

Sheet 1

TO WHAT PURPOSE THE LISBON TREATY?

1) WHY THE NEW TREATY?

Until now Europe has been built thanks to a **succession of treaties negotiated by the States**. (See Annex 1 - List of treaties of the European construction). This method led to positive results and made it possible **to take the construction of Europe forwards** for over fifty years.

Since the beginning of the 90's the Union has been faced with a dual challenge:

- **receiving new Member States** to complete the project of European reconciliation that started at the beginning of the 1950's;
- **enhancing the efficiency of the decision making process**: since there are new members it seems appropriate to avoid the dangers of stalemate and yet guarantee the legitimacy of decisions.

The aim of the European Constitution was to improve the efficiency of the Union's institutions and make them more democratic.

After the stalemate in the ratification process which ensued after the French and Dutch "NO" in Spring 2005, **the problem remained and had to be resolved**.



This answer has been provided by the Lisbon Treaty, a compromise which all Heads of State and Government at last agreed to in the Portuguese capital on 18th-19th October 2007.

2) WHAT DOES THE LISBON TREATY INCLUDE?

With regard to the institutional clauses, (part 1 of the "Constitution"), the Lisbon Treaty bears the following clauses:

- the Union becomes a legal entity;
- the three pillars are merged together;
- a new rule of double majority is introduced (*see Sheet 3 – How will decisions be taken in a Union with 27 members?*) ;
- affirmation of the codecision rule between the European Parliament and the Council of Ministers as the ordinary legislative procedure;
- a stable presidency of the European Council (for a duration of 2 and a half years), renewable once;
- creation of one position: " High Representative of the Union for Foreign Affairs and Security Policy";
- right of citizens' initiative;
- enhancement of democratic participation, etc.

Legal Entity

This implies the ability **to enter into a contract**, notably to be **part of an international convention** or be a **member of an international organisation**.

The Pillars of the European Union

The Maastricht Treaty organised the European Union around three main pillars:

- **First Pillar:** the **community pillar** which corresponds to three communities:
 - the European Community (EC) ;
 - the European Community for Atomic Energy (EURATOM) ;
 - and the former European Coal and Steel Community (ECSC) which had been created for 50 years and does not exist any more since 22nd July, 2002.
- **Second Pillar:** the **pillar dedicated to the common foreign and security policy;**
- **Third Pillar:** the **pillar dedicated to police and judicial cooperation in criminal matters.**

The Charter of Fundamental Rights (part 2 of the "Constitution") will be retained, although not *in extenso*; a clause will simply refer to it and this will be legally binding **except for the UK and Poland which will enjoy a derogatory measure**. The agreement of the European Council (October 29-30 2009) specifies that the Czech Republic will also enjoy this derogatory measure. This change will be added to the Croatian membership treaty.

Measures relative to **the extension of the new double majority rule in an increasing number of areas** (for example with regard to visas and the monitoring of the movement of foreigners, the common asylum system, the common immigration policy and judicial co-operation in criminal matters, etc.) will be retained from the part 3 of the "Constitution".

With regard to measures concerning the revision procedure (part 4 of the "Constitution"), the unanimity rule has been maintained.

However **the Lisbon Treaty includes possibilities to adapt the treaties** making it possible to avoid cumbersome revision procedures.

- The **"bridging clauses"** (that allow the European Council to decide – unanimously and except in the area of defence – the transfer of the vote over to the qualified majority in some areas);
- The **"flexibility clauses"** to extend the Union's competences;

3) THE LISBON TREATY IS NO LONGER THE "EUROPEAN CONSTITUTION"

The "European Constitution" suggested the repeal of all of the present treaties to replace them by one text only, the constitutional vocation of which was established.

The Lisbon Treaty has been limited to **the modification of the existing treaties**, hence the name **"reform or modifying treaty."**

→ This explains why many countries have chosen to ratify via parliament, notably France as announced by the President of the Republic during his presidential campaign.

→ These ratifications will give rise to **public debates on the new treaty between democratically elected representatives.**

This new treaty brings modifications to the:

- **Treaty on European Union - -the Maastricht Treaty (1992) (TEU)**
 - Modifications affect the institutions, enhanced cooperation, foreign and security policy, defence policy.
- **Rome Treaty (1957)**
 - It details the competences and areas of intervention on the part of the European Union
 - It becomes the "Treaty on the functioning of the EU" (TFEU).

This change in perspective, which essentially appears to be a formal one, provides a response to requests made by certain countries such as the **Netherlands**, the **Czech Republic** and the **UK**, who believed, during negotiations, that the following should be abandoned:

- **The "constitutional" symbols** (the terms "Constitution", "European Foreign Affairs Minister" "laws" and "framework laws");
- **Union symbols** (flag, anthem, motto, etc.)

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