



Statewatch

EU Reform Treaty: Likely text of the 'First Pillar' External relations provisions (Clean version)

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Introduction

The following text sets out what will likely be the text of the external relations Part of the European Community Treaty (EC Treaty), to be renamed the Treaty on the Functioning of the European Union (TFEU), following the agreement on a mandate to negotiate at an Intergovernmental Conference a 'Reform Treaty' for the EU (the IGC mandate), on June 23rd.

This is the 'clean' version of the text, without footnotes and references to prior Treaty numbers. For detailed notes, see the annotated version of this text.

As a reminder, this is **not** an official text.

Part [Five]

THE UNION'S EXTERNAL ACTION

TITLE I [PROVISIONS HAVING GENERAL APPLICATION]

Article 188a

The Union's action on the international scene will be guided by the principles, will pursue the objectives and will be conducted in accordance with the general provisions on the Union's external action which are laid down in Chapter 1 of Title V of the Treaty on European Union.

TITLE II COMMON COMMERCIAL POLICY

Article 188b

By establishing a customs union in accordance with [Article III-151], the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

Article 188c

1. The common commercial policy shall be based on uniform principles, particularly 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. A [European law or framework law] shall establish the measures required to implement the common commercial policy.

3. Where agreements with one or more States or international organisations need to be negotiated and concluded, the relevant provisions of [Article III-325] 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.

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 risk

- prejudicing the Union's cultural and linguistic diversity;
- b) in the field of social, educational and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the possibility of Member States to deliver them.

5. The negotiation and conclusion of agreements in the field of transport shall be subject to [Section 7 of Chapter III of Title III and Article III-325].

6. The exercise of the competences conferred by this Article in the field of commercial policy shall not affect the delimitation of internal competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of Member States insofar as the [Treaty] excludes such harmonisation.

TITLE III

COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID

SECTION 1 DEVELOPMENT COOPERATION

Article 188d

1. Union policy in the sphere of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.

2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

Article 188e

1. [European laws or framework laws] shall establish the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.

2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Articles III-292 and III-316].

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

Article 188f

1. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations.

SECTION 2

ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES

Article 188g

1. Without prejudice to the other provisions of this Constitution, and in particular those of Articles [III-316 to III-318], the Union shall carry out economic, financial and technical cooperation measures, including financial aid in particular, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's measures and those of the Member State shall complement and reinforce each other.

2. [European laws or framework laws] shall establish the measures necessary for the implementation of paragraph 1.

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

Article 188h

When the situation in a third country requires urgent financial aid from the Union, the Council shall adopt the necessary [European decisions] on a proposal from the Commission.

SECTION 3 HUMANITARIAN AID

Article 188i

1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide ad hoc assistance, relief and protection for people in third countries and victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's actions and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality, neutrality and non-discrimination.

3. [European laws or framework laws] shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in [Article III-292].

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian actions of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. [European laws] shall determine the rules and procedures for the operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system.

TITLE IV RESTRICTIVE MEASURES

Article 188j

1. Where a [European decision on a Union position or action] adopted in accordance with the provisions on the common foreign and security policy in [Title V of the Treaty on European Union] provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary [European regulations or decisions]. It shall inform the European Parliament thereof.

2. In the areas referred to in paragraph 1, the Council may adopt restrictive measures under the same procedure against natural or legal persons and non-State groups or bodies.

TITLE V INTERNATIONAL AGREEMENTS

Article 188k

1. The Union may conclude agreements with one or more third countries or international organisations where the [Treaties] so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the [Treaties], or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.

2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

Article 188l

The Union may conclude association agreements with one or more third countries or international organisations, in order to establish an association involving reciprocal rights and obligations, common actions and special procedures.

Article 188m

1. Without prejudice to the specific provisions laid down in Article [III-315], 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 relates exclusively or principally to the

common foreign and security policy], shall submit recommendations to the Council, which shall adopt a [European decision] authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or 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 from the negotiator, shall adopt a [European 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 [European decision] concluding the agreement.

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

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

- (i) association agreements;
Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;
agreements establishing a specific institutional framework by organising cooperation procedures;
agreements with important budgetary implications for the Union;
agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure with consent by the European Parliament applies.

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

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 according to 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 throughout the procedure.

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, for the agreements referred to in Article III-319 with the states which are candidates for accession, and for Union accession to the European Convention for the

Protection of Human Rights and Fundamental Freedoms (ECHR). The [Decision] concluding the treaty providing for Union accession to the ECHR must also be ratified by Member States in accordance with their national constitutional requirements.

9. The Council, on a proposal from [the High Representative or] the Commission, shall adopt a European 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 provisions of the [Treaties]. Where the opinion of the Court of Justice is adverse, the agreement envisaged may not enter into force unless it is amended or the [Treaties are] revised.

Article 188n

1. By way of derogation from Article [III-325], the Council, either on a recommendation from the European Central Bank or a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may conclude formal agreements on a system of exchange rates for the euro in relation to currencies of third States. The Council shall act unanimously after consulting the European Parliament and in accordance with the procedure laid down in paragraph 3.

The Council, either on a recommendation from the European Central Bank or a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the central rates of the euro.

2. In the absence of an exchange-rate system in relation to one or more currencies of third states, the Council, acting either on a recommendation from the European Central Bank or a recommendation from the Commission and after consulting the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the European System of Central Banks, to maintain price stability.

3. By way of derogation from Article [III-325], where agreements on matters relating to the monetary or exchange-rate system are to be the subject of negotiations between the Union and one or more States or international organisations, the Council, acting on a recommendation from the Commission and after consulting the European

Central Bank, shall decide the arrangements for the negotiation and for the conclusion of the agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.

4. Without prejudice to Union competence and agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

TITLE VI

RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS

Article 188o

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

The Union shall also maintain such relations as are appropriate with other international organisations.

2. The High Representative of the Union for Foreign Affairs and Security Policy and the Commission shall be instructed to implement this Article.

Article 188p

1. Union delegations in third countries and to international organisations shall represent the Union.

2. Union delegations shall operate under the authority of the High Representative of the Union for Foreign Affairs and Security Policy and in close cooperation with Member States' diplomatic missions.

TITLE VII

IMPLEMENTATION OF THE SOLIDARITY CLAUSE

Article 188q

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

- (a) - prevent the terrorist threat in the territory of the Member States;
- protect democratic institutions and the civilian population from any terrorist attack;

- assist a Member State in its territory at the request of its political authorities in the event of a terrorist attack;
- (b) - assist a Member State in its territory at the request of its political authorities in the event of a natural or man-made disaster.

2. Should a Member State be the object of a terrorist attack or fall victim to a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. The arrangements for the implementation of paragraphs 1 and 2 shall be defined by a [European decision] adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article [III-300(1)] when the decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and with prejudice to Article [207], the Council shall be assisted by the Political and Security Committee, with the support of the structures developed in the context of the common security and defence policy, and by the Committee provided for in [Article III-262] which shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.

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