

Nice Explained

The Treaty of Nice is said to be a pre-condition for "enlargement" – the accession of central and eastern European states to the EU. But enlargement needs wholesale reform of the Common Agricultural Policy, which was not discussed at Nice. The real agenda was about "deepening" – the further centralisation of power in Brussels.

The Draft Treaty

When the draft text of the Treaty of Nice¹ is ratified by all 15 EU Member states, significant power will once again shift from them to EU institutions.

Like previous EU Treaties, the Treaty of Nice consists of "*adaptions of the Treaty on the European Union (TEU) and the Treaties on the European Communities (TEC)*"². Consequently, to all but a few specialists, the Treaty's text is incomprehensible; as, indeed, are the founding Treaties themselves.

It goes without saying that **not a single EU power (or 'competence') is returned to Member States**; nor has it ever been. Indeed, the Treaties ordain that the ratchet towards ever-closer union cannot be reversed.

There are two mechanisms through which national sovereignty is transferred to the EU collective. The first is by **extending Qualified Majority Voting ("QMV")** in decision-making in the Council of Ministers, under which national vetoes are removed. The second is where the Council, by QMV, may adopt a 'common position' with the European Parliament: the so-called "**Co-Decision Procedure**".

Nice provides for the removal of the national **veto in 39 areas**, of which 14 are subject to Co-Decision. Some of these are relatively insignificant, but many are not, **including appointments of the Commission**

Key Provisions

Fundamental Rights: The council may now decide that there is a **clear risk** of a serious breach of fundamental rights by a Member State, rather than that a breach has already taken place. This is aimed at countries which elect political parties which other EU states regard as unacceptable – the so-called "Austrian issue". Now, by QMV, **any Member State can be ostracised, thereby losing all its voting powers and making its veto inoperative.**

The Council is given the power, by QMV using Co-Decision, **to decide how political parties in the European Parliament should receive EU funding.** It is possible that such funds (provided by British taxpayers, *inter alia*) could be funnelled to one British political party – say, Labour – and not to another – say, the Conservatives – depending on how EU-friendly their policies were judged (by the Council) to be.

Security and Defence: For the first time, the European Parliament is introduced into this area through the Co-Decision procedure. Decisions to "*open negotiations with states or international organisations*" are now taken by QMV.

Moves towards the creation of a European Rapid Reaction Force are not part of the Nice Treaty itself, but negotiations to create it have been taking place in parallel. Under the recent French EU Presidency, this new EU army was to be independent of NATO,

President and Commissioners, control of the EU budget, industrial policy, anti-discrimination measures, regulation of EU-wide political parties, trade in services and – in 2007 – the distribution of aid to the poorer regions of the EU. In theory, Member States retain a limited veto in some areas of direct taxation, social security and immigration.

which would thus be undermined. Whether Washington will go along with this remains to be seen.

Crime: Nice incorporates the European Judicial Co-operation Unit (Eurojust) into the Treaty to co-ordinate action in criminal matters in the Member States. Eurojust marks a further step towards the institutionalisation of an EU-wide legal system, Corpus Juris, which threatens Habeas Corpus and trial by jury.

Enhanced Co-operation: A minimum of eight Member States are now able to establish closer co-operation where the national veto ("the emergency brake") has been removed, except for Foreign and Security Policy. France and Germany are likely to invoke these provisions if they judge "progress" on EU integration by the EU as a whole to be unsatisfactory.

Social Provisions: Measures on anti-discrimination, visas, asylum and free movement of people will now be adopted by QMV. Reversal of the burden of proof in employment cases has been introduced.

Measures Theoretically Preparing For Enlargement Of The Union

("re-weighting of votes")

The Council of Ministers: enlargement to a 27-member Union would mean **a dilution of British voting power from 11.5% now to 8.4%**. A "backstop" QMV threshold is instituted needing the votes of countries representing 62% of the total population of the Union.

Votes in the European Parliament: The total number of MEPs will be capped at 732. On enlargement to a 27-member Union, **British MEPs' notional voting power will be diluted from 13.9% to 9.8%**. In practice, on enlargement, since British MEPs never vote as a bloc, their real voting power will be about 4%.

The number of Commissioners will rise progressively from the present 20 to 27 as new Member States join; each will have one Commissioner. Britain and the other larger states give up their present right to nominate 2 Commissioners. To the extent that Commissioners defend their own country's interests (which they are not supposed to do), **British voting power in the Commission will be diluted from 10% at present to 3.7%**.

Conclusion

Nice was more about further centralisation than enlargement. A Declaration to the Nice Treaty provides for yet another Intergovernmental Conference in 2004, with an agenda proposing an EU Constitution and a legally-binding Charter of Fundamental Rights, which would override all UK law. If these proposals are agreed, the final step will have been taken along the road to a virtual EU megastate.

NOTES

1 Agreed by the 15 EU Heads of State and Government meeting as the European Council on 10th December 2000.

2 Treaty of Nice Preamble

Main Sources: The British Management Data Foundation's ("BMDF") Initial Analysis, dated 4.1.01, of the Provisional text of the Treaty of Nice dated 12.12.00; the BMDF's "The Treaty of Amsterdam in Perspective"

The Commission: The national veto is removed for the selection and appointment by the European Council of the President of the Commission and the other Commissioners, whom the President can, in effect, appoint. The President will also be able to allocate "portfolios" to Commissioners and request their resignation.

published in January 1998; the Presidency Conclusions (and their Annexes) of the Nice European Council Meeting of 7th, 8th and 9th December 2000; Labour Euro-Safeguards Campaign Bulletin "Questions and Answers on the Treaty of Nice", January 2001; and numerous conversations with Peers, MPs and MEPs.
