



**Sinn Féin submission to the Irish Government
A better deal is possible for Ireland in the EU**

**18th June 2008
www.no2lisbon.ie**

Introduction

During the Lisbon Treaty referendum campaign Sinn Féin argued that Ireland's place is in Europe but a better deal was possible. Our campaign focused on four central areas of concern, namely democracy, neutrality, workers rights and public services. We also outlined concerns with respect to issues of trade, the developing world and the European Atomic Energy Treaty.

The people have now spoken and the Lisbon Treaty is over. The ratification process should end and the leaders of the EU's 27 member states must now negotiate a new Treaty.

This document contains the detail of the better deal, which Sinn Féin argued for during the referendum. It represents short-term strategic reforms, which we believe, are reasonable, practical and deliverable in the context of any upcoming negotiation. They are the minimum required in any new treaty.

We are aware that there are significant implications for other aspects of the Treaty arising from these proposals. These would need to be addressed in any new negotiation.

Note: All article numbers refer to the Lisbon Treaty Official Journal of the EU C306 and Consolidated and Annotated Version of the Treaty produced by the Institute of International and European Affairs.

Information Deficit

In order to close the gap between the citizens of member states and the EU institutions there is a need for future treaties to be written in a clear and accessible language. There is also a need to provide all members of the public with the consolidated treaties clearly marking the proposed changes under consideration and accompanying explanatory notes outlining in plain language the implications of the proposed changes. These explanatory notes must be independent and descriptive, not interpretive. Such information should be provided by either the Government or the relevant EU institution at least 6 months before any future referendum. All of these measures would go a significant way to addressing the information deficit highlighted by the electorate.

The Commission

Proposed amendment to Article 9D of the Lisbon Treaty

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the

common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving inter institutional agreements.

2. Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.

3. The Commission's term of office shall be five years.

The members of the Commission shall **be elected by their respective member state parliaments on the basis of** ~~be chosen on the ground of~~ their general competence and European commitment ~~from persons whose independence is beyond doubt.~~

In carrying out its responsibilities, the Commission shall be ~~completely independent~~ **accountable to the European Council**. Without prejudice to Article 9 E(2), the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity **other than the European Council**. They shall refrain from any action incompatible with their duties or the performance of their tasks.

4. The Commission ~~appointed between the date of entry into force of the Treaty of Lisbon and 31 October 2014~~ shall consist of one national of each Member State, including its President ~~and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice Presidents~~.

5. ~~As from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.~~

~~The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of strictly equal rotation between the Member States, reflecting the demographic and geographical range of all the Member States. This system shall be established unanimously by the European Council in accordance with Article 211a of the Treaty on the Functioning of the European Union.~~

6. The President of the Commission shall:

(a) lay down guidelines within which the Commission is to work;

(b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;

(c) appoint Vice-Presidents, ~~other than the High Representative of the Union for Foreign Affairs and Security Policy~~, from among the members of the Commission.

A member of the Commission shall resign if ~~the President so requests~~ **requested by the President following a request from either the European Parliament or the parliament from which the Commissioner was elected**. ~~The High Representative of~~

~~the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article 9 E(1), if the President so requests.~~

7. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If s/he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

The Council, by common accord with the President-elect, shall ~~adopt the list of the other persons whom it proposes for appointment as members of~~ **appoint** the Commission **on the basis of the elections by the respective member state parliaments.** ~~They shall be selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in paragraph 3, second subparagraph, and paragraph 5, second subparagraph.~~

The President, ~~the High Representative of the Union for Foreign Affairs and Security Policy~~ and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

8. The Commission, as a body, shall be responsible to **the European Council and** the European Parliament. In accordance with Article 201 of the Treaty on the Functioning of the European Union, the European Parliament may vote on a motion of censure of the Commission. If such a motion is carried, the members of the Commission shall resign as a body ~~and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he carries out in the Commission.~~

Qualified Majority Voting

Proposed changes to Article 9 C of the Lisbon Treaty:

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.
2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.
3. The Council shall act by a qualified majority **on the basis of the formulae as outlined in the Treaty of Nice** except where the Treaties provide otherwise.

~~4. As from 1 November 2014, a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.~~

~~A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.~~

The other arrangements governing the qualified majority are laid down in Article 205(2) of the Treaty on the Functioning of the European Union.

~~5. The transitional provisions relating to the definition of the qualified majority which shall be applicable until 31 October 2014 and those which shall be applicable from 1 November 2014 to 31 March 2017 are laid down in the Protocol on transitional provisions.~~

6. The Council shall meet in different configurations, the list of which shall be adopted in accordance with Article 201 of the Treaty on the Functioning of the European Union.

The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

8. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established in accordance with Article 201b of the Treaty on the Functioning of the European Union.

Aims of the European Union

Proposed changes to Article 1 on the aims of the EU

COMMON PROVISIONS

Article 1

By this Treaty, the HIGH CONTRACTING PARTIES establish among themselves a

EUROPEAN UNION, hereinafter called ‘the Union’ on which the Member States confer competences to attain objectives they have in common.

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.

The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union (hereinafter referred to as “the Treaties”). Those two Treaties shall have the same legal value. The Union shall replace and succeed the European Community. **The Union shall be founded on the European Communities, supplemented by the policies and forms of cooperation established by this Treaty. Its task shall be to organise, in a manner demonstrating consistency and solidarity, relations between the Member States and between their peoples.**

Legal Personality

Proposed deletion of article 46a OF THE LISBON TREATY

Article 46a

~~The Union shall have legal personality.~~

Key Strategic Vetoes

In order to strengthen or protect those key strategic vetoes on taxation, public services and international trade agreements we propose amendments to Articles 48 and 188 of the Lisbon Treaty, the detail of which is outlined below.

Self-Amending Articles

Proposed deletions of all eight self-amending articles proposed in the Lisbon Treaty

Article 48

Article 48

~~The government of any Member State or the Commission may submit to the Council proposals for the amendment of the Treaties on which the Union is founded.~~

~~If the Council, after consulting the European Parliament and, where appropriate, the Commission, delivers an opinion in favour of calling a conference of representatives of the governments of the Member States, the conference shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to those Treaties. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area.~~

~~The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.~~

1. The Treaties may be amended in accordance with an ordinary revision procedure. ~~They may also be amended in accordance with simplified revision procedures.~~

Ordinary revision procedure

2. The Government of any Member State, the European Parliament or the Commission may submit to the Council proposals for the amendment of the Treaties. These proposals may, *inter alia*, serve either to increase or to reduce the competences conferred on the Union in the Treaties. These proposals shall be submitted to the European Council by the Council and the national Parliaments shall be notified.

3. If the European Council, after consulting the European Parliament and the Commission, adopts by a simple majority a decision in favour of examining the proposed amendments, the President of the European Council shall convene a Convention composed of representatives of the national Parliaments, of the Heads of State or Government of the Member States, of the European Parliament ~~and~~ of the Commission **and of civil society**. The European Central Bank shall also be consulted in the case of institutional changes in the monetary area. The Convention shall examine the proposals for amendments and shall adopt by consensus a recommendation to a conference of representatives of the governments of the Member States as provided for in paragraph 4.

The European Council may decide by a simple majority, after obtaining the consent of the European Parliament, not to convene a Convention should this not be justified by the extent of the proposed amendments. In the latter case, the European Council shall define the terms of reference for a conference of representatives of the governments of the Member States.

4. A conference of representatives of the governments of the Member States shall be convened by the President of the Council for the purpose of determining by common accord the amendments to be made to the Treaties.

The amendments shall enter into force after being ratified by all the Member States in accordance with their respective constitutional requirements.

~~5. If, two years after the signature of a treaty amending the Treaties, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council.~~

Simplified revision procedures

~~6. The Government of any Member State, the European Parliament or the Commission may submit to the European Council proposals for revising all or part of the provisions of Part Three of the Treaty on the Functioning of the European Union relating to the internal policies and action of the Union.~~

~~The European Council may adopt a decision amending all or part of the provisions of Part Three of the Treaty on the Functioning of the European Union. The European Council shall act by unanimity after consulting the European Parliament and the Commission, and the European Central Bank in the case of institutional changes in the monetary area. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.~~

~~The decision referred to in the second subparagraph shall not increase the competences conferred on the Union in the Treaties.~~

~~7. Where the Treaty on the Functioning of the European Union or Title V of this Treaty provides for the Council to act by unanimity in a given area or case, the European Council may adopt a decision authorising the Council to act by a qualified majority in that area or in that case. This subparagraph shall not apply to decisions with military implications or those in the area of defence.~~

~~Where the Treaty on the Functioning of the European Union provides for legislative acts to be adopted by the Council in accordance with a special legislative procedure, the European Council may adopt a decision allowing for the adoption of such acts in accordance with the ordinary legislative procedure.~~

~~Any initiative taken by the European Council on the basis of the first or the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision referred to in the first or the second subparagraph shall not be adopted. In the absence of opposition, the European Council may adopt the decision.~~

~~For the adoption of the decisions referred to in the first and second subparagraphs, the European Council shall act by unanimity after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.~~

We also propose the deletion of all other self-amending or passerelle articles from the Lisbon Treaty including:

Article 31(3)(TEU) authorising a shift from unanimity to QMV in the policy area of Common Foreign and Security Policy.

Article 312(2.2)(TEU) authorising a shift from unanimity to QMV as regards the EU's Multiannual Financial Framework

Article 81(3)(TEU) authorising a shift from unanimity to QMV in family law as regards cross border implications.

Article 82(2d)(TEU) authorising a shift from unanimity to QMV in harmonisation of aspects of procedural criminal law

Article 83(2d) & (2) (TEU) authorising a shift from unanimity to QMV in harmonisation of aspects of substantive criminal law

Article 86 (4)(TEU) authorising extension of the powers of the European Public Prosecutor

Article 333(1-2)(TEU) authorising a shift from unanimity to QMV on issues of enhanced cooperation

Member State Parliaments

Proposed amendments to the proposed protocols on the role of member state parliaments and application of the principles of subsidiarity and proportionality in the Lisbon Treaty.

PROTOCOL

ON THE ROLE OF NATIONAL PARLIAMENTS IN THE EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

RECALLING that the way in which national Parliaments scrutinise their governments in relation to the activities of the European Union is a matter for the particular constitutional organisation and practice of each Member State;

DESIRING to encourage greater involvement of national Parliaments in the activities of the European Union and to enhance their ability to express their views on draft legislative acts of the European Union as well as on other matters which may be of particular interest to them,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community:

TITLE I

INFORMATION FOR NATIONAL PARLIAMENTS

Article 1

Commission consultation documents (green and white papers and communications) shall be forwarded directly by the Commission to national Parliaments upon publication. The Commission shall also forward the annual legislative programme as well as any other instrument of legislative planning or policy to national Parliaments, at the same time as to the European Parliament and the Council.

Article 2

Draft legislative acts sent to the European Parliament and to the Council shall be forwarded to national Parliaments. For the purposes of this Protocol, 'draft legislative acts' shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Draft legislative acts originating from the Commission shall be forwarded to national Parliaments directly by the Commission, at the same time as to the European Parliament and the Council.

Draft legislative acts originating from the European Parliament shall be forwarded to national Parliaments directly by the European Parliament.

Draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank shall be forwarded to national Parliaments by the Council.

Article 3

National Parliaments may send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion on whether a draft legislative act complies with the principle of subsidiarity **and the Common Provisions outlined in Articles 1 through 6 in the Treaty on European Union** in accordance with the procedure laid down in the Protocol on the application of the principles of subsidiarity and proportionality **and in accordance with the aims and values of the European Union as outlined in the treaties.**

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the reasoned opinion or opinions to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the reasoned opinion or opinions to the institution or body concerned.

Article 4

A ~~eight~~ **sixteen** week period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure. Exceptions shall be possible in cases of urgency, the reasons for which shall be stated in the act or position of the Council **and agreed unanimously**. Save in urgent cases for which due reasons have been given, no agreement may be reached on a draft legislative act during those ~~eight~~

sixteen weeks. Save in urgent cases for which due reasons have been given, a ten-day period shall elapse between the placing of a draft legislative act on the provisional agenda for the Council and the adoption of a position.

Article 5

The agendas for and the outcome of meetings of the Council, including the minutes of meetings where the Council is deliberating on draft legislative acts, shall be forwarded directly to national Parliaments, at the same time as to Member States' governments.

~~*Article 6*~~

~~When the European Council intends to make use of the first or second subparagraphs of Article 48(7) of the Treaty on European Union, national Parliaments shall be informed of the initiative of the European Council at least six months before any decision is adopted.~~

Article 7-6

The Court of Auditors shall forward its annual report to national Parliaments, for information, at the same time as to the European Parliament and to the Council.

~~*Article 8-7*~~

Where the national Parliamentary system is not unicameral, Articles 1 to ~~6~~ 7 shall apply to the component chambers.

PROTOCOL

ON THE APPLICATION OF THE PRINCIPLES OF SUBSIDIARITY AND PROPORTIONALITY AND THE AIMS AND VALUES OF THE EUROPEAN UNION AS OUTLINED IN THE COMMON PROVISIONS EXPRESSED IN ARTICLES 1 THROUGH 6 OF THE TREATY ON EUROPEAN UNION

THE HIGH CONTRACTING PARTIES,

WISHING to ensure that decisions are taken as closely as possible to the citizens of the Union,

RESOLVED to establish the conditions for the application of the principles of subsidiarity and proportionality, as laid down in Article 3b [5] of the Treaty on European Union, **and the aims and values of the European Union as laid down in the Common Provisions as expressed in Articles 1 through 6 of the Treaty on European**

Union and to establish a system for monitoring the application of those principles, aims and values,

HAVE AGREED UPON the following provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Article 1

Each institution shall ensure constant respect for the principles of subsidiarity and proportionality, as laid down in Article 3b [5] of the Treaty on European Union and the aims and values of the European Union as laid down in the Common Provisions as expressed in Articles 1 through 6 of the Treaty on European Union.

Article 2

Before proposing legislative acts, the Commission shall consult widely. Such consultations shall, where appropriate, take into account the regional and local dimension of the action envisaged. In cases of exceptional urgency, the Commission shall not conduct such consultations. It shall give reasons for its decision in its proposal.

Article 3

For the purposes of this Protocol, ‘draft legislative acts’ shall mean proposals from the Commission, initiatives from a group of Member States, initiatives from the European Parliament, requests from the Court of Justice, recommendations from the European Central Bank and requests from the European Investment Bank for the adoption of a legislative act.

Article 4

The Commission shall forward its draft legislative acts and its amended drafts to national Parliaments at the same time as to the Union legislator.

The European Parliament shall forward its draft legislative acts and its amended drafts to national Parliaments.

The Council shall forward draft legislative acts originating from a group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank and amended drafts to national Parliaments.

Upon adoption, legislative resolutions of the European Parliament and positions of the Council shall be forwarded by them to national Parliaments.

Article 5

Draft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality **and the aims and values of the European Union**. Any draft legislative act should contain a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality **and the aims and values of the European Union**. This statement should contain some assessment of the proposal's financial impact and, in the case of a directive, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation. The reasons for concluding that a Union objective can be better achieved at Union level shall be substantiated by qualitative and, wherever possible, quantitative indicators. Draft legislative acts shall take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators and citizens, to be minimised and commensurate with the objective to be achieved.

Article 6

Any national Parliament or any chamber of a national Parliament may, within ~~eight~~ **sixteen** weeks from the date of transmission of a draft legislative act, in the official languages of the Union, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.

If the draft legislative act originates from a group of Member States, the President of the Council shall forward the opinion to the governments of those Member States.

If the draft legislative act originates from the Court of Justice, the European Central Bank or the European Investment Bank, the President of the Council shall forward the opinion to the institution or body concerned.

Article 7

1. The European Parliament, the Council and the Commission, and, where appropriate, the group of Member States, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them, shall take account of the reasoned opinions issued by national Parliaments or by a chamber of a national Parliament.

Each national Parliament shall have two votes, shared out on the basis of the national Parliamentary system. In the case of a bicameral Parliamentary system, each of the two chambers shall have one vote.

2. Where reasoned opinions on a draft legislative act's non-compliance with the principle of subsidiarity **or the aims and values of the European Union** represent at

least one ~~third~~ **fifth** of all the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the draft must be reviewed. ~~This threshold shall also be a quarter fifth in the case of a draft legislative act submitted on the basis of Article 61 I of the Treaty on the Functioning of the European Union on the area of freedom, security and justice.~~

After such a review, the Commission **shall have a legally binding obligation on the Commission to produce a White Paper outlining a response to the proposed initiative or the treaty basis for not taking action.** ~~or, where appropriate, Where the proposal originates from a group of Member States, the European Parliament, the Court of Justice, the European Central Bank or the European Investment Bank, if the draft legislative act originates from them,~~ may decide to maintain, amend or withdraw the draft. Reasons must be given for this decision.

3. Furthermore, under the ordinary legislative procedure, where reasoned opinions on the non-compliance of a proposal for a legislative act with the principle of subsidiarity **or the aims and values of the European Union** represent ~~at least a simple majority~~ **thirty-five percent** of the votes allocated to the national Parliaments in accordance with the second subparagraph of paragraph 1, the proposal must be ~~reviewed~~ **withdrawn**. ~~After such review, the Commission may decide to maintain, amend or withdraw the proposal.~~

If the Commission wishes it may invite those states expressing the reasoned opinion to submit agreed amendments where such amendments may address the failure of the initial proposal to comply with the aims and values of the European Union. If the Commission accepts the proposed amendments, then they may re-table the proposal as amended under the terms of the appropriate legislative procedure.

~~If it chooses to maintain the proposal, the Commission will have, in a reasoned opinion, to justify why it considers that the proposal complies with the principle of subsidiarity. This reasoned opinion, as well as the reasoned opinions of the national Parliaments, will have to be submitted to the Union legislator, for consideration in the procedure:~~

~~(a) before concluding the first reading, the legislator (the European Parliament and the Council) shall consider whether the legislative proposal is compatible with the principle of subsidiarity or the aims and values of the European Union, taking particular account of the reasons expressed and shared by the majority of national Parliaments as well as the reasoned opinion of the Commission;~~

~~(b) if, by a majority of 55 % of the members of the Council or a majority of the votes cast in the European Parliament, the legislator is of the opinion that the proposal is not compatible with the principle of subsidiarity or the aims and values of the European Union, the legislative proposal shall not be given further consideration.~~

Article 8

The Court of Justice of the European Union shall have jurisdiction in actions on grounds of infringement of the principle of subsidiarity by a legislative act, brought in

accordance with the rules laid down in Article 230 of the Treaty on the Functioning of the European Union by Member States, or notified by them in accordance with their legal order on behalf of their national Parliament or a chamber thereof.

In accordance with the rules laid down in the said Article, the Committee of the Regions may also bring such actions against legislative acts for the adoption of which the Treaty on the Functioning of the European Union provides that it be consulted.

Article 9

The Commission shall submit each year to the European Council, the European Parliament, the Council and national Parliaments a report on the application of Article 3b [5] of the Treaty on European Union. This annual report shall also be forwarded to the Economic and Social Committee and the Committee of the Regions.

Citizens Initiative

Proposed amendments to Article 21 of the Lisbon Treaty (TFEU) on the citizens initiative

Article 21

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article 8 B of the Treaty on European Union, including the minimum number of Member States from which such citizens must come **and imposing a legally binding obligation on the Commission to produce a White Paper outlining a response to the proposed initiative or the treaty basis for not taking action.**

Every citizen of the Union shall have the right to petition the European Parliament in accordance with Article 194.

Every citizen of the Union may apply to the Ombudsman established in accordance with Article 195.

Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 7 9 of the Treaty on European Union in one of the languages mentioned in Article ~~314~~ 53(1) of the Treaty on European Union and have an answer in the same language.

Militarisation/Neutrality

Proposed amendments to the Common Foreign and Security Policy as outlined in Article 28 of the Lisbon Treaty

Article 28

3. The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article 28 A(1) and Article 28 B . It shall act after consulting the European Parliament.

Preparatory activities for the tasks referred to in Article 28 A(1) and Article 28 B which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a ~~qualified majority~~ **unanimity**, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:

- (a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;
- (b) the procedures for administering the start-up fund;
- (c) the financial control procedures.

When the task planned in accordance with Article 28 A(1) and Article 28 B [43] cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund. The High Representative shall report to the Council on the implementation of this remit.

Proposed amendments to the Common Security and Defence Policy as outlined in Article 28 of the Lisbon Treaty

SECTION 2

PROVISIONS ON THE COMMON SECURITY AND DEFENCE POLICY

Article 28 A

1. The common security and defence policy shall be an integral part of the common foreign and security policy. ~~It shall provide the Union with an operational capacity drawing on civilian and military assets. The Union may use them on missions outside~~

~~the Union for~~ **The purpose of such policy shall be** peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.

2. The common security and defence policy ~~shall~~ **may** include the progressive framing of a common Union defence policy⁷. This ~~will~~ **may** lead to a common defence, ~~should when~~ **if** the European Council, acting unanimously, so decides. It shall ~~in that~~ **in such** cases recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Section shall not prejudice the specific character of the security and defence policy of ~~certain~~ **neutral or non-aligned** Member States ~~and shall respect the obligations of certain~~ **nor of those** Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty. ~~and be compatible with the common security and defence policy established within that framework.~~

3. Member States ~~shall~~ **may** make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States ~~shall~~ **may** undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (hereinafter referred to as “the European Defence Agency”) shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities.

4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union’s values and serve its interests. The execution of such a task shall be governed by Article 28 C.

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article 28 E. It shall not

affect the provisions of Article 28 B.

7. If a Member State is the victim of armed aggression on its territory, the other Member States shall ~~have~~ **consider** towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of ~~certain~~ **neutral or non-aligned** Member States.

~~Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.~~

Article 28 B

1. The tasks referred to in Article 28 A(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, ~~military advice and assistance tasks~~, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. ~~All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.~~ **All these tasks may contribute to conflict resolution.**

2. The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation, **which must in all cases fully comply with obligations under international law including but not limited to international humanitarian law, international human rights law and the UN Charter.** The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

Article 28 C

1. Within the framework of the decisions adopted in accordance with Article 28 B [43], the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the **Council and** High Representative of the Union for Foreign Affairs and Security Policy, shall agree ~~among themselves~~ **by unanimity** on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

Article 28 D

1. The European Defence Agency referred to in Article 28 A(3), subject to the authority of the Council, shall have as its task to:

(a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;

(b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;

(c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;

(d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;

(e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the ~~industrial~~ and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a ~~qualified majority~~ **unanimity**, shall adopt a decision defining the Agency's statute, seat and operational rules. ~~That decision should take account of the level of effective participation in the Agency's activities.~~ Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

Article 28 E

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article 28 A(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

2. Within three months following the notification referred to in paragraph 1 the Council shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a ~~qualified majority~~ **unanimity** after consulting the High Representative.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the High Representative.

The Council shall adopt a decision confirming the participation of the Member State

concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by ~~a qualified majority~~ **unanimity** after consulting the High Representative. ~~Only members of the Council representing the participating Member States shall take part in the vote.~~

~~A qualified majority shall be defined in accordance with Article 205(3)(a) of the Treaty on the Functioning of the European Union.~~

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.

The Council shall act by ~~a qualified majority~~ **unanimity**. ~~Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.~~

~~A qualified majority shall be defined in accordance with Article 205(3)(a) of the Treaty on the Functioning of the European Union.~~

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. ~~For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only.~~

Neutrality

Proposed protocol protecting neutrality

Protocol on the neutrality of Ireland

With regard to measures adopted by the Council in the area of Common Foreign and Security Policy and Common Security and Defence Policy, Ireland will not participate in the implementation of decisions and actions within these areas with the exception of UN authorised peace keeping missions subject to the domestic Triple Lock procedure. However, without prejudice to our neutral status, Ireland retains the right to fully participate in all areas of CFSP and CSDP decision-making since actions in these areas will take place under the auspices of the European Union and affect all member-states.

Ireland is not obliged to contribute to the financing of the operational expenditure of the Common Security and Defence Policy other than to finance Irish defence force participation in UN-authorized peace-keeping missions. This principle applies to the

European Defence Agency, the start-up fund and the mechanism for rapid access to appropriations established in Article 28 of the Lisbon Treaty or any other form of direct or indirect financial contributions.

This situation may only change in accordance with the express consent of the people through referendum.

Nothing in this protocol shall prevent or limit Ireland's involvement in UN-authorized peacekeeping missions, civil or military assistance to third countries in response to humanitarian or natural disasters, so long as such missions are consistent with Ireland's constitutional requirements.

Social Europe – Workers' Rights & Public Services

Social Clause

Proposed amendments to the "social clause" Article 5a of the Lisbon Treaty.

Article 5a

1. In defining and implementing its policies and activities, the Union ~~shall~~ **must** take into account requirements linked to the promotion of ~~a high level of~~ **full** employment, the guarantee of adequate social protection, **the improvement of living standards, the fight against poverty, inequality, discrimination and** social exclusion, and a high level of full **literacy and a high level of** education, training and protection of human health.
2. To achieve this end all legislative proposals must include a social and equality impact assessment outlining the impact of the legislative proposal on the areas listed in this article. The social and equality impact assessment must also indicate how the legislative proposal will assist in addressing the areas listed in this article.

Public Services

THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

Proposed Treaty changes to protect public services

Article 16

Without prejudice to Article 4 of the Treaty on European Union or to Articles 93, 106 and 107 of this Treaty, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Union and the Member States, each within their respective powers and within the scope of application of the Treaties, shall take care that such services operate on the basis of principles and conditions, ~~particularly economic and financial conditions~~, which enable them to fulfil their missions. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions

without prejudice to the competence of Member States, ~~in compliance with the Treaties,~~ to provide, to commission and to fund such services.

Article 52

1. In order to achieve the liberalisation of a specific service, **the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament,** ~~the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee,~~ shall issue directives.

2. As regards the directives referred to in paragraph 1, priority shall as a general rule be given to those services ~~which directly affect production costs or the liberalisation of which helps to promote trade in goods.~~

Article 53

The Member States ~~shall endeavour to~~ **may** undertake the liberalisation of services beyond the extent required by the directives issued pursuant to Article 59(1), if their general economic situation and the situation of the economic sector concerned so permit.

~~To this end, the Commission shall make recommendations to the Member States concerned.~~

PROTOCOL ON **VITAL PUBLIC SERVICES OF GENERAL INTEREST**

THE HIGH CONTRACTING PARTIES,

WISHING to emphasise the importance of ~~services of general interest~~ **vital public services such as but not limited to health, education and social services,**

HAVE AGREED UPON the following interpretative provisions, which shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union:

Article 1

The shared values of the Union in respect of **vital public services of general economic interest** ~~within the meaning of Article 14 of the Treaty on the Functioning of the European Union~~ include in particular:

– the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising **vital public services of general economic interest** as closely as possible to the needs of the users;

– the diversity between various **vital public** services ~~services of general economic interest~~ and the differences in the needs and preferences of users that may result from different geographical, social or cultural situations;

– a high level of quality **and safety and affordability**, equal treatment and ~~the promotion of~~ universal access and of user rights.

Article 2

The provisions of the Treaties do not affect in any way the competence of Member States to **define those vital public services that should be subject to this protocol and exempt from competition and state aid rules irrespective of whether they contain an economic element. Nor does it affect in any way the competence of Member States to provide, commission and organise such services, and to intervene in any way deemed appropriate in order to ensure compliance with the principles established in this protocol** ~~non-economic services of general interest.~~

State Aid & Public Services

Proposed Treaty changes on state aid

Article 87

1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

Aids shall be compatible with the Treaties if they represent reimbursement for the discharge of certain obligations inherent in the concept of public services as outlined in the protocol on vital public services.

2. The following shall be compatible with the internal market:

- (a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- (b) aid to make good the damage caused by natural disasters or exceptional occurrences;
- (c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years

after the entry into force of the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.

- (d) aid granted to the economy of certain areas affected by the division of Ireland, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division.

3. The following may be considered to be compatible with the internal market:

- (a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation;
- (b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- (c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- (d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest;
- (e) such other categories of aid as may be specified by decision of the Council on a proposal from the Commission.

Workers' Rights

THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION

Proposed Treaty changes to protect workers' rights

Article 39

1. Freedom of movement for workers shall be secured within the Union.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment. **Each Member State shall ensure that the principle of equal pay for equal work or work of equal value is applied.**

3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
- (a) to accept offers of employment actually made;
 - (b) to move freely within the territory of Member States for this purpose;
 - (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
 - (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission.
4. The provisions of this Article shall not apply to employment in the public service.

Article 136

The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social 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, **a fair standard of living for workers, in particular by increasing their individual earnings,** 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 Union 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 Union economy.

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

Article 151 bis (new)

Nothing in the Treaty, and in particular neither fundamental freedoms nor competition rules shall have priority over fundamental social rights and social progress. In case of conflict, fundamental social rights shall take precedence.

Economic freedoms cannot be interpreted as granting undertakings the right to exercise them for the purpose or with the effect of evading or circumventing national social and employment laws and practices or for social dumping.

Economic freedoms, as established in the Treaties, shall be interpreted in such a way as not to infringe upon the exercise of fundamental social rights as recognised in the Member States and by Union law, including the right to negotiate, conclude and enforce collective agreements and to take collective action, and as not to affect the autonomy of social partners when exercising these fundamental rights in pursuit of social interests and the protection of workers.

The protection of workers shall be interpreted in such a way as to recognize the right of trade unions and workers to strive for the protection of existing standards as well as for the improvement of the living and working conditions of workers in the Union beyond existing (minimum) standards, in particular to fight unfair competition on wages and working conditions and to demand equal treatment of workers regardless of nationality or any other ground.

Article 140

With a view to achieving the objectives of Article 151 and **Article 151 bis**, and without prejudice to the other provisions of the Treaties, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this Chapter, particularly in matters relating to:

- employment,
- labour law and working conditions,
- **increasing the individual earnings of workers**,
- basic and advanced vocational training,
- social security,
- prevention of occupational accidents and diseases,
- occupational hygiene,
- the right of association and collective bargaining between employers and workers.

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, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

Taxation

Protocol on Irish tax sovereignty

The High Contracting Parties

Considering the high level of public concern and opposition to any form of tax harmonisation during the Lisbon Treaty referendum in Ireland in 2008,

Have agreed that

the sovereignty of the Irish people in relation to matters of tax policy will be fully respected

In addition, any Irish participation in EU tax harmonisation can only come about with the consent of the Irish people expressed through a referendum.

This protocol shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.

Nuclear Power

Protocol opting out of EURATOM

Proposed protocol opting out from involvement in the European Atomic Energy Community and EURATOM

THE HIGH CONTRACTING PARTIES:

Respecting the will of the Irish people as expressed in the Lisbon Treaty referendum of 2008:

Have agreed that

From the coming into force of this treaty Ireland will no longer participate in, fund or play any other part in EURATOM

This protocol shall be annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union.

International Trade

Proposed changes to Article 10 of the Lisbon Treaty

TITLE V

GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY

CHAPTER 1

GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

Article 10 A

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (e) encourage the integration of all countries into the world economy, ~~including through the progressive abolition of restrictions on international trade;~~ **in a manner consistent with 10A(d) that allows developing countries to safeguard sensitive economic sectors, vital public services and maximise local economic benefits arising from such integration.**
- (f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

(g) assist populations, countries and regions confronting natural or man-made disasters; and

(h) promote an international system based on stronger multilateral cooperation and good global governance.

Proposed changes to Article 188 of the Lisbon Treaty

PART FIVE

EXTERNAL ACTION BY THE UNION

TITLE I

GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

Article 188 A

The Union's action on the international scene, pursuant to this Part, shall be guided by the principles, pursue the objectives and be conducted in accordance with the general provisions laid down in Chapter 1 of Title V of the Treaty on European Union.

TITLE II

COMMON COMMERCIAL POLICY

Article 188 B

By establishing a customs union in accordance with Articles 23 to 27, the Union shall contribute, in the common interest, to the harmonious development of ~~world~~ **fair** trade, ~~the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers~~ **in order to foster sustainable economic, social and environmental development worldwide, with the primary aim of eradicating global poverty and inequality.**

Article 188 C

1. The common commercial policy shall be based on uniform principles, particularly ~~with~~ with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in ~~measures of liberalisation~~, export policy and measures to protect trade such as those to be taken in

the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. The European Parliament and the Council, acting by means of regulations in accordance with the ~~ordinary~~ **special** legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article 188 N shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by ~~a qualified majority~~ **unanimity, except where the treaties expressly provide for decisions by qualified majority.**

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements.

(a) in the field of trade in cultural and audiovisual services, ~~where these agreements risk prejudicing the Union's cultural and linguistic diversity;~~

(b) in the field of trade in social, education and health services, ~~where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.~~

(c) for the conclusion of mixed WTO trade agreements

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Title VI of Part Three and to Article 218.

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between

the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States insofar as the Treaties exclude such harmonisation.

Article 188 N

1. Without prejudice to the specific provisions laid down in Article 188 C, agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or the head of the Union's negotiating team.

4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

5. The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.

6. The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the decision concluding the agreement:

(a) after obtaining the consent of the European Parliament in the following cases:

(i) association agreements;

(ii) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(iii) agreements establishing a specific institutional framework by organising cooperation procedures;

(iv) agreements with important budgetary implications for the Union;

(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

(b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by ~~a qualified majority~~ **unanimity** throughout the procedure **except where the treaties expressly provide for decisions by qualified majority**.

However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article 188 H with the States which are candidates for accession. The Council shall also act unanimously for the agreement on accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the decision concluding this agreement shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements.

9. The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The European Parliament shall be immediately and fully informed at all stages of the procedure.

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised.