free movement.

## 3. Strengthening EU Policy-making in Areas Such as Employment, Social Policy and the Environment.

### 3.1 Employment

A specific employment objective is added to the general objectives of the Union as set out in Article B of the TEU ("to promote economic and social progress which is balanced and sustainable and a high level of employment...") This employment objective is also reflected in changes made to the general objectives of the European Community as set out in Articles 2 and 3 of the TEC. An entirely new chapter on employment is added to the TEC dealing with employment. This Employment Chapter (or Title VI as it is officially known) sets an objective for Member States and the Community of working towards the development of "a co-ordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change"

Member States, having regard to the national practices related to the responsibilities of management and labour, will be required to regard promoting employment as a matter of common concern and co-ordinate their action in this respect within the Council. The Community is given the task of encouraging co-operation between Member States in the sphere of employment and, if necessary, complementing their actions. Equally, the objective of a high level of employment shall be taken into consideration in the formulation and implementation of Community policies and activities.

Article 4 of the new Employment Chapter states that the European Council will consider the employment situation in the Community each year and of the basis of this draw up guidelines to be taken into account by Member States in framing their employment policies. Each Member State is required to provide an annual report on the measures it has taken to implement employment policies in the light of such guidelines. Where necessary, the Council can make recommendations to Member states on their employment policies. Article 5 of the Employment Chapter allows the Council - using the co-decision procedure - to adopt incentive measures designed to encourage co-operation between Member States and support their actions in the field of employment. Article 6 of the Employment Chapter provides for the establishment of an Employment Committee with advisory status to promote co-ordination between Member States on employment and labour market policies.

### 3.2 Social Policy

The Treaty will repeal the Agreement on Social Policy (Protocol No. 14) currently annexed to the Treaty on European Union and introduce a new Chapter on Social Policy. In most cases the text of the new Social Policy Chapter will be the same as the previous Social Policy Agreement, however there are a number of relatively minor changes. The following list relates to changes to the existing provisions of the Agreement on Social Policy rather than the existing Social Policy Chapter.

Article 117 of the TEC will be substantially changed. Following the detailing of the general objectives of Community social policy ("the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion"), Article 117 will state that the Community and member States will implement measures which take into account the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Community economy.

A new paragraph added to Article 118 which will give the Council the ability to adopt measures designed to "encourage co-operation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences in order to combat social exclusion" The sub-paragraph is added to the fourth paragraph of Article 118 stating that where management and labour have been entrusted with the implementation of Directives, Member States are required to take any necessary measures enabling them at any time to be in a position to guarantee the results imposed by that directive.

A Declaration on Article 118(2) states that it was agreed that "the Community does not intend, in laying down minimum requirements for the protection of the safety and health of employees, to discriminate in a manner unjustified by the circumstances against employees in small and medium-sized undertakings". Article 118b (the old Article 4 of the Social Policy Agreement) concerns the possibility of agreements concluded at Community level by the social partners. Whilst this Article remains the same, the Treaty of Amsterdam adds a Declaration which seems to weaken it somewhat, although the wording is less than clear. The Declaration states: "The High Contracting Parties declare that the first of the arrangements for application of the agreements between management and labour at Community level - referred to in Article 118b(2) - will consist in developing, by collective bargaining according to the rules of each Member State, the content of the agreements, and that consequently this arrangement implies no obligation on the Member States to apply the agreements directly or to work out rules for their transposition, nor any obligation to amend national legislation in force to facilitate their implementation".



Article 118c is extended. It now gives examples of matters where the Commission will encourage Member States to co-ordinate their actions. These include:

- \* employment;
- \* labour law and working conditions;
- \* basic and advanced vocational training;
- \* social security;
- \* prevention of occupational accidents and diseases;
- \* occupational hygiene;
- \* the rights of association and collective bargaining between employers and workers.

Article 118c goes on to state that the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations on problems arising at national level and on those of concern to international organisations. A new paragraph is added to Article 119 (the former Article 6 of the Social Policy Agreement) allowing the Council, using the co-decision procedure, to 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, including the principle of equal pay for equal work and work of equal value. A Declaration states that when adopting measures on equal opportunities which have the specific objective of making it easier for an underrepresented sex to pursue a vocational activity, Member states should, in the first instance, aim at improving the situation of women in working life.

### 3.3 Environment Policy

Changes to the Preamble and Article B of the TEU underline that the objectives of economic and social progress must be achieved in the context of balanced and sustainable development. Similar changes are also made to Article 2 of the TEC. A new Article 3d is added to the TEC stating that "environmental protection requirements must be integrated into the definition and implementation of Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development". A Declaration notes that the Commission will undertake to prepare environmental impact assessment studies when making proposals which may have significant environmental implications. Extensive changes are made to Article 100a of the TEC which deals with the approximation of laws. These changes strengthen the ability of Member States to enforce more stringent environmental standards where they deem it necessary and introduces a procedure whereby such decisions can be reviewed by the Commission to ensure that they do not act as an obstacle to the functioning of the Single Market.

### 3.4 Services of General Economic Interest

A new article 7d of the TEC gives a measure of special treatment to "services of general economic interest" or public services. The article states that given the place occupied by such services in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Community and Member States will take care to ensure that such services operate on the basis of principles and conditions which enable them to fulfil their mission.

## 4. Introducing Further Changes to Decision-making Procedures and Institutional Structures.

### 4.1 Future Enlargement

One of the objectives of the IGC was to prepare the EU for the next wave of enlargement. Given the general agreement that the current institutional arrangements will not be effective for a Union of twenty or more Member States, it was felt urgent action was needed, specifically in two areas:

- \* The number of Commissioners to be appointed.
- \* The weighting of votes in the Council of Ministers.

In effect the Amsterdam Treaty deals with one of these issues but delays action on the second. A Protocol to the Treaty states that at the date of the entry into force of the first enlargement of the Union, the Commission will comprise of one national of each Member State, provided that, by that date, the weighting of votes in the Council has been modified. The Protocol further states that at least one year before the membership of the Union exceeds twenty, a further IGC will be convened in order to carry out a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions.

### 4.2 The Assent Procedure

The scope of the assent procedure - the procedure relating to non-routine legislative issues where the European Parliament has a veto over decisions of the Council of Ministers - is amended. The procedure will now apply to the following:

#### New Treaty Provisions

Article Fa - Sanctions in the event of a serious and persistent breach of fundamental rights by a Member State.

#### Existing Treaty Provisions

Article O (TEU) Accession of new Member States.

Article 130d (TEC) Definition of tasks and objectives of the structural and cohesion funds.

Article 138(3) (TEC) Proposals by the European parliament on a uniform electoral system.

Article 228(3) (TEC) Conclusion of certain international agreements.

### 4.3 The Co-Decision Procedure

The scope of the co-decision procedure (or Article 189(b) procedure to give it its formal title) is considerably extended, replacing the co-operation procedure (189c) in all areas other than economic and monetary union. In addition to those issues previously covered by the co-decision procedure, it will now apply to the following all references are to the TEC):

#### New Treaty Provisions

Article 5 Employment - Incentive Measures.

Article 119 Social Policy - Equal opportunities and treatment.

Article 129 Public Health - Minimum requirements on safety of organs and veterinary and phytosanitary measures.

Article 191a - General principles of transparency.

Article 209a - Countering fraud.



New Article - Customs co-operation.

Article 213a - Statistics.

Article 213b - Establishment of Advisory authority on data protection.

Existing Treaty Provisions (Previous applicable procedure in brackets)

Article 6 - Rules to prohibit discrimination on grounds of nationality (co-operation).

Article 8a(2) - Free movement of citizens (assent)

Article 51 - Internal Market (social security for immigrant workers) (consultation)

Article 56(2) - Co-ordination of provisions on right of establishment of foreign nationals (consultation)

Article 57(2) - Taking up and pursuit of activities by the self-employed (consultation)

Article 75(1) - Transport policy : common rules applicable to international transport and conditions governing non-resident carriers. (co-operation)

Article 84 - Transport policy : sea and air transport (co-operation)

Social Chapter - Articles resulting from the transposition into the Treaty of the Agreement on Social Policy (Articles 2(2) and 2(3)) except for aspects of that Agreement which are currently subject to unanimity (co-operation).

Article 125 - Implementing decisions relating to the European Social Fund (co-operation)

Article 127(4) - Vocational training measures (co-operation)

Article 129(d) - Measures relating to trans-European networks (co-operation)

Article 130(e) - ERDF implementing decisions (co-operation)

Article 130(o) - RTD (Research) - implementing decisions (co-operation)

Article 130(s) - Environmental actions (co-operation)

Article 130(w) - Development co-operation (co-operation)

#### 4.4 Simplification of the Co-Decision Procedure

The Co-Decision procedure (189b) is "simplified". In effect this does not change the procedure whereby decisions can be adopted by a qualified majority vote in Council and the resulting "Common Position" is subject to a second reading in the European Parliament, but it makes the Treaty explanation of it slightly more comprehensible. A Declaration calls on the European Parliament, the Council and the Commission to make every effort to ensure that the co-decision procedure operates as expeditiously as possible with strict regard for the deadlines established in Article 189b.

#### 4.5 The European Parliament

An amendment to Article 137 of the TEC fixes an upper numerical level for members of the European Parliament - "The number of Members of the European Parliament shall not exceed seven hundred"

#### 4.6 The Council

Qualified majority voting (QMV) by the Council is extended in a number of areas. In addition to those areas where already exists, the following areas will now be subject to the procedure:

##### New Treaty Provisions

Employment Chapter Article 4 - Employment guidelines.

Employment Chapter Article 5 - Incentive measures.

Article 118(2) - Social exclusion.

Article 119(3) - Equality of opportunity and treatment of men and women.

Article 129(4) - Public health.

Article 191 (a) - Transparency.

Article 209(a) - Countering fraud.

Article 213(a) - Statistics.

Article 213(b) - Data protection advisory body.

Article 227(2) - Outermost regions.

New Article - Customs co-operation.

##### Existing Treaty Provisions

Article 45(3) - Compensatory aid for import of raw materials.

Article 56(2) - Right of establishment of foreign nationals.

Article 130i(1) - Adoption of research framework programme.

Article 130i(2) - Supplementing research framework programme.

Article 130o - Setting up joint undertakings in R&TD development.

An amendment to Article 151 of the TEC establishes the mechanisms by which the Council will determine the rules covering public access to Council documents.

#### 4.7 The European Commission

An amendment to Article 158(2) of the TEC strengthens the role of the European Parliament in relation to the appointment of the Commission President. Whereas previously the governments of Member states merely had to consult Parliament, in future their decision on a nominee will have to be approved by Parliament. An amendment to Article 163 of the TEC could potentially strengthen the position of the Commission President. The following short sentence is added to the Treaty - "The Commission shall work under the political guidance of its President". In a Declaration it is noted that the Commission intends to introduce a reorganisation of tasks and departments before the next Commission takes office in 2000.

#### 4.8 The Court of Justice

Article L of the TEU is amended to extend the powers of the European Court of Justice in the field of justice and home affairs.





### 3. THE SOCIAL CHAPTER

#### The Social Chapter of the Treaty Establishing the European Community, as Amended by the Treaty Of Amsterdam

##### TITLE VIII Social Policy, Education, Vocational Training and Youth

##### Chapter 1 : Social Provisions

#### Article 117

The Community and the Member States, having in mind fundamental social rights such as those set out in the European Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, 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 to maintain the competitiveness of the Community economy.

They believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonisation of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action.

#### Article 118

1. With a view to achieving the objectives of Article 117, the Community shall support and complement the activities of the Member States in the following fields:
  - \* improvement in particular 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, without prejudice to Article 127;
  - \* equality between men and women with regard to labour market opportunities and treatment at work.
2. 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 each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings. The Council shall act in accordance with the procedure referred to in Article 189b after consulting the Economic and Social Committee. The Council, acting in accordance with the same procedure, may adopt measures designed to encourage co-operation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences in order to combat social exclusion.
3. However, the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament and the Economic and Social Committee, 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 the interests of workers and employers, including co-determination, subject to paragraph 6;
  - \* conditions of employment for third-country nationals legally residing in Community territory;
  - \* financial contributions for promotion of employment and job-creation, without prejudice to the provisions relating to the Social Fund.
4. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraphs 2 and 3. In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 189, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive.
5. The provisions adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Treaty.
6. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

**Article 118a**

1. The Commission shall have the task of promoting the consultation of management and labour at Community level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.
2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Community action.
3. If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.
4. On the occasion of such consultation, management and labour may inform the Commission of their wish to initiate the process provided for in Article 118b. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

**Article 118b**

1. Should management and labour so desire, the dialogue between them at Community level may lead to contractual relations, including agreements.
2. Agreements concluded at Community level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 118, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. The Council shall act by qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas referred to in Article 118(3), in which case it shall act unanimously.

**Article 118c**

With a view to achieving the objectives of Article 117 and without prejudice to the other provisions of this Treaty, the Commission shall encourage co-operation between the Member States and facilitate the co-ordination of their action in all social policy fields under this chapter, particularly in matters relating to:

- \* employment;
- \* basic and advanced vocational training;
- \* prevention of occupational accidents and diseases;
- \* the rights of association and collective bargaining between employers and workers.
- \* labour law and working conditions;
- \* social security;
- \* occupational hygiene;

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations. Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

**Article 119**

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.  
Equal pay without discrimination based on sex means:  
(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;  
(b) that pay for work at time rates shall be the same for the same job.
3. The Council, acting in accordance with the procedure referred to in Article 189b, and after consulting the Economic and Social Committee, 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, including the principle of equal pay for equal work or work of equal value.
4. 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.

**Article 119a**

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

**Article 120**

The Commission shall draw up a report each year on progress in achieving the objectives of Article 117, including the demographic situation in the Community. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee. The European Parliament may invite the Commission to draw up reports on particular problems concerning the social situation.



# The Amsterdam Treaty - Summary

## Treaty Establishing The European Community (TEC)

Also known as the Treaty of Rome.  
Deals with the objectives, policies and institutions of the European Community (EC). The core treaty of the European Union

## Treaty on European Union (TEU)

Also known as the Maastricht Treaty.  
Established the European Union (EU)  
EU = EC + Judicial and Home Affairs Policy + Common Foreign and Security Policy.

## Treaty of Amsterdam (TA)

Amends both the TEC and the TEU

### OBJECTIVES:

- \* to enhance the rights of EU citizens and place further emphasis on the basic principles of the EU;
- \* to establish an area of free movement, security and justice;
- \* to strengthen EU policy-making in certain areas such as employment, social policy and the environment;
- \* to introduce changes in institutional arrangements and decision-making procedures and to simplify the way the EU works and help prepare it for enlargement;
- \* to strengthen the external policy activities of the EU.

### FUNDAMENTAL PRINCIPLES OF THE EU

The Treaty further develops the concept of the fundamental principles of the EU in terms of democracy and individual rights and establishes a procedure to be followed in the event of "serious and persistent" breaches by Member States.

### FIGHTING DISCRIMINATION:

The Council is provided with the power to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

### FLEXIBILITY:

An amendment to the TEU will allow Member States wanting to establish closer co-operation between themselves to do so and to make use of the institutions and procedures of the EU. Closer co-operation, however, must be aimed at furthering the objectives of the EU and it must not affect the existing EC legislation.

### FREE MOVEMENT:

A new chapter of the Treaty Establishing the European Community (TEC) pledges to abolish all restrictions on free movement between Member States within five years of the Treaty of Amsterdam being adopted. A Protocol, however, allows the United Kingdom and Ireland to retain frontier controls with regard to the movement of people.

### JUSTICE AND HOME AFFAIRS:

Amendments to Article K of the TEU mean that most decisions in the sphere of justice and home affairs will be subject to the normal Community decision-making procedures rather than the exclusive competence of the Council.

### EMPLOYMENT:

A new chapter is added to the TEC on employment. Promoting a high level of employment becomes one of the key objectives of the EU. Member States are expected to develop a co-ordinated strategy for employment and the Community is given the task of encouraging co-operation between Member States. The Council, using qualified majority voting (QMV) may adopt incentive measures to encourage co-operation between Member States.

### THE SOCIAL CHAPTER:

The Agreement on Social Policy which was annexed to the TEU is repealed. The contents of that agreement, however, are to be incorporated into the main TEU, replacing those contained in the current social chapter. Effectively this means that the provisions which previously applied to 14 Member States will now apply to all 15: the UK "opt-out" is removed. A number of changes are made to the wording of this new social chapter in order to clarify certain issues and simplify procedures. The co-decision procedure will apply to all those areas of the Social Chapter to which QMV in the Social Policy Agreement is currently applicable.

### SUSTAINABLE DEVELOPMENT:

The objective of achieving economic and social progress, "within the context of balanced and sustainable development" is emphasised and a new Article in the TEC states that environmental requirements must be integrated into the definition and implementation of Community policies.

### THE EUROPEAN COMMISSION:

As from the date of the next EU enlargement, each Member State will be entitled to just one Commissioner (the larger Member States currently have two each) providing that by that date agreement on modifying the weighting of votes in the Council has been reached.

### DECISION-MAKING PROCEDURES:

The assent procedure (in which proposals must have the assent of the European Parliament is extended slightly. The co-operation procedure (Article 189c) is replaced by the co-decision procedure (Article 189b) in all areas except economic and monetary union. Equally, a number of areas previously subject to the consultation procedure (Article 189a) and therefore Council unanimity, are now subject to the co-decision procedure and therefore qualified majority voting.

### RELATIONS WITH NATIONAL PARLIAMENTS:

A new Protocol attempts to increase the influence of national parliaments by ensuring that they are adequately informed of legislative proposals, especially in the field of justice and home affairs, and giving the Conference of European Affairs Committees certain rights to raise issues with EU institutions.

### WESTERN EUROPEAN UNION:

The Treaty provides for closer co-operation on foreign and security policy and calls on the EU and the Western European Union (WEU) to draw up proposals for enhanced co-operation within one year of the Treaty coming into force.

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