

Box 8

THE TREATY OF LISBON

On 19 October 2007 the EU Heads of State or Government reached agreement on a new Treaty, which they will sign in Lisbon on 13 December 2007. The Treaty then needs to be ratified by all 27 Member States. The intention is that it enters into force on 1 January 2009 and in any case before the European Parliament elections in June 2009.

The new Treaty amends both the Treaty establishing the European Community and the Treaty on European Union. These two Treaties will continue to be the basis on which the EU functions. The Treaty simplifies the structure of the European Union, which currently consists of a Community “pillar” and two separate foreign policy and home affairs “pillars”. In the new Treaty, the pillars cease to exist and the Community is succeeded and replaced by the Union, which will have legal personality. The Treaty establishing the European Community is renamed the Treaty on the Functioning of the European Union.

On 5 July 2007 the ECB published its Opinion¹ on the opening of the Intergovernmental Conference (IGC) that drew up the new Treaty. The Opinion referred to several innovations agreed upon in the Treaty establishing a Constitution for Europe, which was signed by the Heads of State or Government of all Member States, but not ratified². On 2 August 2007 the President of the ECB wrote a letter to the Presidency of the IGC³ with suggestions on the first draft of the new Treaty, regarding the ECB and the European System of Central Banks (ESCB).

Changes made to the Treaties

The new Treaty makes several changes to the EU’s general institutional framework. The first is the establishment of a permanent President for the European Council, who will be elected for a term of two and a half years, renewable once. The President will represent the EU externally and chair meetings of the European Council, which brings together the Heads of

1 Opinion of the European Central Bank of 5 July 2007 at the request of the Council of the European Union on the opening of an Intergovernmental Conference to draw up a Treaty amending the existing Treaties (CON/2007/20), Official Journal C 160/2-4, 13/07/2007.

2 This Treaty was the topic of an article entitled “The European Constitution and the ECB” in the ECB Monthly Bulletin, August 2004.

3 The letter is available on both the IGC and ECB websites.

State or Government and the President of the European Commission. The European Council itself becomes a Union institution.

The EU's foreign policy apparatus is strengthened, as is the role of the Council's High Representative for foreign and security policy. The High Representative becomes simultaneously a Commission vice-president in charge of external relations (meaning a five-year term), and will chair the Foreign Affairs Council. The current rotating presidency system is maintained for chairing the Council's remaining formations. The position is supported by a new European external action service, which will bring together external relations staff from the Commission and the Council, and will also draw on the foreign policy apparatus of the Member States.

The Commission becomes smaller: from 2014, the number of Commissioners will be reduced from 27 to two-thirds of the number of Member States (including the Commission President and the High Representative), chosen on the basis of an equal rotation system. The European Parliament becomes involved in more legislative areas and the number of its members is reduced to 751. Co-decision by the Council and the European Parliament becomes the ordinary legislative procedure.

As regards the Council, the definition of a qualified majority is amended, by introducing the so-called "double majority" system, which will become mandatory from 2017. This means that a measure will usually be approved by the Council if it is supported by 55% of Member States, representing at least 65% of the EU population. In addition, more areas of Council voting will be decided by qualified majority voting.

Other innovations include: a role for national parliaments in monitoring the application of the subsidiarity principle; the introduction of an "exit clause" allowing for a Member State to leave the EU in an orderly fashion; and a reference to the European Council's Copenhagen criteria for EU enlargement. Moreover, the EU's Charter of Fundamental Rights becomes legally binding, albeit with some possible exceptions in its application. Finally, the "enhanced cooperation" procedure, which allows for the development of certain policies by the EU when some, but not all, Member States want to act, is made easier to use.

Changes to the Treaties of particular relevance to Economic and Monetary Union

The new Treaty makes no fundamental change to the provisions of the current Treaties on economic and monetary policy.

The new Treaty introduces a list of objectives for the Union. Price stability is already the primary objective of the ECB and the ESCB, and is now included in these EU objectives, one of which is the "sustainable development of Europe based on balanced economic growth and price stability". An "economic and monetary union whose currency is the euro" is another EU objective.

The ECB, which currently has the status of a *sui generis* Community body, is given the legal status of a Union institution. In this context, the ECB deemed it indispensable that the special institutional features of the ECB and of the Eurosystem/ESCB were preserved. These special features, which include all aspects of independence, the ECB's regulatory powers, and its legal

personality, are key to the successful performance of the Eurosystem's tasks. The new Treaty fully retains all these special features.

The term "Eurosystem" is introduced into the Treaties. This refers to the ECB and the national central banks of the Member States that have adopted the euro, differentiating it from the term "ESCB", which refers to the ECB and the national central banks of all EU Member States. Apart from technical redrafting, no changes are made in the areas of the convergence criteria, prudential supervision or exchange rate policy. The new Treaty redrafts the language used regarding the external representation of the euro area in the context of the international financial architecture. The new text clarifies the current situation but does not change the allocation of responsibilities as regards economic policy and monetary policy. Notably, the new Treaty introduces for the first time the concept of "unified representation".

Under the new Treaty, the appointment of members of the ECB's Executive Board is by a qualified majority of the European Council, whereas currently it requires the common accord of the governments of the Member States.

The new Treaty also introduces several other innovations in the area of economic governance. These include recognition of the "Euro Group", which retains its current informal status. Its President will serve a two-and-a-half-year term. Moreover, the role of the euro area countries is strengthened. A new provision allows them, by a qualified majority, to adopt new measures to bolster the coordination and surveillance of their budgetary discipline and to set out specific economic policy guidelines for the euro area members. As soon as the Treaty comes into force, decisions on non-compliance by euro area countries with the excessive deficit procedure and the broad economic policy guidelines will be taken only by euro area countries, and without the Member State concerned. Finally, the euro area members will provide a recommendation on whether a country can adopt the euro. Therefore, the final decision on the introduction of the euro in a Member State, while being taken by the whole Council, will take into account the view expressed by the euro area members. This does not in any way change the current procedure of the ECB and the Commission providing convergence reports and the Commission making a proposal.

In this way, although the new Treaty leaves Economic and Monetary Union (EMU) fundamentally unchanged, it introduces various relevant developments. The Treaty recognises some current realities and refines EMU in several respects, offering both progress on mechanisms for more distinct economic governance of the euro area and the potential for further developments.