

Analysis: Prime Minister's last EU giveaway

Anyone reading what has been agreed in Brussels this weekend will quickly realise that the "new" treaty is merely the EU constitution with another name. It even takes the form of a list of tweaks and amendments to the constitution's original text. It is a radical document that fundamentally changes the legal basis of the European Union. It "replaces and succeeds" the old treaty - unravelling the careful compromise reached at Maastricht in 1992.

In several key ways, it fundamentally changes the legal relationship between Britain and the union - not least by giving the EU Commission and the European Court direct control over our criminal law and judicial system. So what does the treaty mean in practice?

An EU president v Control of the 3,500 civil servants in the council secretariat would provide the EU president with a substantial power base. Some have suggested that the new president of the European Council might eventually be merged with the commission president to create a US-style president for Europe.

President Sarkozy of France eventually wants the president of the council to be directly elected and has suggested Tony Blair for the job.

An EU Foreign Minister

The agreement states: "The union minister for foreign affairs will be called High Representative of the Union for Foreign Affairs and Security Policy." The position retains the same new powers set out in the original constitution. Alberto Navarro, Spain's Europe minister, admitted: "We were prepared to find a title other than foreign minister, but we are not prepared to change the substance of his role."

The foreign minister would have the automatic right to speak on behalf of Britain at the United Nations on issues where "the union has defined a common position". The UK has also accepted that the new minister will be a member of the commission, despite resisting giving the commission a role in foreign policy since 1992. The minister will chair meetings of the EU general affairs and external relations council and have the power to appoint EU "envoys".

An EU diplomatic service

A single "European External Action Service", as proposed in the constitutional treaty, would merge national officials with the 745 civil servants who work in the commission's external relations directorate, and the 4,751 members of staff in the commission's existing "delegations" worldwide.

Home affairs

For the first time, judges in the European Court of Justice would have sweeping powers over justice and home affairs issues, something Britain blocked at Maastricht and has always opposed. The EU would get powers to harmonise civil and criminal laws, and define what sentences criminals can get.

It gains powers to compel member states to "mutually recognise" each other's judgments, even in new member states with poor legal systems. Europol, the EU police office, gets new powers despite concerns over its record.

Foreign policy

As well as the foreign minister and diplomatic service, the new treaty gives the EU a single legal personality, allowing it to sign various treaties. In effect, it has the freedom to act more like a country in its own right.

Many vetoes abolished

National rights of veto on every-thing from immigration to foreign policy are given up.

A self-amending treaty

The treaty would include mechanisms allowing it to be re-written without need for fresh treaties. The fear is it could be gradually altered to increase EU power without sufficient scrutiny.

Two things appear clear. First, the comment last week by Margaret Beckett, the Foreign Secretary, that "no negotiations have taken place" was misleading. This detailed legal agreement was not drawn up overnight.

Second, the Government must surely now keep its election promise to hold a referendum. If our MPs want to give away permanently powers that the voters only temporarily lent to them, we must have our say.

What the PM gave away

- Creation of EU president
- Creation of EU foreign minister
- Establishment of EU diplomatic service
- Sweeping new powers for the European Court of Justice over our criminal law
- An end to each country being able to appoint a European commissioner
- Vetoes abolished across the board
- Creation of a European public prosecutor with power to initiate prosecutions
- A legal personality for the EU, allowing it to sign treaties as if it were a single country

- Powers to harmonise civil and criminal laws, and what rights and sentences criminals receive
- A self-amending treaty that allows the EU to seize more powers without need for new agreements

NEIL O'BRIEN

Neil O'Brien is Director of Open Europe. This article first appeared in the Sunday Telegraph, 24 June 2007