

Excerpt, conclusions of the European Council, June 2009:

Ireland and the Treaty of Lisbon

1. The European Council recalls that the entry into force of the Treaty of Lisbon requires ratification by each of the 27 Member States in accordance with their respective constitutional requirements. It reaffirms its wish to see the Treaty enter into force by the end of 2009.

2. Having carefully noted the concerns of the Irish people as set out by the Taoiseach, the European Council, at its meeting of 11-12 December 2008, agreed that, provided the Treaty of Lisbon enters into force, a decision would be taken, in accordance with the necessary legal procedures, to the effect that the Commission shall continue to include one national of each Member State.

3. The European Council also agreed that other concerns of the Irish people, as presented by the Taoiseach, relating to taxation policy, the right to life, education and the family, and Ireland's traditional policy of military neutrality, would be addressed to the mutual satisfaction of Ireland and the other Member States, by way of the necessary legal guarantees. It was also agreed that the high importance attached to a number of social issues, including workers' rights, would be confirmed.

4. Against this background, the European Council has agreed on the following set of arrangements, which are fully compatible with the Treaty, in order to provide reassurance and to respond to the concerns of the Irish people:

(a) Decision of the Heads of State or Government of the 27 Member States of the European Union, meeting within the European Council, on the concerns of the Irish people on the Treaty of Lisbon (Annex 1);

(b) Solemn Declaration on Workers' Rights, Social Policy and other issues (Annex 2).

The European Council has also taken cognisance of the unilateral declaration of Ireland (Annex 3), which will be associated with the Irish instrument of ratification of the Treaty of Lisbon.

5. Regarding the Decision in Annex 1, the Heads of State or Government have declared that:

(i) this Decision gives legal guarantee that certain matters of concern to the Irish people will be unaffected by the entry into force of the Treaty of Lisbon;

(ii) its content is fully compatible with the Treaty of Lisbon and will not necessitate any re-ratification of that Treaty;

(iii) the Decision is legally binding and will take effect on the date of entry into force of the Treaty of Lisbon;

(iv) they will, at the time of the conclusion of the next accession Treaty, set out the provisions of the annexed Decision in a Protocol to be attached, in accordance with their respective constitutional requirements, to the Treaty on European Union and the Treaty on the Functioning of the European Union;

(v) the Protocol will in no way alter the relationship between the EU and its Member States. The sole purpose of the Protocol will be to give full Treaty status to the clarifications set out in the Decision to meet the concerns of the Irish people. Its status will be no different from similar clarifications in Protocols obtained by other Member States. The Protocol will clarify but not change either the content or the application of the Treaty of Lisbon.

ANNEX 1

DECISION OF THE HEADS OF STATE OR GOVERNMENT OF THE 27 MEMBER STATES OF THE EU, MEETING WITHIN THE EUROPEAN COUNCIL, ON THE CONCERNS OF THE IRISH PEOPLE ON THE TREATY OF LISBON

The Heads of State or Government of the 27 Member States of the European Union, whose Governments are signatories of the Treaty of Lisbon,

Taking note of the outcome of the Irish referendum of 12 June 2008 on the Treaty of Lisbon and of the concerns of the Irish people identified by the Taoiseach,

Desiring to address those concerns in conformity with that Treaty,

Having regard to the Conclusions of the European Council of 11-12 December 2008,

Have agreed on the following Decision:

SECTION A RIGHT TO LIFE, FAMILY AND EDUCATION

Nothing in the Treaty of Lisbon attributing legal status to the Charter of Fundamental Rights of the European Union, or in the provisions of that Treaty in the area of Freedom, Security and Justice affects in any way the scope and applicability of the protection of the right to life in Article 40.3.1, 40.3.2 and 40.3.3, the protection of the family in Article 41 and the protection of the rights in respect of education in Articles 42 and 44.2.4 and 44.2.5 provided by the Constitution of Ireland.

SECTION B TAXATION

Nothing in the Treaty of Lisbon makes any change of any kind, for any Member State, to the extent or operation of the competence of the European Union in relation to taxation.

SECTION C SECURITY AND DEFENCE

The Union's action on the international scene is guided by the principles of 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's common security and defence policy is an integral part of the common foreign and security policy and provides the Union with an operational capacity to undertake missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter.

It does not prejudice the security and defence policy of each Member State, including Ireland, or the obligations of any Member State.

The Treaty of Lisbon does not affect or prejudice Ireland's traditional policy of military neutrality.

It will be for Member States - including Ireland, acting in a spirit of solidarity and without prejudice to its traditional policy of military neutrality - to determine the nature of aid or assistance to be provided to a Member State which is the object of a terrorist attack or the victim of armed aggression on its territory.

Any decision to move to a common defence will require a unanimous decision of the European Council. It would be a matter for the Member States, including Ireland, to decide, in accordance with the provisions of the Treaty of Lisbon and with their respective constitutional requirements, whether or not to adopt a common defence.

Nothing in this Section affects or prejudices the position or policy of any other Member State on security and defence.

It is also a matter for each Member State to decide, in accordance with the provisions of the Treaty of Lisbon and any domestic legal requirements, whether to participate in permanent structured cooperation or the European Defence Agency.

The Treaty of Lisbon does not provide for the creation of a European army or for conscription to any military formation.

It does not affect the right of Ireland or any other Member State to determine the nature and volume of its defence and security expenditure and the nature of its defence capabilities.

It will be a matter for Ireland or any other Member State, to decide, in accordance with any domestic legal requirements, whether or not to participate in any military operation.

SECTION D FINAL PROVISIONS

This decision shall take effect on the same date as the Treaty of Lisbon.

ANNEX 2 SOLEMN DECLARATION ON WORKERS' RIGHTS, SOCIAL POLICY AND OTHER ISSUES

The European Council confirms the high importance which the Union attaches to:

- ☐ social progress and the protection of workers' rights;
- ☐ public services;
- ☐ the responsibility of Member States for the delivery of education and health services;
- ☐ the essential role and wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest.

In doing so, it underlines the importance of respecting the overall framework and provisions of the EU Treaties.

To underline this, it recalls that the Treaties as modified by the Treaty of Lisbon:

- ☐ establish an internal market and aim at working for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment;
- ☐ give expression to the Union's values;
- ☐ recognise the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union in accordance with Article 6 of the Treaty on European Union;
- ☐ aim to combat social exclusion and discrimination, and to promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child;
- ☐ oblige the Union, when defining and implementing its policies and activities, to take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against

social exclusion, and a high level of education, training and protection of human health;

- include, as a shared value of the Union, the essential role and the wide discretion of national, regional and local authorities in providing, commissioning and organising services of general economic interest as closely as possible to the needs of the users;
- do not affect in any way the competence of Member States to provide, commission and organise non-economic services of general interest;
- provide that the Council, when acting in the area of common commercial policy, must act unanimously when negotiating and concluding international agreements in the field of trade in social, education and health services, where those agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them; and
- provide that the Union recognises and promotes the role of the social partners at the level of the European Union, and facilitates dialogue between them, taking account of the diversity of national systems and respecting the autonomy of social partners.

ANNEX 3 NATIONAL DECLARATION BY IRELAND

Ireland reaffirms its attachment to the aims and principles of the Charter of the United Nations, which confers primary responsibility for the maintenance of international peace and security upon the United Nations Security Council.

Ireland recalls its commitment to the common foreign and security policy of the European Union, as approved on several occasions by the Irish people through referendum.

Ireland confirms that its participation in the European Union's common foreign and security policy does not prejudice its traditional policy of military neutrality. The Treaty on European Union makes clear that the Union's security and defence policy shall not prejudice the specific character of the security and defence policy of certain Member States.

In line with its traditional policy of military neutrality, Ireland is not bound by any mutual defence commitment. The Treaty on European Union specifies that any decision by the Union to move to a common defence would have to be taken by unanimous decision of the Member States and adopted in accordance with their respective constitutional requirements. The Constitution of Ireland requires that a referendum be held on the adoption of any such decision applicable to Ireland and this requirement will not be affected should Ireland ratify the Treaty of Lisbon.

Ireland reiterates its commitment to the ideal of peace and friendly cooperation amongst nations and to the principle of the peaceful resolution of international disputes. It reaffirms its strong commitment to conflict prevention, resolution and peacekeeping, and recalls the record of achievement of its personnel, military and civilian, in this regard.

It reiterates that the participation of contingents of the Irish Defence Forces in overseas operations, including those carried out under the European common security and defence policy requires (a) the authorisation of the operation by the Security Council or the General Assembly of the United Nations, (b) the agreement of the Irish Government, and (c) the approval of Dáil Éireann, in accordance with Irish law.

Ireland notes that nothing obliges it to participate in permanent structured cooperation as provided for in the Treaty on European Union. Any decision enabling Ireland to participate will require the approval of Dáil Éireann in accordance with Irish law.

Ireland notes also that nothing obliges it to participate in the European Defence Agency, or in specific projects or programmes initiated under its auspices. Any decision to participate in such projects or programmes will be subject to national decision-making and the approval of Dáil Éireann in accordance with Irish law. Ireland declares that it will participate only in those projects and programmes that contribute to enhancing the capabilities required for participation in UN-mandated missions for peace-keeping, conflict prevention and strengthening international security, in accordance with the principles of the United Nations Charter.

The situation set out in this Declaration would be unaffected by the entry into force of the Treaty of Lisbon. In the event of Ireland's ratification of the Treaty of Lisbon, this Declaration will be associated with Ireland's instrument of ratification.