

# The Amsterdam Treaty

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# 8

## The Amsterdam Treaty: Modest Reforms

*Sophie Vanhoonacker*

After Maastricht, the Treaty of Amsterdam was the second Treaty that was concluded under the aegis of the Dutch Presidency (first half of 1997). The organisation of the Intergovernmental Conference (IGC) leading to this new treaty had already been agreed upon in 1991. It was a concession to those who had hoped for a more ambitious outcome in Maastricht. Amsterdam was therefore in the first place a follow-up treaty rather than an agreement leading to historic steps. This does not mean however that one should downplay its results. It laid the foundations for the development of the European Security and Defence Policy (ESDP) and allowed for the integration of Schengen into the Treaty on European Union. It was also a first attempt to prepare for the upcoming enlargement to a EU of more than 20 member states. Following the 1993 Copenhagen Council it had become clear that the countries of Central and Eastern Europe had the ambition to become full EU members. Seen the differences in economic and political development, several Western European capitals started to question to possibility to always move ahead jointly and flexible integration became a hotly debated issue.

The IGC leading to the Amsterdam Treaty lasted for 16 months (March 1996–June 1997) and was successively chaired by the Italian, Irish, and the earlier mentioned Dutch Presidency. It was the first IGC where also Austria, Finland and Sweden participated, bringing the total number of negotiating states to 15. Since all three were neutral or non-aligned, this brought new perspectives to the debate on European security. Also with regard to questions such as transparency and the environment they introduced novel ideas.

In line with the general focus of this volume, this chapter will try to come to a better understanding of the negotiation process and the

role of various 'actors and factors' in the final outcome. Following a brief introduction on the actors and the agenda-setting process, we will successively examine how the treaty tried to bridge the gap with the European citizens, and examine its role in strengthening the EU's international role, the results on institutional reform, and the outcome of the debate on flexible integration. The conclusion tries to make sense of the negotiation process.

## The actors

As the name suggests, an Intergovernmental Conference is in the first place a meeting of governments. Through a process of domestic bargaining and coordination, every member state determines its preferences and core priorities. The only supranational body that is a full member is the European Commission. Contrary to the member states however, its representative does not have a veto right. The European Parliament is only an associated member. It is regularly informed and can try to indirectly influence the process through its reports and resolutions but is not a direct participant in the negotiation process. The Council General Secretariat is present at all meetings in a supporting role but formally does not have any position.

Since decisions in an IGC are taken by consensus, all national delegations formally have the same weight. In practice however size matters and some countries are more equal than others. Through their role as motor of European integration, France and Germany have traditionally always occupied a key position and it is always difficult, if not impossible, to move ahead without having them on board. During the Amsterdam IGC, the Franco-German axis was led by the French President Jacques Chirac and the German Chancellor Helmut Kohl. Paris and Berlin submitted two joint letters, closely coordinated positions on reforming the Common Foreign and Security Policy (CFSP) and submitted a common proposal on flexibility. The disagreements on questions of institutional reform due to the French reluctance to strengthen the EU's supranational bodies and their plea give a bigger role to national parliaments complicated the deliberations. And so did domestic factors. The unexpected victory of the French socialists in the parliamentary elections of May 1997 further reinforced the French opposition to the Stability Pact and Germany's lack of attention to social issues (Deloche 2002). In Germany Chancellor Kohl was under heavy pressure of the German *Länder* who after Maastricht had managed to introduce a new article in the German constitution, requiring that any

transfer of sovereign powers required the consent of the *Bundesrat*, the body composed of their representatives (Beuter 2002). The combination of these different developments made that the Franco-German couple carried less weight on the negotiation than in Maastricht.

Also in the case of the UK, domestic politics played a major role. As all public opinion polls pointed in the direction of a defeat of John Major's Conservative government, the UK found itself in a weak and relatively isolated position. The prospect of a more European friendly Labour government under the leadership of Tony Blair (May 1997) made that the decision on several sensitive issues was stalled. While one may dispute the extent to which the new government constituted a real step change, it remains that it made an end to the British opt-out on the social charter and allowed for the inclusion of an employment chapter into the Treaty (Best 2002). On questions of subsidiarity, the role of national parliaments and the continuing autonomy of the Western European Union (WEU), it indeed continued to defend the line taken by its predecessor.

The 1996–7 IGC was the first Conference taking place with 16 delegations around the table: the former Twelve; the three new members Austria, Finland and Sweden, and the European Commission. The larger the number of players, the bigger the chance for diversity and the more difficult it is to get one's voice being heard. The obvious strategy for member states is therefore to look for possible alliances. Especially for the smaller member states who run a higher risk to be marginalised, this is of utmost importance. A classic example is the cooperation between the Benelux on matters of institutional design. As small countries they have an interest in strong supranational institutions defending the European interest. In the 1996 IGC they submitted a joint Benelux memorandum on the reform of the Council voting system and the extension of qualified majority voting (QMV). The three also submitted a joint proposal on the free movement of persons (Kerremans 2002). Other examples are the coalition between the Nordic countries Denmark, Sweden and Finland in areas of the environment, employment and fundamental rights (Devuyst 1998). It is important to note that depending on the topic, coalitions can vary. On flexibility Portugal joined forces with Greece, Sweden and the UK while on institutional matters it forged an alliance with Ireland, Luxembourg and the Nordic countries (Marinho 2002).

One delegation that has a very particular position in any IGC negotiation process is the country holding the rotating Presidency of the Council. Seen the relatively weak position of the European Commission which in the case of an IGC, only has a co-right of initiative, its role is

potentially much more influential than in day-to-day EC policymaking process. As chair of the meetings at all levels, the rotating chair is at the centre of the information and in a privileged position to put forward new proposals and to formulate compromises. While operating as a broker it has however to be careful not to breach the trust of the other delegations by pushing too much for its own preferred position (see also chapter on Nice and the role of the French Presidency). To avoid a conflict of interests and a blurring of functions, the country at the helm is also represented by a national delegation in charge of articulating the national position. During the 1996–7 IGC, the Presidency was held by three medium-sized to small countries, all of them being strong supporters of the European integration process. Italy opened the negotiations in the first half of 1996, followed by Ireland (second half of 1996) and The Netherlands (first half of 1997). The role of Italy consisted mainly in mapping the different positions and presenting a summary of the state of the art at the Florence European Council (21–22 June 1996) (Corrado 2002). Ireland started the brokering process and by the end of its period at the helm it had prepared an outline draft treaty on all questions on the agenda and including concrete articles on various issues (McDonnagh 1998). The most sensitive issue such as the reform of the Council voting system, the integration of Schengen into the Treaty, the transitional regime for migration and asylum were all left to the Dutch Presidency.

The only non-member state with a right to speak around the IGC negotiation table is the European Commission. Its main task is to defend the European interest. During the Amsterdam negotiations the European Commission was led by Jacques Santer, who was much less pro-active than his predecessor Delors. The Council General Secretariat is not a formal participant of the negotiations but it is present at all meetings to support the Presidency in its heavy task. Its task is in the first place organisational but since it also helps the chair in the drafting of compromise proposals, it can sometimes also influence the final outcome (Beach 2004). The reliance of Presidencies on the Secretariat however varies heavily. Small member with limited resources tend to make more use of their services than the bigger ones.

## **Setting the agenda**

An important part of the Amsterdam agenda had already been set during the 1991 IGC. In order to buy the support of countries that were disappointed with the poor progress in the security field and the limited areas of parliamentary co-decision, it had been agreed that these

questions would again be discussed at a new IGC starting in 1996. Also policy fields such as energy, tourism, civil protection and the hierarchy of norms were mentioned as areas for further discussion.

The Maastricht Treaty had barely entered into force (November 1993) when the preparations for the next IGC were already taking off. Between June and December 1995, a Reflection Group under the chairmanship of the Spanish Secretary of State for European Affairs Carlos Westendorp regularly met to brainstorm about the agenda. Besides the personal representatives of the foreign ministers, also the European Commission and the European Parliament (EP) were represented. It was a first opportunity to get a grasp of the different positions and hobbyhorses. In the final report, adopted in December 1995, the following three priorities were identified: (1) bringing Europe closer to its citizens; (2) enabling the Union to function better and preparing it for enlargement; (3) endowing the EU with a greater capacity for external action (Reflection Group 1995).

The choice for these issues did not come as a surprise. The difficult ratification process of the Maastricht Treaty in countries ranging from Denmark and the UK to founder member states such as France and Germany had shown that support for the European integration process could no longer be taken for granted (Laursen and Vanhoonacker 1994). National governments realised that it was important that the new treaty addressed issues of direct interest to the citizens. The second priority was related to the upcoming enlargement. Never before had the Union faced such a massive number of applications and it was widely agreed that in order to prevent paralysis, a substantial reform of the EU's institutional architecture was required. The emphasis on the EU's external action was inspired by the Twelve's poor performance in the Yugoslav crisis. Instead of becoming 'the hour of Europe', the crisis had become a symbol of the Union's incapacity to speak with one voice and had painfully illustrated its lack of foreign policy resources.

The Reflection Group did not take any decisions on specific issues. It however allowed the member states to clarify positions and get a feeling for the concerns and priorities of the different delegations. It also helped in bringing the IGC on the radar of the national governments and administrations (McDonagh 1998).

### **Bringing Europe closer to the citizens**

The Amsterdam negotiations took place at a time where public support for European integration had become increasingly under pressure and

all heads of state and government agreed that it was primordial to come with results of direct relevance for the daily life of the European citizens. The result was the tabling of a wide scope of issues ranging from employment, social policy, fundamental rights as well as migration, asylum and the fight against crime.

Trying to address the criticism that the private sector had been the prime beneficiary of the European liberalisation process, the Amsterdam Treaty strengthened the Union's social policy and introduced a new Title on employment. Under the latter the member states and the European Community agreed to develop a coordinated employment strategy. A high level of employment became a formal EU objective and had also to be taken into account in the elaboration of other community policies. Under the social chapter it was agreed to introduce measures on combating social exclusion. The treaty furthermore introduced a legal basis for action in the field of equal opportunities and equal treatment of men and women at work. The Social Democratic government of Sweden, a country with a deep-rooted support and pride of the welfare state played a leading role in the debate (Johansson and Svensson 2002). Stockholm presented two detailed position papers on employment and forged alliances with others such as Austria, Belgium, Ireland, Denmark and Finland. As in Maastricht, the biggest opposition came from the UK. Although the Blair government accepted to join the social chapter, it remained reluctant to give up unanimity in this sensitive area (Best 2002). Following the victories of Blair (UK) and Jospin (France) there were twelve countries where Social Democratic parties formed part of the government. They proved however insufficiently organised and coordinated to heavily impact on the final outcome in the social field (Dehousse 1999).

Fortunately the results were more impressive in the areas of asylum and migration, a question that was high on the agenda at a moment where several member states such as Germany were facing strong migratory pressures from Central and Eastern Europe. Asylum, migration, judicial cooperation in civil matters as well as customs fraud and fraud against the community budget all moved to the (first) community pillar, leaving the intergovernmental third pillar with police cooperation and judicial cooperation in criminal matters. Despite the concession of a transitional period of 5 years whereby the Council and the Commission still shared the right of initiative, the communitarisation of several sensitive third pillar policy areas was a bridge too far for Denmark and the UK. Together with Ireland, with whom the UK has a passport union, these countries obtained an opt-out (McDonagh

1998; Petite 1998). The progress made in the free movement of persons had clearly come at a price and illustrated well how difficult it had become to always move ahead with the entire EU cohort.

A third important decision of direct relevance to the citizen relates to the integration of the so-called Schengen *acquis* into the Treaty. By the time of the Amsterdam negotiations, all member states, with the exception of Ireland and the UK had joined the Schengen agreement on free movement of persons and especially in The Netherlands, there were critical voices about the exclusion of the supranational community bodies from the Schengen policymaking process. The final agreement, only reached at the last phase of the negotiations contained a so-called lock, stock, and barrel approach, implying that all decisions adopted under Schengen would at once be integrated into EC legislation. Depending on the topic, the acts would be legally based on the first (free movement) or third pillar (police cooperation). There were again special provisions for Denmark, Ireland and the UK. The latter two were allowed to maintain their border controls. Denmark was only bound by the measures taken prior to Amsterdam and the new measures taken in the framework of the third pillar, not those falling under the first one (Den Boer 2002; Petite 1998).

The integration of Schengen, realised through the adoption of a Protocol, is a good example of how the rotating Presidency can have an important impact on the IGC negotiation process. Already during the Reflection Group meetings, the Dutch Secretary of State for European Affairs Michiel Patijn had invested much effort to put the question on the agenda. Initially there was little interest but the Dutch systematically kept the issue on the agenda, forging alliances with Belgium and the European Commission. Also the Council Secretariat played an important role in the drafting process. Once they were in the chair, the Netherlands invested a lot of time and resources to convince the opponents, if necessary by making concessions on other issues (Langendoen and Pijpers 2002; Mazzucelli 2003).

### **Greater capacity for external action**

The IGC debate on the development of the EU's international role was a further attempt to come to grips with the radically changed European security situation after the end of the cold war. The difficulties to play a meaningful role in the Yugoslav crisis had made it clear that the gap between the EU's ambitions and its performance was still huge. The debate in Amsterdam centred on two major questions: how to increase

the effectiveness of the foreign policy process and secondly how to strengthen the security and defence dimension of CFSP (Vanhoonacker 1997).

The most important innovations aimed at making the Union more responsive to international developments were the introduction of constructive abstention and, stemming from a French proposal, the creation of the new post of a High Representative (HR) for the Common Foreign and Security Policy (CFSP). The institutional home for this new player was heavily debated (McDonagh 1998). The spectrum of options discussed included an upgrade of the position of the Secretary General of the Council, the integration of the HR into the European Commission or, as suggested by Paris, the creation of a new function outside the existing institutional structures. The first and least ambitious option ultimately made it.

In contrast to the Lisbon Treaty where the HR has the right of initiative, the post created in Amsterdam was meant to be merely supportive. The role of the High Representative was to assist the Council and the rotating Presidency with the formulation, preparation and implementation of foreign policy decisions.<sup>1</sup> For his day-to-day work he could rely on a small Policy Planning and Early Warning Unit (PPEWU), composed of officials of the Council Secretariat, the European Commission and the member states. Given its composition it can be seen as the nucleus of the future European External Action Service (EEAS). For the first time, the Council Secretariat received more than a merely supportive role and started to also provide analyses of foreign policy challenges.

The debate on decision making once again was dominated by the perennial request for the introduction of Qualified Majority Voting (QMV). Advocated by Germany, it was strongly opposed by France, traditionally defending an intergovernmental approach to foreign policy cooperation. The compromise consisted in introducing QMV for implementing measures based on an earlier unanimous decision. This was also the case for the implementation of the new European Council instrument of common strategies, setting out general guidelines for a certain country or region. In addition, the treaty also introduced the possibility of constructive abstention. Member states abstaining would not be obliged to apply the decision but at the same time accept that it was binding the Union.<sup>2</sup> It was a first concrete attempt to introduce a certain degree of flexibility in the ponderous foreign policymaking process (Duke 2002).

Not surprisingly the most sensitive debates revolved around the further development of the security role of the Union. A key question was the future relation with the Western European Union (WEU), the body that

the Maastricht Treaty had put in charge of implementing the Union's security decisions. Inspired by the gradual character of the EMU model, Europeanists such as Belgium, France, Germany, Italy, Luxembourg and Spain proposed the WEU's progressive integration into the EU in three steps. This was unacceptable for Atlanticists such as the UK and Portugal, who feared that this would undermine NATO's central position in the European security architecture. They also had the support of the neutral and non-aligned countries, opposing a strong EU security role. Besides Ireland, this group now also included the three new member states Austria, Finland and Sweden. The result was that the WEU remained an autonomous body but that the institutional relations with the EU were further strengthened. The full integration of the WEU into the EU would only be realised under the Nice Treaty after the Kosovo disaster in 1998–9.

The Finnish-Swedish proposal to incorporate the WEU Petersberg tasks into the Treaty was less controversial. There was consensus that the EU's future security role laid in the first place in the implementation of 'humanitarian and rescue tasks, peacekeeping tasks, and tasks of combat forces in crisis management, including peace-making'. Implicitly this reference to the EU's role as crisis manager was also a recognition of the fact that NATO would remain the principal organisation for questions of collective defence.

The rather modest results in European foreign policy can be explained through a variety of factors. An important obstacle was the malfunctioning of the Franco-German motor due to disagreements about the introduction of QMV and on the role of the High Representative. The continuing British conviction that European security initiatives should in the first place be taken in the NATO framework and the above mentioned reluctance of the neutral and non-aligned countries hindered any substantial progress in the field of European security and defence. Still the decade following the signature of the Amsterdam Treaty would see major developments in CFSP. This however mainly had to do with pressure from external events and Blair's decision in Saint Malo (June 1998) to give up its resistance against autonomous European action in the security field, backed up by military capabilities (Howorth 2007). Also Xavier Solana's maximalist interpretation of his job as first High Representative made that the new position had much more impact than many had expected.

## **Institutional reform**

The debate on institutional reform was triggered both by the rather unsatisfactory outcomes in Maastricht as well as by the prospect of the

upcoming 'big bang' enlargement with the east. Meant to be one of the top IGC priorities, it became the issue with the least results. Trying to come to a more efficient and legitimate policymaking process, the member states discussed a wide variety of issues ranging from the extension of QMV, the scope of parliamentary co-decision, the re-weighting of votes in the Council and the composition of the European Commission.

As in Maastricht the legitimacy question was in the first place addressed by further enhancing the powers of the European Parliament. Parliamentary co-decision was extended to provisions that were so far subject to the consultation, cooperation or assent procedures as well as to a number of new treaty provisions such as incentive measures for employment and several others.<sup>3</sup> Agriculture however, accounting for more than half of the EU budget, remained excluded. The co-decision procedure itself was simplified by abolishing the third reading.<sup>4</sup> The member states furthermore also strengthened the parliament's role in the nomination of the European Commission: the EP's right to approve the European Commission already introduced in Maastricht was extended to the right to approve the Commission President (Maurer 2002). At the instigation of France, the member states also adopted a protocol on the role of the national parliaments. They were to be better informed about EU legislative proposals and given a six-week period between the launching of a proposal and its discussion or adoption by the Council (Maurer 2002).

In terms of efficiency the balance sheet is much less positive, not to say poor. Both the question of the Council voting procedures as well as the composition of the European Commission were postponed to a next IGC. The extension of Qualified Majority Voting was much more limited than many had hoped for. While under the Irish Presidency there were still 19 articles on the list, in Amsterdam the member states only withheld five (Brinkhorst 1997). Sensitive areas such as social security, indirect taxation, culture and professional services were kept under unanimity (Moravcsik and Nicolaidis 1999). Also for the new treaty articles the list proposed by the Dutch Presidency in Amsterdam was considerably reduced.<sup>5</sup> The limited progress can partly be explained by the rigidity of Chancellor Kohl who in the light of upcoming elections and under pressure of the German *Länder* was very careful not to alienate public opinion (Beuter 2002). In light of the upcoming enlargement to a Union of more than 20 member states, the prospect of the continuing prevalence of unanimity in so many important policy areas was problematic and therefore again put on the agenda in Nice.

Linked to the future influence of the member states, the questions of the size of the European Commission and the weighting of votes proved

even more difficult to reach a consensus. Part of the problem was that these issues opposed large and small member states. Arguing that with every enlargement the population represented in QMV was declining, the five largest member states asked to be compensated for their losses. In a Union of Fifteen, a qualified majority vote still represented 58.3 per cent of the EU population while in a Union of 26, it only stood for 50.29 per cent (Laursen 2002b). While France, Italy, Spain and the UK advocated a reweighting of the votes of individual member states, Germany pleaded for a dual majority system. Besides a majority of votes, a 'yes vote' in such system would also be based on a majority of the EU population. The negotiations were further complicated by the fact that the 'weighting of votes' dossier was linked with the question of the size and the composition of the European Commission. At the time of the Amsterdam negotiations the five largest member states still had two Commissioners, while the small ones only nominated one. Big member states were ready to give up their 'second' Commissioner and accept a capped college with less Commissioners than member states based on the principle of rotation. Fearing that the rotation would only apply to them, the small member states rejected the idea of a Commission where not all countries would have a representative of their nationality. The argument was that from a legitimacy point of view it was important for the college to have at least one member with a strong sense of national sensitivities. At a time that the EU was being criticised for not listening enough to its citizens, such national presence was considered to be all the more important.

The linkage between the different institutional questions and their high sensitivity implied that member states left the cutting of a deal to the Amsterdam summit on 16–17 June 1997. One of the key questions was how exactly the revised Council voting system would compensate the larger member states for giving up their second Commission member. By that time, a majority supported the dual majority system but some like France continued to advocate a simple re-weighting of the votes. The negotiations went on until the early hours of 18 June but no agreement was reached (McDonagh 1998). In a protocol attached to the Treaty, the member states agreed to organise another IGC at least one year before the EU was exceeding the number of 20 member states carrying out 'a comprehensive review of the provisions of the Treaties on the composition and functioning of the institutions' (Protocol No. 7). It is also stipulated that upon the date of the entry into force of the next enlargement, the Commission will comprise one national per member state on the condition that the weighting of votes in the Council has

been modified. It was up to the next IGC to decide whether this would be by a re-weighting of the votes or through a system of dual majority. The so-called leftovers of Amsterdam would ultimately be tackled under the French Presidency in Nice (December 2000) (Schout and Vanhoonacker 2006b).

Trying to explain the postponement of a decision on what many saw as the key priority of IGC, Moravscik and Nicolaïdis (1999) point to the changed position of the German Chancellor Kohl who, under domestic pressure and upcoming elections, had become much more reluctant to support radical institutional reforms. The realisation that enlargement was still several years away, made the reaching of a deal less pressing.

### **Flexible integration**

One of the big challenges of the upcoming enlargement was how to combine the widening of the EU with a further deepening. Integrationists feared that the increasing diversity would make it very hard to always move ahead with all EU member states. The Maastricht opt-outs for the UK (EMU, social policy) and Denmark (security) were already first indications that in certain cases the only way forward was to allow for differentiation and permit reluctant countries to stay – at least temporarily – on the side-line. Although flexible integration was not one of the three core objectives of the negotiations, it was present throughout the debate leading to heated discussions until the final stages of the IGC.

As in so many IGC questions, Berlin and Paris set the tone. In September 1994, a document prepared by the parliamentary group of Germany's ruling Christian Democrats, better known as the Schäuble-Lamers paper, put forward the idea of a hard core Europe of five member states consisting of France, Germany and the Benelux countries (Schäuble and Lamers 1994). Shortly before, in an interview with the French newspaper *Le Figaro*, the French Prime Minister Edouard Balladur had presented his notion of a Europe of concentric circles (30 August 1994). Although both proposals got a rather hostile reception especially by those not included in the hard core, they had the merit of putting the issue of flexible integration squarely on the agenda. Both countries further pushed the issue by putting forward joint proposals, both at the level of the heads of states and government (December 1995) and at ministerial level (February 1996) (Deloche 2002).

The fact that 'flexibility meant different things to different people' and wide-ranging disagreements both about its purpose and form made

the negotiations very difficult and time-consuming (McDonagh 1998). The UK for example advocated an *à la carte approach* where countries could 'pick-and-choose' their areas for further integration. This formula was fiercely rejected both by the European Commission and the Benelux countries seeing it as a potential source of incoherence and disintegration. Southern countries such as Spain, Portugal and Greece firmly opposed the idea of differentiation as they feared that it might lead to their marginalisation. A further complication was the interlinkage between the flexibility question and other issues on the IGC agenda. Since the ultimate need for flexibility depended to a large extent on the progress made in other IGC issues (such as the extension of QMV for example), it could only be settled once there was clarity on the final package (McDonagh 1998).

While one can argue that the decision to include treaty provisions on 'enhanced cooperation' was a revolutionary step, the scope provided by the TEU to initiate it among a number of member states within the EU's institutional framework was rather limited. Rather than discussing specific policy areas, the member states defined a general enabling clause defining the conditions under which the cooperation could take place. The new title of the TEU specified a list of no less than seven of them. These included *inter alia* respect for the TEU's single institutional framework and the *acquis communautaire*, as well as its use as an instrument of last resort, the involvement of the majority of member states and openness to all of them. In addition there were separate provisions on the conditions and decision-making mechanisms in the first and the third pillar. The decision on enhanced cooperation was to be taken by QMV and it was up to the European Commission to check the compliance with the flexibility criteria and to formulate a proposal. While in the first pillar the Commission opinion on member states proposals was binding, this was not the case in the third pillar. A further protection was that member states could always refer a matter to the European Council for a unanimous decision. The second pillar was excluded from enhanced cooperation. Through constructive abstention, CFSP however disposed of its own form of flexible cooperation (Stubb 1998).

Associated with risks of marginalisation, lack of coherence and even disintegration, the overall tone of the debate on flexible integration was very defensive and by the end of the IGC there was not much left of the original Franco-German idea of a hard core (Stubb 1998). While one may be critical of the very cautious approach and the many conditions attached to the application of the flexibility clause, it remains an important step that for the first time the notion is institutionalised and formally enshrined in an EU Treaty.

## **Making sense of the Amsterdam IGC**

The negotiations leading to the Treaty of Amsterdam lasted for 16 months, covered a wide range of issues and involved a broad variety of players at different levels from diplomats to ministers of foreign affairs and heads of state and government. Although it was impossible to give a full account of the IGC in all its richness, our account nevertheless allows us to draw some interesting lessons on the negotiation process.

Firstly, in line with liberal intergovernmentalism, it is clear from our analysis that the member states, particularly the big ones, play a predominant role. Especially the positions of France and Germany were again key, although their motor role was less performing than in Maastricht. In cases of disagreement between the two, such as on institutional reform or the use of QMV in the second pillar, the negotiation process suffered and the outcome was negatively affected.

The impact of the UK was entirely different as it often weighed in a negative rather than in a positive way. With its minimalist positions, the British delegation managed to block progress in a number of key areas such as the integration of the WEU into the EU. In other cases such as the integration of Schengen, the others moved forward without London. The upcoming elections and the expected change of government put the British negotiators in a difficult situation and some of the most sensitive issues were only tackled after the new Blair government had come to power (in May 1997). Despite the ambitions of the new Foreign Secretary Robin Cook, the big member states that really mattered in Amsterdam were only two in number and not three.<sup>6</sup>

The pivotal role of the big member states does not mean that the smaller ones did not matter. Amsterdam again illustrated that, when well prepared and able to forge alliances with others, small countries can definitely have an impact. A case in point is Sweden playing a leading role in the adoption of the employment chapter, and supported by others such as Austria, Belgium, Ireland, Denmark and Finland but strongly opposed by Germany. Another example was Denmark who managed to strengthen the environmental guarantee in the Treaty article on the internal market. Although there was initially not much support, the Danish delegation nevertheless managed to get it through by skilfully playing out the upcoming ratification referendum (Beach 2002).

One group of countries in a particularly privileged position are those holding the rotating Presidency. While Italy and especially Ireland did a lot of the preparatory work, it were the Dutch who were in charge of orchestrating the endgame. The example of the integration of

Schengen, a Dutch hobbyhorse, is a clear example of how a position at the helm puts the rotating chair in a strategic position to impact upon the final outcome.

Does the pivotal role of the member states imply that the IGC is a purely intergovernmental affair or was there also scope for an impact by the supranational institutions such as the European Commission, the EP and the Council General Secretariat? During the Maastricht negotiations the European Commission under the leadership of President Delors had been criticised for overplaying its hand. In Amsterdam the Santer Commission took a pragmatic approach and operated more behind the scenes by closely cooperating with the Presidency and by forging alliances with member states on particular issues (Gray 2002). Our analysis however did not find any clear examples that through its contributions the Commission significantly altered the outcome of the negotiation process. The same applies for the European Parliament. The fact that the Treaty brought extended co-decision and further strengthened the role of the EP had as much to do with the general willingness to increase the legitimacy of the EU as with the EP's contribution to the IGC.

The role of the Council General Secretariat is undoubtedly the most difficult to assess. Since both the Irish and the Dutch Presidencies heavily relied on the Secretariat to draft the Treaty articles, Beach (2004) in earlier research has identified it as an invisible hand. While we don't want to downplay its impact, it remains that the Secretariat is not an autonomous actor and any of its drafts are always subject to the approval of the chair and the other delegations.

A final element, which deserves attention, as it has been present throughout this account is the broader political and institutional context of the negotiations. Factors such as the time horizon of the negotiations, the broader European and international context, particular domestic developments, are all factors going beyond the control of the member states but nevertheless contribute to the structuring of the debate (Christiansen and Reh 2009). In the case of the Amsterdam treaty negotiations, several issues can be mentioned, starting with the fact that the 1996–7 IGC did not start from scratch. The Maastricht Treaty had already defined institutional reform and strengthening CFSP as priority areas for revision. Since it was clear from the start that the negotiations would be concluded at the end of the Dutch Presidency, it was obvious that the most sensitive issues such as institutional reform and flexibility would not be concluded prior to the European Council of 16–17 June. Examples of domestic, European and international contextual factors

playing a role are the declining public support for the European integration process, eastern enlargement and the ongoing crisis in the Balkans. There was a general consensus that the IGC needed to give priority to the direct concerns of the citizens such as employment, transparency and migration (McDonagh 1998). The poor EU performance in the Yugoslav crisis gave impetus to the debate on strengthening CFSP and the upcoming enlargement was in the back of everybody's mind in the discussions on institutional reform and flexibility. At the same time the fact that accession was still several years ahead made that the European Council had the luxury to postpone a decision on the reweighting of votes and the composition of the Commission. Also purely domestic factors such as the British expected change in government and the imminent German elections were elements impacting to a bigger extent than many have appreciated.

Concluding we can say that an IGC, as the name suggests, is to a large extent an intergovernmental affair with a crucial role for the bigger member states. However, it has to be emphasised that even if the national delegations will in the first place be led by what has been agreed domestically, they are not immune to what is happening in the broader political and institutional context. Any account of an IGC should therefore also include an examination of how such factors have shaped the final outcome.

## Notes

1. The day-to-day management of the Council Secretariat was entrusted to the Deputy Secretary General of the Council General Secretariat.
2. The new mechanism of constructive abstention did not apply when adopting joint actions, common positions or decisions on the basis of a common strategy. Other derogations included the appointment of a special representative or the adoption of a decision implementing a joint action or common position.
3. Besides incentive measures for employment policy, the new Treaty provisions covered by co-decision also included: social policy (equal opportunities and treatment); public health.
4. In the third reading, the Council could impose the common position after conciliation had failed unless the EP could overrule the Council by an absolute majority of its members.
5. Examples include employment guidelines, equal treatment of men and women, public health, transparency, countering fraud, statistics.
6. See Robin Cook, quoted in E. Best (2002), p. 375: 'We want to make sure that from now on there are three players in Europe, not just two.'