



**for the Committee on Constitutional Affairs
on the Treaty of Lisbon
(2007/2286(INI))
Draftsman: Andrew Nicholas Duff**

SUGGESTIONS

The Committee on Foreign Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

Structure

1. Notes that, with respect to the external action of the Union, the Treaty of Lisbon makes major structural alterations in comparison with the Treaty establishing a Constitution for Europe (2004) by separating Title V of the Treaty on European Union – containing general provisions on the Union's external action, specific provisions on common foreign and security policy (CFSP) and provisions concerning common security and defence policy (ESDP) – from Part Five of the Treaty on the Functioning of the European Union – containing general provisions on the Union's external action, common commercial policy, cooperation with third countries and humanitarian aid, restrictive measures, international agreements, relations with international organisations and third countries and EU delegations, and the solidarity clause;
2. Emphasises, therefore, that the two amended Treaties have the same legal value, and advises, in the interests of coherence and comprehension, that they should always be interpreted together;

Substance

3. Notes that, despite structural differences in the field of foreign, security and defence policy, the Treaty of Lisbon is similar in substance to the constitutional treaty of 2004, and that, especially with respect to the international relations of the Union, the new Treaty constitutes a very great improvement on the arrangements currently in force;
4. Strongly welcomes the new Treaty, therefore, in that it serves to raise the Union's international profile and enhances its capacity to act effectively in world affairs; points out that the Treaty of Lisbon would:
 - clarify the Union's competences and define and extend its values and objectives to the effect that: "in its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter"⁽¹⁾;
 - make the Charter of Fundamental Rights binding and enable the Union to accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)⁽²⁾;
 - assert that the Copenhagen criteria are to be taken into account in future enlargements;
 - provide an explicit legal basis for the Neighbourhood Policy;
 - establish a single legal personality for the Union as a whole;
 - oblige Member States to consult one another and to demonstrate mutual solidarity;
 - introduce a modest element of qualified majority voting (QMV) to Council decision making in

CFSP, along with the facility of constructive abstention⁽³⁾;

- allow for a further extension of QMV in the future (for decisions outside the field of defence) when the European Council, acting by unanimity, so decides;
- facilitate enhanced cooperation (by at least nine Member States) in CFSP;
- create the post of permanent President of the European Council, who will ensure the external representation of the Union in CFSP at his or her level and in that capacity;
- create the powerful post of High Representative of the Union for Foreign Affairs and Security Policy, who will be Vice-President of the Commission as well as chair of the Council of Ministers of Foreign Affairs, and who will conduct the CFSP and ESDP, contribute to policy development and ensure the consistency of the Union's external action;
- establish, with the consent of the Commission and after consulting Parliament, a European External Action Service (EEAS) in order to assist the High Representative, which will be drawn from the Commission, the Council secretariat and national diplomatic services;
- strengthen the budgetary powers of the European Parliament over all EU spending, including the EEAS, giving Parliament parity with the Council;
- give Parliament the power of codecision in the field of common commercial policy;
- extend the use of QMV in the Council and Parliament's right of consent to all international agreements concluded by the EU in areas where the ordinary legislative procedure applies or where the special legislative procedure requires Parliament's consent for internal affairs;
- provide new legal bases for instruments or policies with respect to urgent financial support for third countries, humanitarian aid, sanctions against non-state entities, space policy, security of energy supply, combating climate change, prevention of international terrorism and the protection of personal data;

5. Welcomes, moreover, the major reform of the Common Security and Defence Policy, which comprises:

- committing civilian and military capabilities of all Member States⁽⁴⁾, including multinational forces, to the ESDP, with the possibility of entrusting a group of Member States to execute the tasks;
- providing for permanent structured cooperation in defence between those militarily capable and politically willing Member States that attempt the most demanding missions;
- committing to the progressive improvement of military capabilities;
- expanding the role of the European Defence Agency;
- obliging Member States to come to the aid of another under attack (without prejudice to the neutrality of certain Member States or to the NATO membership of others);
- upgrading objectives (the "Petersberg tasks") to include the fight against terrorism;
- insisting on mutual solidarity in the event of a terrorist threat or attack, or natural disaster;

6. Notes with regret, however, that some Member States were clearly at pains in the IGC: (a) to make a rigid demarcation between CFSP and ESDP, on the one hand, and other aspects of the Union's external action, on the other; (b) to dilute the practical effects of the decision in theory to develop common policies and pool resources in this area; and (c) to strictly limit the political role of the Commission and Parliament and the judicial role of the Court of Justice (ECJ)⁽⁵⁾;

7. Regrets that the UK and Poland have sought to limit the justiciability of the Charter of Fundamental

Rights;

8. Deplores, in particular, Article 25a of the EU Treaty, which provides that the processing of personal data in the field of security policy is to be governed by rules established by the Council alone without the involvement of Parliament or the supervision of the EU Courts;
9. Notes, in this context, Declaration No 13 of the Intergovernmental Conference, which asserts that the CFSP provisions do not affect the current responsibilities of the Member States for the formulation and conduct of their foreign policy or their national representation in third countries and international organisations – notably, the primary responsibilities of members of the UN Security Council;
10. Notes, furthermore, Declaration No 14, which claims that the CFSP will not affect the existing legal basis, responsibilities and powers of each Member State in relation to its own foreign policy; and strongly regrets the statement, at once gratuitous and misleading, that the new CFSP provisions give no new powers to the Commission to initiate decisions and no increased role for Parliament;
11. Likewise notes Declaration No 24, which seeks to minimise the effect of the decision to upgrade the legal standing of the Union in international law;

Implementation

12. Notes that, according to Declaration No 12, "appropriate contacts" will be made with Parliament about the nomination by the European Council, with the consent of the President of the Commission, of the first High Representative to take office on the presumed entry into force of the Treaty on 1 January 2009; insists that the spirit of Article 9e of the EU Treaty should be fully applied in the case of this interim appointment (whereby, under Article 9d(7) of the EU Treaty, Parliament would normally have the right of consent to the appointment of the whole Commission, including the High Representative); gives notice, therefore, that it will expect to be fully consulted about this first appointment;
13. Insists on the need for conditions to establish the closest possible collaboration between the President of the European Council, the President of the Commission and the High Representative, and for the mutual respect of their different functions;
14. Welcomes Article 21 of the EU Treaty, which provides that the High Representative will "consult the European Parliament on the main aspects and basic choices" in CFSP and ESDP, "inform it of how those policies evolve", and ensure that Parliament's views are duly considered; undertakes, moreover, to give full effect to its consultative powers and to develop enhanced, systematic scrutiny of the formulation and implementation of the Union's foreign, security and defence policies and operations, fully using its budgetary authority; notes, too, the improved possibilities for Parliament to exercise democratic control over the activities of the High Representative in his capacity as Vice-President of the Commission;
15. In this context, urges that the Interinstitutional Agreement of 20 November 2002 concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy be revised in the light of the new Treaty;
16. Stresses the importance of ensuring the democratic accountability and transparency of the activities of the European Defence Agency;
17. In the light of the new potential in CFSP and ESDP afforded by the Treaty of Lisbon, wishes to foster closer collaboration between relevant committees of the European and national parliaments, including parliamentary observers from non-EU NATO members together with members from the NATO Parliamentary Assembly; further, proposes that the Western European Union Parliamentary Assembly be wound up on the coming into force of the Treaty of Lisbon;
18. Regrets the unnecessary complexity of the arrangements laid down in Article 28 of the EU Treaty with regard to the rapid financing of ESDP activities outside the EU budget; insists that the Interinstitutional Agreement on budgetary discipline and sound financial management of 17 May 2006, and the structured dialogue between the Council and Parliament envisaged therein, be fully implemented;

19. With regard to the establishment of the European External Action Service:

- notes that, according to Article 13a(3) of the EU Treaty, Parliament has the right to be consulted about the establishment of the EEAS, and recalls that it is already in the process of drawing up a report on the matter;
- notes that, according to Declaration No 15, preparations for the EEAS must begin as soon as the Treaty is signed; calls on the Council to associate Parliament in the preparatory work; and calls on the Council, the Commission and Member States to come forward with their proposals by no later than July 2008;
- stresses the need for the EEAS to become a professional, permanent diplomatic service able to contribute effectively to achieving the Union's external action objectives and to supporting efficiently the work of the High Representative;
- underlines the need for the EEAS to be organically linked to the Commission like the existing external delegations and to be financed by the EU budget;
- reminds the Commission that the EEAS can only be established with its consent.

PROCEDURE

Title	Treaty of Lisbon
References	2007/2286(INI)
Committee responsible	AFCO

Opinion by

Date announced in plenary AFET

13.12.2007

Draftsman

Date appointed Andrew Duff

27.11.2007

Discussed in committee	18.12.2007	22.1.2008
Date adopted	22.1.2008	

Result of final vote+:

–:

0: 41

5

2

Members present for the final vote

Hybášková, Anna Ibrisagic, Jelko Kacin, Metin Kazak, Helmut Kuhne, Vytautas Landsbergis, Johannes Lebech, Emilio Menéndez del Valle, Francisco José Millán Mon, Pasqualina Napoletano, Raimon Obiols i Germà, Vural Öger, Cem Özdemir, Ioan Mircea Pașcu, Alojz Peterle, João de Deus

Pinheiro, Mirosław Mariusz Piotrowski, Samuli Pohjamo, Michel Rocard, Raül Romeva i Rueda, Libor Rouček, José Ignacio Salafranca Sánchez-Neyra, Jacek Saryusz-Wolski, György Schöpflin, Marek Siwiec, István Szent-Iványi, Konrad Szymański, Charles Tannock, Inese Vaidere, Geoffrey Van Orden, Zbigniew Zaleski, Josef Zieleniec

Substitute(s) present for the final vote

(1) Article 2(5) of the EU Treaty.

(2) Unlike the 2004 constitutional treaty, agreement to accede to the ECHR will now have to be by unanimity.

(3) As far as CFSP is concerned, QMV applies in the case of Articles 15b(2), 28(3), 28d(2) and 28e(2-3) of the EU Treaty.

(4) With the exception of Denmark.

(5) The ECJ has a role in policing the border between CFSP and non-CFSP matters (Article 25b of the EU Treaty), in reviewing the legality of sanctions (Article 240a of the Treaty on the Functioning of the European Union) and in delivering opinions on the compatibility of international agreements (Article 188n of the Treaty on the Functioning of the European Union).