The Maastricht Treaty: A Critical Evaluation

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Last December saw the culmination in the Maastricht Summit of the Intergovernmental Conferences (IGC) on Economic and Monetary Union and Political Union, which began in Rome at the end of 1990. The negotiations resulted in the adoption of a Treaty on European Union. This article gives a short overview of the Member States response to the major questions dominating the Intergovernmental Conference on Political Union: the problem of democratic deficit, the question of more efficient decision-making, the question of more effective implementation, and the need to increase the Community's capacity to act internationally.

1. The Democratic Deficit

One of the most important challenges of the IGC was to reduce the democratic deficit in the Community. One way to do this was seen to be to increase the role of the European Parliament in the decision-making process of the Community and to give it more powers of supervision. The cooperation procedure introduced by the Single European Act (SEA) took a step in this direction. The new Article 189b of the Maastricht Treaty, known as co-decision, (although that term is not used in the Treaty) takes matters one step further. In cases of disagreement with the Council, and unsuccessful efforts to find an agreement through a Conciliation Committee, the European Parliament will have a final veto.

The introduction of Union citizenship should also enhance the 'sense of community' and contribute to political democracy, as commonly understood.

A further issue is the Parliament's involvement in the appointment of the Commission. The Maastricht Treaty codifies the practice of parliamentary consultation on the nomination of the President of the Commission. This nominated President will then be consulted by the member governments concerning the other members of the Commission. 'The President and the other members of the Commission thus nominated shall be subject as a body to a vote of approval by the European Parliament' (Article 158(2)). It was also decided that from 1 January 1995 the Commission's term of office shall be five years, instead of the present four; the Commission's term of office will then correspond to that of the Parliament.

A final point that should be mentioned is that while the Parliament still does not have the right of legislative initiative, it will be able to request the Commission 'to submit any appropriate proposal on matters on which it considers that a Community act is required' (Article 137a).

To summarize, although the Parliament's powers have been increased through the Maastricht Treaty, it does not yet fully possess the powers that most national parliaments have.

2. Efficiency in Decision-Making

Another yardstick that can be applied to the Maastricht Treaty is whether it will increase the

EC's problem solving capacity. Although this is an issue that goes beyond formal institutional arrangements, an important institutional question is: to what extent will unanimity still be required in the Council?

We can say that the Maastricht Treaty retains unanimity for a number of decisions in areas considered sensitive, such as industrial policy and culture. These areas, however, have been limited, and a deliberate effort was made to open more doors to qualified majority decisions.

3. More Effective Implementation

Administrative implications of the EC's new competences and the new provisions on CFSP, justice and home affairs are only dealt with in a marginal way by the Treaty. To the extent that the Community also has a 'management deficit', it can be argued that the Maastricht Treaty did not contribute much improvement on these points.

As regards the failure of Member States to fulfil obligations under the Treaty, including the implementation of directives, the Maastricht Treaty includes a novelty. The Court of Justice will, in the future, be able to impose 'a lump sum or penalty payment' on a defaulting state (Article 171(2)). Such a sanction may help, but the problem of administrative capacity at both Commission and Member State levels remains.

4. Towards a Common Foreign and Security Policy

If one agrees that the Community - or new Union - should have a capacity in the foreign policy area commensurate with its economic power, then the CFSP is one of the more disappointing aspects of the Maastricht Treaty. In the area of Common Foreign and Security Policy (CFSP) the general decision rule will remain unanimity or consensus. The provisions make a distinction between cooperation and joint action. Joint action will be in areas where Member States have 'essential interests in common.' It is up to the Council to decide, 'on the basis of general guidelines from the European Council, that a matter should be the subject of joint action (Article C).' It is also the Council who will decide, when implementing the joint action, which decisions will be taken by qualified majority. This concerns a special kind of qualified majority, requiring at least 54 votes in favour, cast by at least eight members. How this will work out in the future is difficult to predict, but most likely there will not be much teeth in the CFSP.

This brief overview of the results achieved in Maastricht has been inspired by a belief that the Community should move towards a democratic and efficient set-up, where common problems can be solved in a positive and equitable manner. We believe that the Maastricht Treaty constitutes a further step in that direction. The new powers of co-decision for the European Parliament are important. We also see expanded policy scope for the Community in the future. But one could have wished for a single structure of the new Treaty as advocated by the Commission and proposed by the Dutch Presidency. We believe that the intergovernmental structures of the CFSP and for cooperation on justice and home affairs will produce too many disappointments. Classic intergovernmentalism is a prescription for suboptimal decisions. Hopefully, if this turns out to be the case, the integration process can be taken a few steps further at the next IGC in 1996. We fear that otherwise the Community will not be institutionally equipped to accommodate new members as diverse as Sweden and Poland, not to mention Estonia or Turkey. There can be no doubt that there will be political pressures to accept many new members over the next decade and it is important that the *acquis communautaire* be deepened as much as possible before that happens, otherwise the risks of disintegration will increase.