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1 The European Union: Evolution, Institutional and Legislative Structure and Enlargement

George Argiros and Athina Zervoyianni

Introduction

On 1 January 2002, the euro became the common currency for the 12 EU states participating in the eurozone; and on 1 May 2004 ten more countries joined the EU increasing the number of member states from 15 to 25. Whatever the success of these developments, it is certain that European integration has entered a new era.

Indeed, although the integration of Europe was proposed as early as in the fourteenth century, it was the post-Second World War era that saw serious and comprehensive attempts to integrate Europe. The result of these attempts was the establishment of the European Coal and Steel Community (ECSC), which was to be the first stone in the foundation of a united Europe. The approach to integration was sectoral, based on the functional ideology that common problems needed common solutions. The ECSC was followed by the establishment of two other Communities, the European Economic Community and Euratom. The European Economic Community pursued general economic integration through the setting up of a common market, while Euratom was devoted to sectoral matters.

The first major amendment to the founding Treaties was the Single European Act, whose main aim was the establishment of the single European market. Later, the Treaty of Maastricht created the European Union with broad economic, political and social objectives.

However, European integration is a multi-layered and dynamic project: the most ambitious enlargement ever became a reality in April 2003 when Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia signed accession agreements. The dynamic character of European integration inspires all aspects of its functioning, and at the same time creates some uncertainty regarding the future. There is no doubt that the international economic and political environment is quite different since the conclusion of the founding treaties. Until today the European Community has shown a high degree of adjustability to changes in the international environment, but the EU is growing ever more complex and its multiple functions, powers and identities are reflected in its increasingly diverse and labyrinthine institutional configuration and legislation. It would be unrealistic at the moment to argue for a comprehensive and monolithic constitutional structure to cover the whole functioning of the EU. Nevertheless, given the magnitude of its powers and tasks, it would be appropriate to accept a number of comprehensive constitutional norms enforceable at all levels and in all aspects of the EU's multiple policy-making and law-making processes. At the same time, it is questionable whether the present structure of, and approach to, European integration are sufficient to give answers to the new emerging needs. The time may be ripe to initiate a comprehensive debate about the future of European integration.

In the next section we examine the development of the Community from the early 1950s until today. We then consider its institutions and organizational structure, before focusing on its legislation and law-making processes. Finally, the enlargement of the EU to incorporate 10 more countries and the associated implications and challenges are discussed.

Historical Background: A Path of Increasing Economic Links

The European Coal and Steel Community and the European Defence Community

The first attempt towards integration in Europe took the form of the Schuman Plan. In May 1950, Robert Schuman, then Minister of Foreign Affairs in France, made a proposal for the integration of the coal and steel industries of France and Germany. This proposal, known as the 'Schuman Plan', had been elaborated by Jean Monnet, one of the most active integrationists of the time. The Schuman Plan, while conceived mainly as a French–German scheme, was open to any country wishing to participate. Indeed, the Plan was favourably received in France, Germany, Italy and the Benelux countries – that is, Belgium, the Netherlands and Luxembourg. On 18 April 1951 in Paris these six countries signed a treaty establishing the European Coal and Steel Community (ECSC) that came into force in July of the following year.[1,2]

The ECSC was founded upon a common market, common objectives and common institutions (Article 1 ECSC). Indeed, at the time, the establishment of a common market for the coal and steel industries seemed rational for both economic and political reasons. On the one hand, greater efficiency would be gained in this important part of the economy through economies of scale. On the other hand, as the member states' coal-making industries would be put under common control, war between France and Germany would be made impossible.

The 'transfer' of legislative and administrative powers in the area of coal and steel from the six member states to the ECSC differentiated the character of this Community from other traditional international organizations based on intergovernmental decision-making. In particular, the Paris Treaty established four autonomous and independent institutions for administering, controlling and supervising the development and operation of the member states' coal and steel industries. These institutions were: (a) the High Authority, (b) the Council, (c) the Assembly and (d) the Court of Justice. The High Authority (equivalent to the European Commission of today) was the leading institution for the implementation of the Treaty. It was empowered, in particular, to take legally binding decisions, and it also had the authority to procure funds, to fix minimum and maximum prices for certain products, and to fine firms when a breach of the competition rules of ECSC was discovered (Articles 14, 49, 61 and 64–5 ECSC). The Council of Ministers consisted of representatives of government of the member states. Its task was to harmonize the actions of the High Authority with those of national governments, which were responsible for the general economic policies of their countries (Article 26 ECSC). The Assembly was composed of representatives of national parliaments and was confined to having merely an advisory role in matters relating to the production and consumption of coal and steel. On the other hand, the Court of Justice had the competence to adjudicate on disputes concerning the activities of the ECSC.

As the Community approach to European integration was gaining momentum, a French initiative, known as the 'Pleven Plan', for establishing a European Defence Community was put on the table. The main goal of this plan was to put defence matters under common control and thus create a framework for German rearmament, something that had the strong support of the United States because of the Soviet threat. Negotiations progressed and a treaty establishing the European Defence Community (EDC) was signed on 27 May 1952 by France, Germany, Italy and the Benelux countries. The EDC aimed to create a unified European Army to be put under the control of the EDC institutions, which would result in putting under common control member states' foreign policies as well. However, defence matters and foreign policy were more sensitive areas for member states than coal and steel. Thus the treaty establishing the EDC failed to be ratified by the French parliament.

The EEC and Euratom

While the rejection of the European Defence Community by the French was a setback, the determination to integrate Europe was not lost. The integrationists merely became less ambitious, focusing their efforts on economic relations and relegating political integration to a more distant future.

In particular, proposals for a broadly based economic integration were advanced by the Benelux countries. The Messina Conference of 1955, which was attended by the foreign ministers of all the ECSC countries, was to be the forum for initial discussions on these matters. Indeed, two objectives were agreed: that of establishing a European common market; and that of developing atomic energy for peaceful purposes. An intergovernmental committee, chaired by the Belgian Foreign Minister P.H. Spaak, was set up and entrusted with the task of making proposals to this end. The United Kingdom failed to participate, although it was invited.[3] The Spaak Report was published in April 1956, and, in the light of its conclusions the six ECSC states started negotiations on the content of two new treaties. The treaties were finally signed in Rome on 25 March 1957, and established two further communities: the European Economic Community (EEC), and the European Atomic Energy Community (Euratom). These came into force on 1 January 1958.

The Rome treaties extended the area of joint action and increased the necessity of taking collective measures. The Euratom Treaty turned out to be of relatively small significance: many of the core activities of civilian nuclear powers failed to be passed out of the hands of the member states and into the hands of Community institutions.[4] The EEC Treaty was by far the most significant development in European integration, having much broader scope than both the Euratom and the ECSC Treaties. Indeed, the Preamble to the EEC Treaty states a determination to lay the foundations of an ever-closer union among the people of Europe and stipulates that 'The Community's task will be to promote a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability and accelerated raising of the standard of living and closer relations between the states belonging to it.'

Two principal means for achieving this were proposed by the EEC Treaty: the creation of a common market; and the progressive approximation of the member states' economic policies (Article 2 EEC). The creation of a common market involved the elimination of trade barriers to the free movement of goods and services as well as the abolition of obstacles to the free movement of persons, services and capital between member states (Article 3 EEC). At the same time, the erection of a common custom-tariff regime *vis-à-vis* third countries and the creation of a system to prevent competition from being distorted were required. In addition, for the proper functioning of the common market, the laws of the member states had to be harmonized. Finally, common policy-making in the spheres of agriculture, social affairs, transport and economic relations towards third countries were envisaged.

The EEC Treaty and the Euratom Treaty also created a set of supranational institutions having legislative and administrative powers to handle their affairs. These were the Council, the Commission, the Assembly, and the Court of Justice. This institutional structure of the Rome treaties was different from that of the ECSC Treaty. In the context of the Rome treaties, the Commission principally had executive powers and was responsible only for initiating decision-making, while decision-making power was concentrated in the hands of the Council. The reason for this difference between the ECSC Treaty and the Rome treaties was that the former provided for most arrangements for the supranational governance of the coal and steel sectors in a considerably detailed fashion. By contrast, the EEC Treaty, with the exception of the provisions concerning the creation of a customs union, established only a framework for common action, leaving fundamental political and economic choices to be made by the Community institutions. It was thus inevitable that the final say on such choices would be left to the Council, the institution in which member states were directly represented.

In 1965, a treaty known as the Merger Treaty was signed, establishing a single set of institutions operating for all Communities. This came into force in July 1967. Thus, after 1967, all three European Communities were served by a single Council (Articles 145 EC, 26 ECSC, 115 Euratom), a single Commission (Articles 155 EC, 8 ECSC, 124 Euratom), a single Assembly (now European Parliament, Articles 137 EC, 20 ECSC, 107 Euratom) and a single Court of Justice (Articles 164 EC, 31 ECSC, 136 Euratom). At the same time, additional institutions were added to the original ones, including the European Council and the Court of Auditors.

The Growth of the Community

By the early 1960s the Community project seemed to be well on the way to being judged a success: the integration of product markets, together with the generally healthy global environment, had created wealth through economies of scale and improved competitiveness. This early success of the Community project posed serious questions for the elite of those states that had decided to remain outside the Community. Thus, as a response to the Rome treaties, Austria, Denmark, Norway, Sweden, Switzerland, Portugal and the United Kingdom decided to create a European Free Trade Area (EFTA) by signing the Stockholm Convention on 4 January 1960.

Soon, however, some of the EFTA countries, and in particular the United Kingdom, felt that the European Free Trade Area association was an inadequate forum for achieving their economic and political ambitions. The Community was by far a much more successful and ambitious project than the EFTA, and the governing elite of the United Kingdom decided to reconsider the merits of membership in the Community. Indeed, two consecutive governments, one Conservative headed by Macmillan and one Labour headed by Wilson, applied for membership, but their applications met the strong opposition of President de Gaulle of France and were thus forwarded together with the applications of Denmark, Ireland and Norway. These four countries had to wait until the succession of President De Gaulle by George Pompidou to the Presidency of France for negotiations to be formally opened on 30 June 1970. Finally, a Treaty of Accession was signed on 22 January 1972, which came into force on 1 January 1973, and the United Kingdom[5], Ireland and Denmark became members of the three Communities. Norway's application was withdrawn following an adverse referendum result on the issue of membership.

The 'northern enlargement' was followed by a 'southern enlargement'. Greece became the tenth member state on 1 January 1981, and, after long and difficult negotiations, Spain and Portugal joined the Communities on 1 January 1986. [6,7] The momentum was maintained and the attraction of the Community to other European states was sufficiently strong to induce them to start negotiations for membership. Austria, Sweden and Finland became full members at the start of 1995, raising the total membership to fifteen.[8] And in April 2003, 10 more countries, Cyprus, Malta, the Czech Republic, Hungary, Slovakia, Slovenia, Poland, Estonia, Latvia and Lithuania, signed accession agreements and formally became member on 1 May 2004.[9]

The Single European Act

The Single European Act (SEA) was signed on 17 February 1986 and came into force on 1 July 1987. It represented the most important revision of the treaties since they were adopted,[10] bringing about changes and reforms to the Community by adjusting its institutional structure and expanding its competence. One of the principal objectives of the SEA was to ensure the completion of the European internal market. Indeed, Article 8a of the Act inserted into the Rome Treaty a commitment 'to adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992'. This placed on a formal footing the Commission's White Paper for the completion of the internal market.[11]

The internal market project required significant legislative activity by the Community. To facilitate the passage of legislation, the Act introduced into several areas qualified majority-voting by the Council instead of unanimity. In addition, a new legislative procedure, the so called 'co-operation procedure', was set up and introduced into various areas of decision-making. This procedure enhanced the powers of the European Parliament in the legislative process. Another institutional change was the creation of the Court of First Instance to assist the Court of Justice.

The Act also introduced new areas of Community competence, some of which had already been asserted by the institutions and supported by the Court but had not been expressly contained in the founding treaties. The new titles inserted into the Rome Treaty were: Economic and Social Cohesion (Article 130a–e EEC) aiming at reducing disparities between the various regions of the Community; Social Policy; Health and Safety at Work; Research and Technological Development (Article 130f–q EEC); and Environmental Policy (Article 130r-130t EEC). The Single European Act also introduced into the Rome Treaty the first formal reference to 'co-operation in economic and monetary policy' and to the European Monetary System (EMS) which had been in operation since 1979. In addition, foreign policy cooperation was brought more closely into the mainstream and given a stronger support structure, although the philosophy of the SEA was to keep it strictly separate from the institutional and decision-making system of the European Communities.

The Treaty on European Union

The momentum for negotiations generated by the Single European Act continued abate after its adoption. In June 1988, a committee chaired by the President of the Commission, Jacques Delors, was set up to examine the feasibility of establishing an Economic and Monetary Union in Europe. Following its report in 1989, the European Council decided to hold an intergovernmental conference on the subject, and to hold at the same time another intergovernmental conference on 'political union'. The necessity of holding the latter was derived from the collapse of communism in Eastern Europe and the new role that the Community was expected to play in international affairs after the cold war.

Intergovernmental conference negotiations were formally opened in Rome on 15 December 1990, and on the basis of these negotiations a draft Treaty was presented by the Luxembourg Presidency to the European Council in 1991. A revised version of the draft was agreed by the Heads of State or government at the Maastricht meeting in December 1991, and the Treaty on European Union (EU) was signed, again in Maastricht, on 7 February 1992. The EU Treaty came into force on 1 November 1993.

The Treaty on European Union comprises seven titles, with articles identified by capital letters to avoid confusion with the numbering of the founding treaties. Title I sets out various broad objectives in the so-called 'common provisions'. Titles II, III and IV list the amendments to the EEC, ECSC and Euratom Treaties respectively. These are referred to in the Maastricht Treaty as the 'first pillar'. [12] Title V contains provisions relating to a Common Foreign and Security Policy. This constitutes the 'second pillar'. Title VI covers the 'third pillar' of Justice and Home Affairs, that is police cooperation, reducing drug trafficking and fraud, regulating immigration from third countries, and so on. And Title VII contains the Treaty's 'final provisions'. In addition to these seven titles, there are 17 Protocols, which mainly develop or explain the provisions of the Treaty, and 33 Declarations.

The EU Treaty enters three distinct spheres of competence: (a) the European Communities, (b) the Common Foreign and Security Policies, and (c) cooperation in the fields of Justice and Home Affairs. The Union is thus wider than the European Community, although it is founded upon it.[13] Indeed, after Maastricht, there are four Treaties: the Treaty on European Union, the European Community Treaty, the European Coal and Steel Treaty and the European Atomic Energy Treaty.[14] Unifying factors consist of common objectives, common principles, a single institutional framework and certain common procedures.

With regard to the aims of the European Union, Article B of the EU Treaty stipulates that the Union will set itself the following objectives (see European Commission (1992)):

- To promote balanced and sustainable economic and social progress, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union.
- To assert its identity on the international scene through the implementation of a common foreign and security policy including the

eventual forming of a common defence policy which might in time lead to a common defence.
- To strengthen and protect the rights and interests of its member states' nationals through the introduction of a citizenship of the Union.
- To develop close cooperation on justice and home affairs.
- To maintain in full the *acquis communautaire* and build on it with a view to considering to what extent the policies and forms of cooperation introduced by the Treaty may need to be revised so as to ensure the effectiveness of the mechanisms and the institutions of the Community.

Article G of the EU Treaty introduces several amendments to the EEC Treaty. For example, it formally accepts the name of the 'European Community' (EC). This has symbolic rather than substantive value, but it signals the increased interest of the Community in matters that do not belong to the economic domain. However, central to the changes made by Article G of the EU Treaty to the EEC Treaty is the creation of an Economic and Monetary Union. The broad purpose of this objective is set out in Article 3A EC. According to this Article:

- The activities of the member states and the Community will include the adoption of an economic policy which will be based on the close coordination of member states' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.
- These activities will include the irrevocable fixing of exchange rates leading to the introduction of a single currency and conduct of a single monetary- and exchange-rate policy, the primary objective of which will be to maintain price stability and, without prejudice to this objective, support the general economic policies in the Community.
- The activities of the member states and the Community will comply with the principles of: stable prices, sound public finances and sustainable balance of payments.

A strict timetable for the attainment of EMU in three stages with provision for a European Monetary Institute and subsequently a European Central Bank is established by the new objectives. The EU Treaty has also added new areas of Community competence, including: culture, public health, consumer protection, trans-European networks, and industry and development cooperation. At the same time, it has expanded existing areas such as environmental protection and economic and social cohesion. In addition, the concept of 'European citizenship' (conferred on nationals of member states) has been introduced, a Parliamentary Ombudsman has been established, and the principle of subsidiarity has been made formal as an attempt to address the question of allocation of responsibility between different levels of administration in the Community. Under the EU Treaty, the Community's legislation procedures are also adjusted once again, increasing Parliament's power and influence.

The Treaty of Amsterdam

The second paragraph of Article N of the EU Treaty stipulates that:

> a conference of representatives of the governments of the Member States shall be conveyed in 1996 to examine those provisions of this Treaty for which revision is provided in accordance with the objectives set out in Articles A and B.

Indeed, an intergovernmental conference (IGC) opened its work in Turin[15] on 29 March 1996, with topics reserved for consideration including:

- revision of the tripartite structure of the TEU;
- extension of the co-decision procedure;
- amendment of the common foreign and security policy and defence provisions; and
- extension of Community competence to energy, civil protection and tourism.

Serious preparations for the IGC only began at the Corfu European Council in 1994 where a reflection group was set up. The report of the group was submitted to the Madrid European Council in December 1995,[16] and it was accepted as the basis for the March 1996 IGC. The report stated that the IGC should be based on three broad themes:

- making Europe more relevant to its citizens;
- enabling the Union to work better and preparing it for enlargement; and
- giving the Union greater capacity for external action.

A first draft revision of the Treaty was presented by the Irish Presidency at the European Council Meeting in Dublin. Although the draft was to be amended considerably during the Dutch Presidency that followed, it provided the blueprint for the Treaty of Amsterdam that was agreed on 17 June 1997 and finally signed on 2 October 1997.

Two significant changes were made by the Treaty of Amsterdam to the EU Treaty. First, a new 'Title on Employment' was added to the EU Treaty giving powers to Community institutions to coordinate national employment policies.[17] Second, a new 'Title on Visas, Immigration and other Policies' related to free movement of persons was introduced in the EC Treaty with the aim of establishing an area of freedom, security and justice. In this Title there was a shift of competencies from the third pillar to the first pillar of the European Union Treaty.

In addition to the acquisition of the new competencies, the powers of the European Parliament were enhanced by shifting a number of Community competencies to legislative procedures in which the European Parliament had increased powers. Also, the number of areas where qualified majority voting in the Council was taking place had been extended and provision were made for allowing some member states to integrate at a faster rate when others did not wish to (the so called 'flexibility provisions').

The Treaty of Nice

After the conclusion of an intergovernmental conference for revising the treaties, the Treaty of Nice was signed on 26 February 2001. However, this Treaty was received with dissatisfaction[18] because of the limited number of reforms that had been decided. The most important changes were in the areas of voting in Council, cooperation, judicial reforms and the composition of the EU Institutions. Institutional changes were considered necessary for the accession of new member states.

A declaration by the member states on the future of the EU was appended to the Treaty of Nice, according to which the European Council had to improve the democratic nature and the efficiency of the process that would produce treaty reforms in 2004. In discussing amendments to the treaties, major themes such as the division of powers, democratic legitimacy and transparency, were to be addressed.

Because of the importance of the questions raised about the future of European integration, national governments agreed to change the Treaties' reform process. Throughout the 1980s and the 1990s the reform process was dominated by national governments, with reform measures decided upon at intergovernmental conferences. In an attempt to widen the discussion about fundamental reforms in the Treaties, the EU Heads of State agreed to establish a 'Convention' consisting of representatives of national governments, representatives of the European Parliament and of national Parliaments and the Commission. Chairman of the Convention was agreed to be Valéry Giscard d' Estaing. The Convention, called *Convention on the Future of Europe*, held its inaugural plenary session on 28 February 2002 and was called to end its works in spring 2003 so that decisions would take place at the Rome Summit of December 2003. The Convention finished its works on time, in spring 2003, and presented a *Draft Constitutional Treaty*. The EU Heads of State failed to reach agreement on some of the elements of this draft Treaty at the Rome Summit of 13 December 2003. Negotiations followed and finally the *Constitutional Treaty* was signed on 29 October 2004 (see Smits (2005) for an assessment). The Treaty has to be ratified by all the member states, and it was expected to be in force from November 2006 onwards. However this may be delayed because of the negative results of the 2005 French and Dutch referenda.

EU Institutions and Organizational Structure of the European Union

According to Article 7 of the EC Treaty as amended by the Treaty of Nice, the tasks entrusted to the Community are to be carried out by five main institutions: the Council, the Commission, the European Parliament, the Court of Justice and the Court of Auditors. Besides these institutions there are two other bodies that assist the Council and the Commission by giving advisory opinions; these are the Economic and Social Committee and the Committee of the Regions. The other important body, the European Central Bank is currently playing a central role in the EMU.

The Council of Ministers (Articles 202-210 EC)

Composition. The Council consists of member states' representatives who are authorized to commit national governments to decisions. Council members must thus be persons holding political office, that is ministers and not civil servants. The ministers attending the Council vary depending on the subject matter being discussed. In particular, the various Specialist Councils are attended by ministers dealing with the matters in the agenda; for example finance ministers attend the Finance Council, transport ministers attend the Transport Council, agriculture ministers attend the Agriculture Council, health ministers the Health Council, and so forth. Above all these Councils sits the General Affairs Council, consisting of foreign ministers, which has an overarching competence considering matters not claimed as their own by one of the specialist Councils.[19]

The Council meets when convened by its President on his own initiative or at the request of one of its members or of the Commission. The presidency of the Council is held in turn by the member states for a six-month period. As for the presidency's duties, these include, besides taking the Chair at Council meetings, the arrangement of meetings and the setting of provisional agendas. Such agendas must be circulated by the President to the other members of the Council at least a fortnight in advance and must contain an indication of the items on which a vote may be taken. In general, the presidency may develop policy initiatives within fields that are of particular concern either to the Council as a whole or to the member state that currently holds the presidency. Indeed, in recent years a rivalry has developed between presidencies regarding their 'productivity record', and this has undoubtedly resulted in the adoption by the Community of many policy measures. However, the six-month session is a rather short period to ensure adequate coordination and therefore much depends on the work of the Secretary General and the staff of the General Secretariat.

Another task of the presidency is to coordinate the work of the different Specialist Councils. The President of the Council also has an important liaison role to play with the President of the European Parliament and the President of the Commission. Moreover, the presidency represents the Community externally.

The Committee of Permanent Representatives. The work of the Council is prepared by the Committee of Permanent Representatives which is known by its French acronym, COREPER, and its members are senior national officials based in Brussels. This Committee in fact operates at two levels: COREPER I and COREPER II. COREPER I comprises deputy permanent representatives and is responsible for technical matters, such as internal-market legislation, transport, environment and so on. COREPER II consists of permanent representatives of ambassadorial rank and deals with issues more political in nature, such as, for example, external relations, and economic and financial affairs.

COREPER can set up working groups made up of national officials for doing the preparatory work. These working groups examine the Commission's proposals and prepare a report which indicates the areas where agreement has been reached (Part A), and all the other areas (Part B). COREPER usually accepts all areas that have been agreed upon by the working group, focusing the debate on those issues where agreement has not been reached, that is those in Part B. Council agendas are then divided into Part A and Part B. Items listed in Part A are those that COREPER has agreed, and may be adopted by the Council without discussion unless a member state raises an objection at the Council, in which case the item is referred back to COREPER for further discussion before reappearing on the Council's agenda. Part B covers items where further discussion is needed. In this case there are also highlights of the points of disagreement in COREPER.

Voting. There are three systems of voting in the Council: simple majority, qualified majority and unanimity. In the simple majority case, each member state has one vote (Article 205(2)); however, there are only very few cases where a Council decision is taken by simple majority.

In the qualified majority case, the principle of equality of states is departed from and the more populous states are given more votes than the less populous ones (Article 205 (2)).[20] In particular, before the recent enlargement a total of 87 votes were allocated to the 15 member states in such a way so as to correspond very roughly to differences in population size.[21] The distribution of votes was as follows: Germany, France, Italy and the UK 10 votes each; Spain 8 votes; Belgium, Greece, the Netherlands and Portugal 5 votes each; Austria and Sweden 4 votes each; Denmark, Ireland and Finland 3 votes each; and Luxembourg 2 votes. A qualified majority consisted of 62 votes out of 87. It was thus taking 25 votes to form a blocking minority, a minimum of three states.[22] And it was taking a minimum of eight states to achieve the required 62 votes for a qualified majority. This meant that a measure supported by governments representing a substantial majority of the Community's population could in principle be adopted. However, where the Council was to act without a proposal from the Commission, a qualified majority decision also required the *positive* votes of at least 10 member states. Moreover, to obtain a qualified majority, 62 positive votes were needed, in the sense that any purported abstentions were considered as contributing to the minority block. This qualified-majority system has recently been extended to an increasing number of areas, including the internal market, the environment, consumers and the free movement of workers and capital, among other.

As far as unanimity is concerned, the EC Treaty required the Council to act by unanimity in the following areas:

- In a number of matters of a constitutional nature. For example: acceptance of a new member state; managing the Community's own resources; concluding association agreements with other states or agreements on a subject where any internal rule would have to be adopted by unanimity under the Treaty; amendments to the Statute of the European System of Central Banks; and agreements regarding the conversion rates at which the euro would substitute for the national currencies.
- In some politically sensitive issues. For example indirect taxation; state aids in exceptional circumstances; and taking measures necessary for attaining one of the objectives of the Community under the general power provided by Article 308 (ex Article 235 EC).

- In some procedural decisions. For example, to hold certain Council meetings in public; and to include items in the Council agenda other than those included in the provisional agenda.

Where the Treaty provided for the Council to act by unanimity, abstentions by member states did not prevent the act in question from being adopted.

The powers of the Council. The Council plays a central role in the creation of law in the internal-Community sphere. The principal manifestation of this resides in the fact that the Council will have to give its approval to any legislative initiatives that emanate from the Commission before they become laws. The Council can also present legislative proposals [23] and can trigger policy initiatives through the use of resolutions and opinion. In addition, it can delegate legislative powers to the Commission and has coordinating powers in the sphere of the general economic policies of member states. These latter powers have taken on new importance since the establishment of Economic and Monetary Union. The Council can in fact undertake unilateral surveillance of the economic policies and performances of member states; and is empowered to intervene to prevent a member state from running excessive government deficits. It also has a coordinating role in policy areas where responsibility lies with member states, such as foreign and security policy, justice and home affairs.

Another area in which the Council has important powers is that of external relations: Council authorization is required if the Commission is to open negotiations with third countries, and it is the Council that takes the decision to conclude agreements.

The European Council. The European Council was not part of the institutional structure envisaged by the EEC Treaty. It has evolved during the last 30 years following the decision taken by Community leaders at the Paris Summit of December 1974 to hold regular meetings at the highest level within a 'European Council'. The first European Council meeting was held in Dublin on 10–11 March 1975, but its position was formalized a few years later by the Single European Act. Indeed, according to Article 2 of the SEA, the European Council 'brings together the Heads of State or Government of the Member States and the Commission's President who are assisted by the Ministers of Foreign Affairs and a member of the Commission'. The meetings are chaired by the head of state or government of the member state that holds the presidency of the Council. The European Council meets at least twice a year. The strong intergovernmental nature of this institution is reflected in the preparation for the meetings that are organized jointly by the national foreign ministries and the Council Secretariat.

The role of the European Council has also evolved rather than being established formally by the Community treaties. Its role is in fact a political one, which is confirmed by Article 4 of the Treaty on European Union which states, in its first paragraph, that 'the European Council shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof'. The type of issues that are currently considered by the European Council can be grouped into six categories:

- the development of the Community
- constitutional aspects affecting the operation of the Community
- the state of the European economy as a whole
- initiation or development of particular policy strategies
- conflict resolution, external relations and new accessions to the Community
- common foreign and security policy

The Commission (Articles 211-219 EC)

Composition. The Commission is a collegiate body. Before the May 2004 enlargement it consisted of 20 members with each member state having one Commissioner except for the larger member states – France, Germany, Italy, Spain and the United Kingdom – which had two Commissioners each. The number of Commissioners had increasingly being seen as too large and as threatening the discipline and coherence of the Commission, and there was intense discussion in the European Council to find a solution to this problem before the May 2004 enlargement.[24]

Commissioners must have general competence and ought to be persons whose independence is beyond doubt. In particular, they are charged not to take instructions from governments or any other bodies, and the member states have undertaken to respect that principle and not to seek to influence the Commissioners in the performance of their tasks. In addition, Commissioners must not find themselves in a position where a conflict of interests arises. Therefore they must not engage in any other occupation during their period of office. The EU Treaty provides for a new procedure for the appointment of Commissioners, giving the European Parliament a greater role (Article 214 EC). Under this procedure, the governments of member states, after consulting the European Parliament, nominate by common accord the person they intend to appoint as President of the Commission. In consultation with the proposed President, they then nominate those they intend to appoint as members of the Commission. After that, the President and members of the Commission are subject as a body to a vote of approval by the European Parliament. Following a debate, Parliament votes its approval or disapproval by a simple majority of votes cast.[25] If approved by Parliament, the President and members of the Commission are appointed by common accord of the member states' governments.

Commissioners are appointed for five years but this may be renewed once. As a body, the Commission is accountable to the European Parliament, which can, by a motion of censure, dismiss it. When a new Commission comes into office, the President who provides political guidance to the Commission allocates portfolios to the Commissioners giving them responsibility for one (or more) major Community policy area. There is a considerable difference in the prestige attached to the different portfolios, with the result that considerable bargaining takes place for the most prestigious portfolios. Indeed, in addition to the prospective Commissioners, member states themselves engage in considerable manoeuvring in order to have their own nationals in portfolios of importance to them.

Commissioners are assisted by personal staff (cabinet) under the chief of cabinet, and by a staff of permanent Community officials who are organized into Directorates General corresponding to the major different areas of Community policy. The President of the Commission chairs its meeting. He also has a seat by right at the European Council and attends the annual international summits of the Group of Seven (that is, the seven leading industrial countries). In addition, he presents the annual legislative programme of the Commission to the European Parliament and replies to the debate on this programme. In general the President plays an important role in shaping the overall policy of the Commission and in developing major ideas for the future direction of the Community.

The powers of the Commission. The Commission plays a complex role in the Community system, an important aspect of which is that it is nearly always required to initiate the legislative process in making a proposal.[26] The Council is usually able to exercise its legislative powers only in relation to a text that has been formulated by the Commission.[27] In this sense, although it is true that major political initiatives within the Community may also be triggered by the European Council, the right of the Commission to put forward proposals for Community Acts places it in the forefront of policy development.[28] Indeed, the European integration process is largely dependent on the activity of the Commission and the quality of its work, and the most celebrated example of this has been the Commission's White Paper on the Completion of the Internal Market.[29]

Apart from participating in the shaping of measures taken by the Council and the European Parliament, in certain areas the Commission has its own powers to pass legislation without any intervention from other institutions. The Commission also exercises legislative powers that have been delegated to it by the Council. An area in which delegated legislative powers are commonly used by the Commission is the Common Agriculture Policy. The Council has passed regulations under Article 37 EC giving the Commission these legislative powers. Competition policy is another area in which several significant regulations have been enacted by the Commission as a result of delegated powers given to it by the Council Regulation 17/65. Although much of the delegated legislative powers of the Commission are of a technical nature with little policy discretion, this is not always the case. For this reason, on 13 July 1987 the Council passed a decision establishing a catalogue of forms of procedures for the exercise of implementing power conferred on the Commission.[30] It is for the Council, when adopting an Act delegating legislative power to the Commission, to determine which procedure should be attached to the exercise of that power. This is very important because the extent of the constraints imposed on the Commission varies from one procedure to another.[31]

In addition to its legislative powers, the Commission also has executive powers in a number of areas. It is responsible for ensuring that the Community's revenue is collected and passed on by national authorities. It is also responsible for overseeing and coordinating the Community's structural funds; that is the European Social Fund, the Guidance Section of the European Agriculture and Guidance Fund, the Financial Investment for Fisheries Guidance, and the European Regional Development Fund. It is also responsible for administering Community aid to third countries and represents the Community in its external trade relations with third states and international organizations.

Finally, the Commission has the important role of 'being a guardian of Community law'. It has the right to initiate infringement proceedings against member states that act in breach of Community law. It also intervenes in all cases where the Court of Justice is asked for a preliminary ruling on the interpretation or validity of Community law. And it has been granted powers to declare illegal state aids that are provided by member states and anti-competitive practices by private undertakings.

The European Parliament (Articles 189-201 EC)

The European Parliament (EP) is the institution that has undergone much more transformations in its history than any other Community institution. Its life began as a relatively powerless Assembly in the founding treaties to become the active and considerably strengthened institution that it is today. Although the Assembly of the founding treaties was calling itself European Parliament, the name 'European Parliament' was officially recognized much later, by the Single European Act.[32]

Composition and structure. Originally, all members of the European Parliament (MEPs) were drawn from the parliaments of the member states, and they therefore all had a dual mandate. Since June 1979, however, when the first Euro-elections were held, the European Parliament has become a body of representatives elected by universal suffrage. Every citizen of the EU, who is resident of a member country, has the right to vote as well as to stand as a candidate in European Parliament elections.[33] However, the electoral procedure is not fully uniform, and this lack of uniformity has resulted in election to the European Parliament being subject to considerable anomalies.

Members of the European Parliament (MEPs) are elected as representatives of national political parties and sit in cross-national legislative European political groupings, broadly following the ideological divisions familiar in national politics. There are many political groups within the European Parliament; the largest two are the Party of European Socialists (PES) and the European Peoples Party (EPP), predominantly Christian Democrats. Up until May 2004, when the 2003 Accession Treaty come into force, there were 626 MEPs, elected for five years and divided up as shown in Table 1.1 (Article 190 EC).[34]

Table 1.1 Number of Members in Parliament before the May 2004 enlargement

Member States	*Votes*
Austria	21
Belgium	25
Denmark	16
Finland	16
France	87
Germany	99
Greece	25
Ireland	15
Italy	87
Luxembourg	6
Netherlands	31
Portugal	25
Spain	64
Sweden	22
United Kingdom	87

The European Parliament elects its own President, together with Vice-Presidents in a secret ballot by an absolute majority of votes cast. The President and the Vice-Presidents constitute the Bureau of Parliament.[35] Together with the chairpersons of the various political groups, they formerly constitute the enlarged Bureau of Parliament, which since 1994 is called the Conference of Presidents. The Conference of Presidents takes decisions on the organization of Parliament's work and draws up the draft agenda of Parliament's part-sessions.

The European Parliament has a large number of standing committees, with some sub-committees dealing with a wide range of subject matters and carrying out much of its legislative work through drawing up reports on relevant issues. The standing committees also make non-legislative reports resulting in many cases in Parliamentary Resolutions. The Parliament is also helped by a large secretariat that provides substantial legal and administrative assistance.

The Annual Plenary is held on the second Tuesday of March every year.[36] Plenary sessions are, however, normally held once every month except in August. Most of the sessions are held in Strasbourg but certain sessions and committee meetings are held in Brussels. The Parliament's Secretariat is hosted in Luxembourg.

The powers of the European Parliament. The formal powers of the European Parliament are broadly of three kinds: it is involved in various ways in the legislative process of the Communities; it has control over the budget of the Communities; and it exercises political supervision over the performance by the Commission of its tasks. As the legislative powers of the EP will be discussed in the next main sub-section, we will confine our discussion here to its supervisory and budgetary powers.

The supervisory role of the European Parliament. The Parliament's supervisory role can be seen in its scrutining of the activities of all the other Community institutions through questions put to them. There is an express Treaty obligation on Commissioners to reply to written and oral questions at Question Time (Article 197(3)), and although the Council is not obliged to reply to questions from the European Parliament, it does so in practice. An annual general report is also required to be submitted by the Commission to the Parliament, and in addition an annual report on the progress of the Union is required to be submitted by the European Council. Of greater significance, however, is the Parliament's debate on the annual legislative programme of the Commission presented by its President at the beginning of each year.

The European Parliament from its launch also has the supreme political weapon of passing a motion of censure on the activities of the

Commission by which it can force it to resign as a body. The motion of censure can be tabled by a two-thirds majority of the votes cast representing a majority of MEPs. However, a motion of censure has never been carried out.

Any citizen of the Union or any resident of a member state has the right to petition the European Parliament on a matter that comes within Community competence and affects him directly. An Ombudsman is appointed by the Parliament with the power to receive complaints from persons entitled to petition concerning instances of maladministration in the activities of Community institutions or bodies.[37] The Ombudsman conducts inquiries either on his/her own initiative, or in response to a complaint received directly from the person concerned or through a member of the European Parliament. The Ombudsman has no jurisdiction where the alleged facts are or have been the subject of legal proceedings.

The European Parliament also has another tool for supervising the activities of the other institutions by initiating, or intervening in legal action before the Court of Justice. In addition, it can establish committees of inquiry to investigate alleged contravention or maladministration in the implementation of Community law (Article 193).

The budgetary powers of the European Parliament. As far as the powers of the Parliament in the budgetary sphere are concerned, it is worth noting that since the adoption of the Budgetary Treaties of 1970 and 1975, the European Parliament has become an equal partner with the Council. Their respective powers in the budgetary procedure are determined by a crucial distinction in the budget between the part that relates to 'compulsory expenditure' and the part that relates to 'non-compulsory expenditure'.

Compulsory expenditures have been defined as 'such expenditure as the budgetary authority is obliged to enter the budget to enable the Community to meet its obligations both internally and externally under the Treaties and acts adopted in accordance therewith' (Article 272 EC). This part consists largely of expenditure relating to the Common Agricultural Policy in which the Council has the last word. Non-compulsory expenditures include expenditure on the structural funds, on research and on aid to third countries. Non-compulsory expenditure is confined to just under half of the budget and its annual rate of increase is determined by the Treaty.

The budgetary procedure is initiated by the Commission: the Commission puts forward to the Council the preliminary draft budget for the following financial year no later than September of the current year. The Council then prepares the draft budget on the basis of the Commission's preliminary draft budget and submits it to the European Parliament for its first reading before 5 October. The Parliament has the right to propose modifications to the compulsory expenditure parts of the budget, and to amend items classified as non-compulsory expenditure.[38] The draft budget is then passed to the Council for a second reading, where the Council may modify any of the amendments to the non-compulsory expenditure made by Parliament and may reject Parliament's proposed modifications to compulsory expenditure. Modifications proposed by Parliament that have the effect of increasing compulsory expenditure stand as rejected if they are not explicitly accepted by the Council.[39] If, within 15 days, the Council proposes no modifications to Parliament's amendments, and agrees on the Parliament's proposed modifications to compulsory expenditure, the draft budget becomes final. If this does not occur, the modified draft budget goes back to Parliament for its second reading. At its second reading Parliament no longer has the right to touch the parts of the budget related to compulsory expenditure. However, acting by a majority of its members and three-fifths of the votes cast, it can within a 15-day period amend or reject any modifications to its amendments to the non-compulsory expenditure made by the Council. Otherwise, the budget is deemed to have been adopted. However, Parliament may, by a majority of its members and two-thirds of the votes cast, reject 'for important reasons' the entire draft budget and request a new draft budget to be submitted. When this occurs, the previous year's budget continues to operate on a one-twelfth basis.

The European Court of Justice and the Court of First Instance (Articles 220–245 EC)

Composition and structure. The Court of Justice, to which the Court of First Instance is attached, is the judicial institution of the Community. It consists of Judges, one from each member state, and Advocates-General who are appointed by the common accord of the member states' governments for a renewable term of six years. The qualifications for selection as a Judge or Advocate General require 'persons whose independence is beyond doubt and who pass the qualifications required for appointment to the highest Judicial offices in their respective countries or who are juris consults of recognized competence' (Article 223(1) EC). Judges and Advocates-Generals rank equally in precedence according to their seniority in office.[40]

The Court of Justice sits in Chambers of three and five judges, as well as in plenary sessions where the quorum is seven judges. However, the Court sits in plenary session when a member state or a Community institution that is a party to the proceedings so requests.

The judicial and administrative business of the Court is directed by the President, who is elected by the Judges from among their own for a renewable period of three years. The President presides at hearings and deliberations of the Court, fixes or extends the dates and times of the Court sittings, deals with most applications for interim measures and appoints a Judge Reporter in each case. The EC Treaty defines the role of the Advocates-General as 'acting with complete impartiality and independence to make, in open Court, reasoned submissions on cases brought before the Court of Justice' (Article 222 EC). Each Advocate-General, who is assigned to a given case, presents, at the end of the oral procedure and before the Judges begin their deliberation, a fully reasoned Opinion. Although the Advocate-General's Opinion is generally very influential, it is in no way binding on the Court. In fact, the Advocate-Generals do not participate in the Court's deliberation; the Court deliberates in secret and the final decision on a case is taken by majority voting. The judgements are delivered in open court. No dissenting judgements are delivered.

The Court of First Instance. The Court of First Instance was established in 1988.[41] Under the terms of Article 168A it was inserted into the EEC Treaty by the Single European Act and began to hear cases in November 1989. It sits in Chambers of three and five Judges or in plenary session. There are no Advocates-General, but any of the Judges may be called upon to act as Advocate-General in a given case, in which case he may not then take part in the Court's deliberation and decision. The Court of First Instance elects its own President from among its members who directs the Court's judicial business and administration and presides at plenary sittings and deliberations.

The reason for the creation of the Court of First Instance was to relieve the case load of the Court of Justice. In particular, the Court of First Instance has jurisdiction to deal with staff cases, cases concerning claims against the Community for damages regarding its non-contractual liability, all the actions brought about by 'non-privileged' applicants (that is, natural or legal persons other than a Community institution or a member state), and cases concerning merger control and Community trademarks. However, it has no jurisdiction to deal with preliminary references.

It is worth mentioning that the decisions of the Court of First Instance are 'subject to a right of appeal by the Court of Justice on points of law only and in accordance with the conditions laid down by the statute' (Article 225(1) EC). Article 51 of the Statute of the Court provides that 'it shall lie on the grounds of lack of competence of the Court of First Instance, a breach of procedure before it which adversely affects the interests of the appellant as well as the infringement of Community law by the Court of First Instance'. In principle, an appeal to the Court of Justice does not have suspensory effect. However, where the Court's of First Instance decision has declared a regulation void, its decision will take effect only after the two-month period for bringing an appeal has expired or when, if the appeal has been brought, has been dismissed.

The jurisdiction of the Court of Justice. The European Court has no inherent jurisdiction: it only has such jurisdiction as is conferred on it by the treaties. According to the EC Treaty, the Court's general task is to ensure that in the interpretation and application of the Community treaties' provisions the law is observed. There are also a number of specific tasks which can be classified into two categories. The first category concerns direct actions, that is actions that begin in the European Court of Justice, and includes:

- enforcement actions against member states when they fail to fulfil an obligation under the treaties
- actions for judicial review: these may be either actions to annul a Community measure or actions to oblige a Community institution to pass a measure that has previously refused to pass
- actions for damages for non-contractual liability of the Community

The second category consists of actions that begin in national courts from which a reference for a preliminary ruling is made to the European Court. Questions referred from the national courts to the Court of Justice are concerned with the validity and interpretation of the acts of Community institutions.

The Court of Auditors (Articles 246-248 EC)

The Court of Auditors was established by the second Budgetary Treaty of 1975 and since then has been considered as the fifth Community Institution. It is composed of representatives of member states. Its members are appointed unanimously by the Council, after consultation with the European Parliament, for a period of six years.

The Court of Auditors is not a judicial body; its task is to scrutinize the finances of the Community and ensure sound financial management. It examines the accounts of all revenue and expenditure of all bodies set up by the Community and provides the Council and the European Parliament with a statement of assurance as to the reliability of the accounts and the legality of the transactions. The Court of Auditors also assists the Council and the European Parliament in exercising their control power over the budget's implementation. It draws up at the end of each financial year an annual report that is sent to the other Community institutions.

The European Central Bank and the European System of Central Banks

Composition. Following the decision to proceed to the third stage of EMU, the European Central Bank (ECB) was brought into being and the European Monetary Institute went into liquidation.

The ECB has its own independent legal personality and has two decision-making bodies: the Executive Board and the Governing Council. The Executive Board is composed of a President, a Vice-President and four other members, all appointed jointly by the member-states ' governments after they have consulted the European Parliament. They serve for eight years and their posts are non-renewable. The Governing Council consists of members of the Executive Board plus the governors of those national central banks whose countries are participating in the EMU. The President of the Council and a member of the Commission may also participate in the ECB's meetings but do not have the right to vote. This is a reflection of the ECB's independence: it implies that no instructions are to be given to the ECB by any Community institution.[42]

The ECB must be placed alongside the European System of Central Banks (ESCB).The ECSB is composed of the ECB and the national Central Banks (CBs). Unlike the ECB, the ESCB has no legal personality and in fact is not an institution itself; but it provides the framework through which the monetary policy of the European Union is conducted by the ECB and the national CBs.

Regulatory powers. The primary objective of the ECB is to maintain price stability, but other tasks are (Article 105(2) EC):

- to define and implement the Community's monetary policy
- to conduct foreign exchange operations
- to hold and manage the official foreign reserves of the member states
- to promote the smooth operation of the payments system

The central power of the ECB is its exclusive right to authorize the issue of banknotes within the Community. This allows the ECB to control the money supply and gives it the power to set short-term interest rates. The ECB is also responsible for formulating monetary policy in Europe, by taking decisions relating to intermediate monetary objectives, to key interest rates and to foreign exchange reserves, and for establishing necessary guidelines. The executive board of the ECB implements monetary policy in accordance with the guidelines and decisions laid down by its governing Council.

For carrying out its tasks, the ECB can adopt *Regulations*, *Decisions* and *Recommendations*. It also has the power to impose fines or periodic penalty payments on undertakings for failing to comply with obligations contained in its Regulations and Decisions. In addition, the ECB has the power to make regulations relating to the holding by national credit institutions of minimum reserves with the ECB, and to impose sanctions in case of non-compliance.

Other Bodies

The Economic and Social Committee (Article 257 EC). This is an advisory body, with its members appointed by the Council for a four-year renewable term. The Committee consists of representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and the general public. It has consultative powers in many areas of Community competence.

The Committee of the Regions (Article 263 EC). This is an advisory body established by the EU Treaty to give regional authorities greater input in the decision-making process. Its members are appointed by the Council for a four-year renewable term. The Committee of the Regions should be consulted in the fields of education, culture, public health, employment, social matters, environment and economic and social cohesion. However, its opinions carry only limited weight with the other institutions.

EU Legislation and Law-making Process

Types of Community Legislation

One of the most striking features of the Community is the power entrusted by member states to the institutional actors to enact legislation for the purpose of attaining the objectives of the Treaties. There are five main types of Community legislation:

- Regulations
- Directives
- Decisions
- Recommendations
- Opinions

Starting with *Regulations*, according to Article 249 of the EC Treaty, a Regulation has general application. That is, it applies to all member states, it is binding in its entirety, and it is regarded as directly applicable within all member states. The direct application of a Regulation means that its entry into force and its application in the legal order of a member state are independent of any national implementing measure. Thus Regulations, once made, automatically become part of the national legal systems without any intervening measure either by governments or by the legislature. They are the most powerful Community legal instruments; they are to be treated as 'law'. Regulations have to be published in the Official Journal of the Community and come into force on the date that is specified in them or, if no date is specified, on the twentieth day following their publication.[43]

Unlike Regulations, *Directives* do not necessarily have general application as they do not have to be addressed to all the member states but may be directed to any one of them. They are binding on those member states to which they are addressed as to the end to be achieved. They leave to national authorities the choice of form and method of their implementation. This allows a member state to use the legislative format it considers most appropriate for effectively achieving the aim of the Directives. It is for this reason that Directives have proved to be a very valuable legislative means for developing Community policy, given that member states have differing legal systems, especially in cases where harmonization rather than strict uniformity is needed. Indeed, the potency of this legislative means has been increased considerably by important case-law of the Court of Justice.

The Maastricht Treaty requires Directives applied to all member states also to be published in the Official Journal. The date of entry into force of Directives is either the date specified in them or, in the absent of a specific date, the twentieth day following that of publication. Failure on the part of a member state to give effect to a Directive through complete or correct implementation by the stated date, may lead to persons being unable to rely on the provisions of it in their dealings with that member state.

As far as *Decisions* are concerned, unlike Directives they are binding in their entirety upon those to whom they are addressed. Decisions must be notified to the addressees and come into effect when the requirement of notification to those to whom they are addressed is complied with. Addressees may be member states or natural and legal persons. Decisions adopted under Article 249 of the EC Treaty must be published in the Official Journal. All other Decisions need not be published.

Although Community institutions are free in many occasions to choose any form of legislation for policy-making, there are a number of areas in which the Treaty provides for the use of Decisions as the chosen method. For example, Decisions are used in Competition Policy when the Commission rules that a firm or firms have acted in breach of Articles 81 and 82 of the EC Treaty. Decisions are also used in the area of state aids when the Commission acts requiring a member state to abolish or amend measures of aid to national undertakings. The Council can also delegate power to the Commission to issue a Decision that is within its own competence.

Decisions while binding in their entirety, unlike Regulations, are not intended to have general application. They are directed at one or more member states or one or more natural or legal persons at a time. The general-application characteristic as a distinction between Regulations and Decisions is an issue of particular importance regarding the action for annulment under Article 230.[44] In particular, the natural or legal persons having limited *locus standi* can bring actions (for annulment only) against Decisions addressed to them, not against other Community acts. For this reason the standing of natural and legal persons under Article 230 is dependent on whether a Community measure takes the form of a Regulation or a Decision. The Court, however, has ruled that, in examining the question of whether a measure constitutes a Regulation or a Decision, it cannot restrict itself to considering the official title of the measure but must also take into account its object and content.[45] That is, the nature of a measure depends on its substance rather than on how it is labelled by the adopting institution. Thus, the Court of Justice can treat measures which are labelled Regulations but are not of general application as being in reality Decisions. This is permitted by reference to Article 230, which states that natural or legal persons can institute annulment proceedings against a Decision in the form of a Regulation which is of direct and individual concern to them.

Turning now to *Recommendations* and *Opinions*, Article 249 explicitly states that they have no binding force. While these measures cannot have direct effect, it is compulsory for a national court or tribunal to make a reference to the European Court concerning the validity or interpretation of such measures.[46] This is because a Recommendation or Opinion may be used as an instrument for interpreting other provisions of Community law that are binding. The Commission has general powers to make Recommendations or deliver Opinions on matters dealt with in the Treaty whenever it considers that it is necessary to do so or where the Treaty expressly so provides.

All types of Community legislation – that is, Regulations, Directives, Decisions, Recommendations and Opinions – are capable of being reviewed by the Court of Justice, and there are some substantive and procedural requirements for the legality of Community legislation. The principal substantive requirement is that the preamble to a particular provision of Community law should state clearly the legal basis on which it is made. As regards the procedural requirements, in addition to the duty to notify and publish, reasoning must also be given for any Community legislation. In particular, legislation must set out in a concise and clear manner the factual background, the purposes or aims which it is striving to attain, and the law that has led the institution in question to adopt it, so that it can be possible for the European Court to review its legality.

Types of Legislative Procedure

The making of Community legislation should not be compared with those of national or federal states in which a single body is identified as the 'legislature' and the procedure for law-making is more or less uniform. In the Community, the procedure is not uniform and the players that comprise the legislature vary according to which procedure is applied in any particular area of Community action. The distinguishing characteristic of the different procedures is that they are determined according to the extent of participation and the degree of power that the European Parliament has in each. The main types of Community's legislative procedures are:

- the consultation procedure
- the cooperation procedure
- the co-decision procedure
- the assent procedure

The *consultation procedure* was the only procedure in the original Treaty that gave the European Parliament a guaranteed role in the legislative process. This role was a consultative one: the legislative power in the original Treaty was concentrated upon the Council and the Commission. Under the consultation procedure, a measure is first proposed by the Commission. The European Parliament is consulted on the proposal, and the Council takes the decision in accordance with the voting requirement laid down in the relevant Treaty provisions. The European Parliament has only one reading in which to consider the Commission's proposal, and its views are not binding on either the Council or the Commission. The consultation of the European Parliament takes place in relation to the Commission's original proposal. In particular, the responsible committee of the European Parliament examines the validity and appropriateness of the chosen legal basis of the Commission's proposed measure; that is, whether the principle of subsidiarity and the citizens fundamental rights are respected, whether sufficient financial resources are provided, and so on.[47]

Where the EC Treaty provides for the consultation of the European Parliament, the Council cannot adopt a proposal prior to receiving the Parliament's opinion. Failure to wait for its opinion before it adopts the measure can lead to the measure being annulled[48] unless the need to adopt the legislation is urgent and the European Parliament fails to cooperate sincerely with the Council.[49] Reconsultation of Parliament is required if changes, not prompted by Parliament itself, to the substance of the text that has been the subject of the first consultation are made by the Commission or the Council. Reconsultation is not required if the changes are either technical or go in the direction of wishes expressed by the Parliament itself in its Opinion.[50,51]

It is obvious that the European Parliament remains marginalized under the consultation procedure: consultation is only a procedural requirement, with the Council not being required to take account of its view or to give reasons for rejecting it. The consultation procedure is still widely used, particularly in those areas where member states are relatively cautious about developing Community legislation, such as for example citizenship (Articles 18, 19 and 22 EC), agriculture (Article 37(2) EC), state aids (Article 89 EC), indirect taxation (Article 93 EC), industrial policy (Article 157(3) EC), certain aspects of research and development (Article 172(1) EC), environmental taxes, planning and measures significantly affecting member states, and choice of energy policy (Articles 175(2) and 308 EC).

As far as the *cooperation procedure* is concerned, this procedure was introduced by the Single European Act and was set up to be used for many of the measures that were designed to implement the single market. Today this procedure still remains in use with regard to Articles 102, 103 and 106 EC that are related to certain aspects of European economic and monetary union. The prominent feature distinguishing the cooperation procedure from the consultation procedure is the greater engagement of the European Parliament. Indeed, the cooperation procedure consists of two phases. The first phase corresponds to the consultation procedure, and is the first reading by the European Parliament. There is no time limit on Parliament to pass its Opinion to the Council at this first reading stage. After Parliament has passed its Opinion, the Council, unless it exercises its power to amend the Commission's proposal by unanimity, acting by a qualified majority adopts a common position. The common position is then forwarded to the European Parliament with a full explanation for the reasons that have led to its adoption, as well as with an explanation for the Commission's position. At this second-reading stage, the Parliament has a three-month period in which to react to the common position. The mode of Parliament's reaction determines the further course of the second-reading stage. There are three possibilities:

- Parliament does not act at all within the three-month period, or approves the common position. The Council then adopts definitively the Act in question in accordance with the common position.
- Parliament rejects the common position. The Council can then pass the measure only by unanimity within three months.
- Parliament may propose amendments to the Council's common position within the three-month period by an absolute majority of its component members.

If the third possibility happens, the proposal is referred back to the Commission. The Commission has one month to reexamine the proposal, taking into account the amendments proposed by the Parliament. If the Commission does not accept the amendments of Parliament, it is under an obligation to forward them to the Council together with the reexamined proposal and its opinion on them. The Council, within three months, can adopt the Commission's reexamined proposal by qualified majority. Unanimity is required in the Council in order to amend the proposal as reexamined by the Commission. If no decision is made within the three-month period, the Commission's proposal is deemed not to have been adopted.

The cooperation procedure clearly increases the European Parliament's influence on the Community legislative process. It puts the European Parliament in a position to be able to block a measure if it is allied with one member state. This power to reject the Council's common position and to put in danger the adoption of the measure can be used by Parliament not only to gain informal influence but also to enable it to set the agenda, particularly where the position of the other players is unclear. Thus before the signing of the Amsterdam Treaty, 54 per cent of Parliament's amendments proposed at first reading were accepted by the Commission and 41 per cent by the Council; on the second reading, the figures were 43 per cent and 21 per cent respectively.

Turning to the *co-decision procedure*, this legislative procedure was first introduced at Maastricht by the EU Treaty. The areas covered are:

- free movement of workers
- freedom of establishment

- mutual recognition of qualifications
- freedom to provide services
- provisions concerning the approximation of laws that have as their object the establishment and functioning of the internal market
- incentive measures in the field of public health and culture
- specific action supporting or supplementing national policies on consumer protection
- guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks in the areas of transport, telecommunications and energy infrastructures
- multinational programmes on research and technological development
- programmes setting out priority objectives for environmental policy

The co-decision procedure further enhances the European Parliament's powers in the legislative process: the crux of it is that unless the Council and Parliament agree on the final text of the legislation, neither is given the last word and the legislation simply fails. The co-decision procedure begins in the same way as the cooperation procedure, with a first reading culminating in the adoption by the Council of a common position after obtaining the Opinion of the European Parliament, which is then communicated to the Parliament with a full explanation of the reasons that have led the Council to adopt it. There is, however, a difference compared with the cooperation procedure: in the co-decision procedure, the Commission's proposal is sent both to the Council and to the European Parliament.

If, within three months of receiving the Council's common position, the European Parliament at a second reading approves it or does not take a decision, the Council adopts the measure in accordance with its common position. If, however, the European Parliament by an absolute majority of its component members rejects the Council's common position, the proposed Act is deemed not to have been adopted.

Finally, the European Parliament can propose amendments to the Council's common position. These are forwarded to the Commission and the Council, the former being required to deliver an Opinion on the amendments. The Council then has three months to approve all Parliament's amendments, acting by qualified majority or by unanimity, in relation to those amendments on which the Commission has expressed a negative opinion and adopt the Act in question accordingly. If the Council does not approve all Parliament's amendments, a Conciliation Committee must be convened by the President of the Council in agreement with the President of the European Parliament. This committee is composed of the Council's members, or their representatives, and the European Parliament.[52] The Commission, which still has the power to amend the proposed Act if this will be helpful for the process of conciliation, participates in the Committee's work and tries to reconcile the disagreements between the Council and the European Parliament. The task of the Conciliation Committee is, within a six-week deadline, to reach agreement on a joint text by a qualified majority on the Council side and by a simple majority on Parliament's side. In fulfilling this task, the Conciliation Committee must address the common position on the basis of the amendments proposed by Parliament. If within the six-week period the Committee approves a joint text, there is a further period of six weeks in which the Council acting by a qualified majority, and the European Parliament acting by an absolute majority of the votes cast, have to approve it and adopt the Act in question accordingly. If either of the institutions or both institutions fail to do so, the proposed measure is deemed not to have been adopted. If there is no joint text approved by the Conciliation Committee within the time limit of six weeks, the proposed Act is deemed not to have been adopted.

The co-decision procedure thus increases the European Parliament's powers. In several important fields of Community competence, the European Parliament has with the co-decision procedure the power to prevent the adoption of legislative acts of which it does not approve. It can in effect exercise a negative block on such Acts.

Nevertheless, the European Parliament has no legal power to force the adoption of amendments that the Council does not want. In this sense, the EP's legislative power has its limits because its negative capability, if used very often, might create the impression that it impedes the progress of the Community. Of course, the Parliament's last word in blocking legislation is a significant bargaining power when the Council is keen to pass legislation on a particular topic governed by this procedure. This is more so when one takes into account the fact that the Council will be prevented from continuing the legislative process if Parliament rejects its common position at a second reading. Moreover, Parliamentary amendments, even when not accepted by the Council, could be used as the formal starting point for setting the agenda of the Conciliation Committee, given that this Committee, in finding out a joint text, must address the Council's common position on the basis of Parliament's proposed amendments. The European Parliament therefore strengthens its bargaining power in a very much increased conciliatory legislative process, in which both institutions, the European Parliament and the Council helped by the Commission, attempt to provide an agreed piece of legislation. Consequently, the co-decision procedure has established a greater formal equality between the Council and the Parliament in the legislative process compared with the other legislative procedures.

Finally, under the *assent procedure*, the Council, acting on a proposal made by the Commission or the ECB or even Parliament, can adopt the measure only if the European Parliament gives its assent. The Council must act unanimously in order for the measure to be adopted, while, apart from the Article 190(3) EC measure, the European Parliament will give its assent by a simple majority of votes cast.

The assent procedure was first introduced into the EEC Treaty by the Single European Act only in relation to the accession of new member states and association agreements with third countries. However, its margin of influence has been extended by the EU Treaty, as amended by the Amsterdam Treaty, to the following measures:

- Provisions concerning various aspects of the functioning of the European Central Bank (Article 105 (6) EC) and amendments to the Statute of the European System of Central Banks (Article 107 (5) EC).
- Defining the tasks, priority objectives and organization of the Structural Funds, and defining the general rules applicable to the Funds (Article 161 EC).
- Adoption of acts regulating elections to the European Parliament (Article 190 (3)).

The advantage for Parliament of the assent procedure over the co-decision procedure is that, in contrast to the latter which operates within a series of strict time limits, in the assent procedure no time-limits are imposed upon the European Parliament within which it must act. This means that even where it might eventually approve a measure, delaying tactics might be used by the EP in order to maximize its influence in the decision-making process.

The Challenge of the Enlargement

Following the Luxembourg Summit of December 1997 the European Union was involved in a process of preparing the most ambitious enlargement ever: thirteen countries, with economic structures, histories and cultures different from those of the other 15 EU states had applied for membership. These were: Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey. These states had been

Table 1.2 Dates of application for EU Membership

Cyprus	3.07.1990
Czech Republic	17.01.1996
Estonia	24.11.1995
Hungary	31.03.1994
Latvia	13.10.1995
Lithuania	8.12.1995
Malta	16.07.1990
Poland	5.04.1994
Slovakia	27.06.1995
Slovenia	10.06.1996
Bulgaria	14.12.1995
Romania	22.06.1995
Turkey	14.04.1987

Source: Europa-Enlargement, European Commission Documentation *http://www.europa.eu.int/comm/enlargement/negotiations*

'applicant counties' for quite some time (see Table 1.2), but the enlargement process was lengthy and cumbersome. Accession negotiations with Hungary, Poland, Estonia, the Czech Republic, Slovenia and Cyprus started in March 1998; accession negotiations with Malta, Slovakia, Latvia, Lithuania, Romania and Bulgaria opened up in October 1999. To be eligible for entry, certain political, institutional and economic criteria had to be fulfilled. The political and institutional criteria were:[53]

- protection of human rights and respect for minorities
- fight against organized crime, drugs and illegal migration
- protection of the environment
- adoption of the aims of the EU and ability to enforce the EU legislation, and
- ability to pay the contributions to the EU budget on a regular basis

The economic criteria were:

- creation of a well-functioning market economy, and
- ability to cope with the competitive pressures within the EU

The requirement of a well-functioning market economy was to be fulfilled through trade liberalization, elimination of market-entry and market–exit barriers in industry, low inflation and reasonable budget- and current-account deficits, and sufficiently developed financial markets. The requirement of being able to cope with competitive forces was to be fulfilled through macroeconomic stability and predictability, sufficient human and physical capital, a satisfactory infrastructure, government policies aiming at improving competitiveness, and structural reform in product and labour markets to help make the economy more adaptable to changes in the international environment.

Negotiations with 10 of the applicant countries, namely Cyprus, Malta, the five Visegrad states (the Czech Republic, Hungary, Slovakia, Slovenia, Poland), and the three Baltic states (Estonia, Latvia, Lithuania), were concluded on 13 December 2002 and an Accession Treaty[54] was signed in a formal ceremony at the Athens Summit of 16 April 2003. These 10 countries formally became EU members on 1 May 2004. The two Balkan states, Bulgaria and Romania, which have been applicant countries since 1995, have set themselves the goal of satisfying entry requirements by 2007 and hope to joint then. Turkey, which has been an applicant country since 1987, was not deemed ready in December 2002 to begin accession negotiations, but it has recently made considerable progress toward satisfying the political and institutional criteria. It is expected to begin accession negotiations in October 2005 and may also joint the EU shortly after 2007.

From an economic point of view, the increase in the number of EU countries from 15 to 25 in May 2004 and to 27 in 2007, or to 28 shortly after, represents a major challenge. The 10 newcomers (NM-10) together with the 3 candidate countries (CC-3), Bulgaria, Romania and Turkey, will increase the EU area by 57.4 per cent from 3,234.6 square kilometers to 5,091.9 km^2, and the EU's population by 43.7 per cent from 382.7 million people to 550 million (see Table 1.3). Yet, given their relatively low level of economic development, these 13 countries will contribute no more than 8.2 per cent to the EU's GDP at market prices. Indeed, GDP per capita at market prices in many NM countries is 4 to 5 times lower than that prevailing in the EU-15, something that follows from Table 1.3 if one divides column (c) with column (b). Thus in 2004, while the EU-15 average GDP per head at market prices was 25,400 euro the corresponding NM-10 average was only about 6,400 euro, giving an average income difference per capita at market prices between the two groups of 19,000 euro at an annual basis. GDP per capita in purchasing power standards (PPS), which takes account of cost-of living conditions, is also in most NM countries and in all CC-3 well below that of the corresponding EU-15 average. In 2004, GDP in PPS amounted to 13,500 euro in NM-10 and 6,800 euro in CC-3 as compared to an EU-15 average of 24,300 euro. Cyprus, Slovenia and Malta are the most well-off NM counties (GDP per head in PPS at 75.0, 71.8 and 66.7 per cent of the EU-15 = 100 average). Next comes the Czech Republic (GDP per head at 64.2 per cent of the EU-15 average), followed by Hungary and Slovakia (GDP per head in PPS at 56.7 and

Table 1.3 Basic economic facts – the enlarged European Union, 2004

	(a) Area (thousand km^2)	*(b)* Total Population (million)	*(c)* GDP at current market prices (billion euro)	*(d)* GDP per capita in PPS (euro)	*(e)* GDP per capita in PPS as % of EU-15 = 100
Cyprus	9.3	0.7	12.5	18,200	75.0
Czech Republic	78.7	10.2	87.0	15,600	64.2
Estonia	45.2	1.4	8.8	11,300	46.4
Hungary	93.0	10.1	81.4	13,800	56.7
Latvia	64.6	2.3	10.9	9,700	39.8
Lithuania	65.3	3.4	17.7	10,700	44.2
Malta	0.3	0.4	4.4	16,200	66.7
Poland	312.7	38.2	195.9	10,600	43.8
Slovakia	49.0	5.4	32.6	11,900	49.2
Slovenia	20.3	2.0	26.0	17,400	71.8
NM-10	738.4	74.1	477.2	13,500	55.8
Bulgaria	110.9	7.8	19.7	6,900	28.3
Romania	238.4	21.7	56.7	6,900	28.7
Turkey	769.6	68.7	244.6	6,500	26.7
CC-3	1,118.9	98.2	321.0	6,800	27.9
EU-15	3,234.6	382.7	9,730.9	24,300	100
EU-28	5,091.9	555.0	10,529.1		
Enlargement (from 15 to 28) change (%)	57.4%	43.7%	8.2%		

Sources: (a) Eurostat, *Towards an Enlarged European Union – Key Indicators on Member States and Candidate Countries,* April 2003.
(b) Eurostat database, *Long-term Indicators,* Population and Social Conditions.
(c), (d), (e) Eurostat database, *Long-term Indicators,* Economy and Finance.

49.2 per cent of the EU-15 GDP respectively). Poland, Estonia and Lithuania come next (GDP per head in PPS at about 45 per cent of that of the EU-15). Latvia is the least well-off new member state (GDP per head at 39.8 per cent of the EU-15 average in 2004). The 2 Balkan states, Bulgaria and Romania, have even lower GDP per head in PPS, namely 28.3 and 28.7 of the EU-15 average respectively, although this is expected to increase somewhat by 2007. Turkey has currently the lowest GDP per head in PPS, amounting to only 26.7 per cent of the GDP of the EU-15. Living standards in terms of percentage of population that owns a car or has access to Internet, or in terms of infant survival and life expectancy, are also in many of the newcomers and in all three candidate countries well below those in EU-15 (see Table 1.4).

In terms of structure of production, all the newcomers are more agricultural than the EU-15 states. The 10 NM countries have increased the agricultural area of the European Union by 29 per cent, the number of farmers by 56 per cent and the number of farms by 74 per cent, reducing average farm size by 39 per cent (see Table 1.5). The contribution of agriculture to their gross domestic value added (GVA) ranges from 6.1 per cent in Lithuania to 2.1 per cent in Malta, giving an average for all the new member states of 3.6 per cent as compared to only 1.9 per cent in the EU-15 (see Table 1.6). Bulgaria, Romania and Turkey are even more agricultural than the 10 newcomers, with shares of agricultural output in GVA amounting to 12.5, 12.9 and 11.1 per cent respectively. As regards agricultural employment, this is 8.7 per cent of total employment on average in the 10 NMs and 27.7 per cent on average in the 3 CC countries as compared to only 4.1 per cent in the EU-15. Given the percentage contribution of agricultural activities to GVA, the relatively large number of people engaged in agriculture in the 10 newcomers and the 3 prospective members is indicative of the low labour productivity in this sector.

Table 1.4 Living standards

	Passenger cars per 100 inhabitants	*Mobile phones per 100 inhabitants*	*Internet users per 100 inhabitants*	*Infant mortality per 1000 live births*	*Life expectancy in years*	
					Males	*Females*
Cyprus	37	41	20	5.6	75.3	80.4
Czech Republic	34	68	14	4.0	72.1	78.5
Estonia	30	54	32	8.4	65.6	76.4
Hungary	24	31	15	8.1	67.2	75.7
Latvia	25	26	7	11.0	64.5	75.6
Lithuania	32	28	7	8.6	67.5	77.7
Malta	50	61	25	4.4	75.1	79.3
Poland	27	25	10	7.7	70.2	78.4
Slovakia	24	40	17	6.2	69.4	77.6
Slovenia	44	76	30	4.2	72.7	80.1
Bulgaria	26	20	7	14.4	68.5	75.1
Romania	14	20	5	18.4	67.7	78.8
Turkey	7	22	4	38.7	66.4	71.0
EU-15	50	58	36	4.6	75.2	81.2

Source: Eurostat, *Towards an Enlarged European Union – Key Indicators on Member States and Candidate Countries*, April 2003.

Table 1.5 Farming structure after enlargement

	Farmers (million)	*Agricultural area (million Ha)*	*Number of farms (millions)*	*Average farm size (Ha)*
NM-10	3.8	38.5	5.2	7.4
EU-15	6.8	132.0	7.0	18.9
EU-25	10.6	170.5	12.2	13.2
Percentage change	+56%	+29%	+74%	−39%

Source: 'Facts and Figures on EU Trade in Agricultural Products', *Press Release* 16/12/2002, European Commission.

Table 1.6 Contribution of agriculture to gross domestic value-added (GVA) and sectoral employment, 2003$^{(*)}$

	(a) Contribution of agriculture to GVA	*(b) Sectoral employment*		
		% of total employment		
		Agriculture	*Industry*	*Services*
Cyprus	3.8	5.2	22.9	71.9
Czech Republic	2.8	4.5	39.6	55.9
Estonia	4.3	5.6	30.6	63.8
Hungary	4.1	5.3	33.4	61.3
Latvia	4.1	13.7	27.0	59.3
Lithuania	6.1	17.9	28.1	54.0
Malta	2.1	2.1	30.0	67.9
Poland	2.9	18.4	28.6	53.0
Slovakia	3.9	5.8	38.4	55.8
Slovenia	3.0	8.4	37.8	53.8
NM-10	3.6	8.7	31.6	59.7
Bulgaria	12.5	10.1	32.9	57.0
Romania	12.9	36.0	30.0	34.0
Turkey	11.1	37.0	23.3	39.6
CC-3	12.2	27.7	28.7	43.5
EU-15	1.9	4.1	28.0	67.9

(∗)latest available

Sources: (a) Eurostat database, *Long-term Indicators*, Economy and Finance
(b) Eurostat, *Statistics in Focus,* 'European Labour Force Survey 2003, Principal Results', 2004

As far as trade is concerned, with the exception of Poland, all the NMs are very open economies (see Table 1.7, column (a)); and trade between them and the EU-15 has shown an upward trend since the late 1990s following the accession negotiations (see Figure 1.1). However, the importance of the EU-15 market for the economies of the 10 new member states and the 3 prospective members is much greater than the importance of their markets for the EU-15 states. For example, in 2000 the NMs imported goods and services from the EU-15 equal to 108.8 billion euro and exported to the EU-15 goods and services equal to 89.0 billion euro, something that corresponds to 57.1 and 60.3 per cent of their total imports and exports respectively (see Table 1.7, columns (b) and (c)). Hungary, the Czech Republic and Poland are the most

Table 1.7 New member states and candidate countries – openness and trade with the EU-15

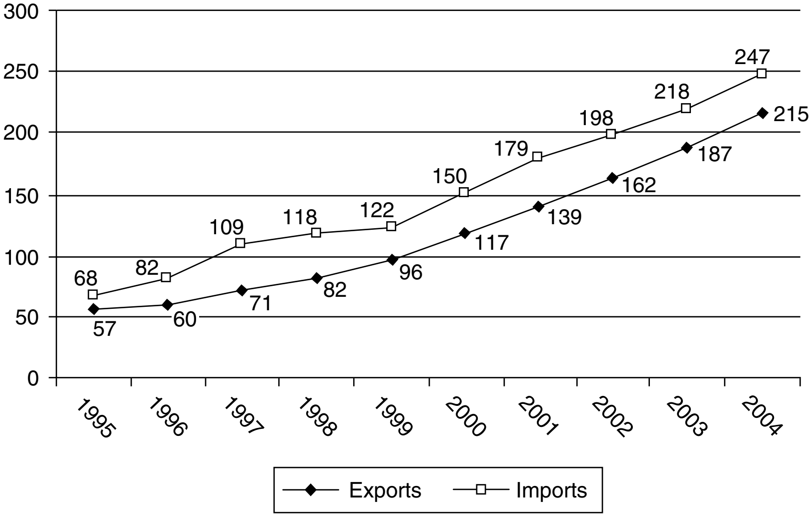
	(a)	*(b)*		*(c)*	
	Openness: exports and imports relative to GDP, 2002 (%)	*Trade with EU-15 Value (billion euro), 2000*		*Trade with EU-15 (percent of total trade), 2000*	
		Exports	*Imports*	*Exports*	*Imports*
Cyprus	117	1.0	3.1	49.0	55.5
Czech Republic	143	21.4	23.8	68.9	61.8
Estonia	200	3.2	3.3	69.4	56.5
Hungary	150	21.9	23.0	74.3	57.8
Latvia	114	1.9	2.0	47.8	44.0
Lithuania	126	2.2	2.6	61.2	52.6
Malta	209	1.0	2.8	41.3	63.6
Poland	73	23.1	33.6	69.2	61.4
Slovakia	129	7.0	6.5	59.9	49.8
Slovenia	167	6.3	8.1	62.2	67.7
NM-10	143	89.0	108.8	60.3	57.1
Bulgaria	128	3.1	3.2	*n.a.*	*n.a*
Romania	85	7.6	8.7	*n.a*	*n.a*
Turkey	57	17.5	29.7	*n.a.*	*n.a*
EU-15	74				

Sources: (a)Eurostat – *Statistics in Focus*, Industry, Trade & Services, 'SMEs in the Candidate Countries', 2004.

(b) Eurostat, *Statistics in Focus*, External Trade, 'The 13 Candidate Countries Trade with the EU 2000', 2001.

(c)Eurostat, *Statistical Yearbook 2003 on Candidate Countries*, 2003.

Figure 1.1 NM-10 and CC-3 trade with the EU-15, value (billion euro)



Source: Eurostat database, *External Trade Statistics*

important trade partners of the EU-15; the share of trade with the EU-15 (exports and imports together) in their total trade is above that of the rest NM countries (74.3% (57.8%) of total exports (imports) in Hungary, 68.9% (61.8%) of total exports (imports) in the Czech Republic and 69.2% (61.4%) of total exports (imports) in Poland). The EU-15 market is also important for Turkey (see column(b)). On the other hand, the NM-10 and CC-3 countries' share in the EU-15 total exports and imports is relatively small amounting to no more than 18 per cent in 2004. Moreover, there are significant differences in terms of the importance of the newcomers and prospective members as a trading bloc for the individual EU-15 member states (see Table 1.8). In 2000, out of the 150.3 billion euro (117 billion) EU-15 exports to (imports from) the NM-10 and CC-3 57.4 billion (50.6 billion) corresponded to German exports (imports), implying that about 40 per cent of total EU-15 trade with these countries involved exclusively Germany. Italy, France, Austria and the UK contributed less than 15 per cent to total EU-15 trade with the NM-10 and CC-3. Belgium, the Netherlands and Sweden contributed no more than 6 per cent, while Denmark, Spain, Finland and Ireland contributed no more than 3 per cent.

At the same time, several of the 10 new member states, including Poland, Slovakia, Lithuania and Latvia, are currently experiencing serious unemployment problems (see Table 1.9, columns (a)-(c)). In all of them, total unemployment had shown an upward trend between

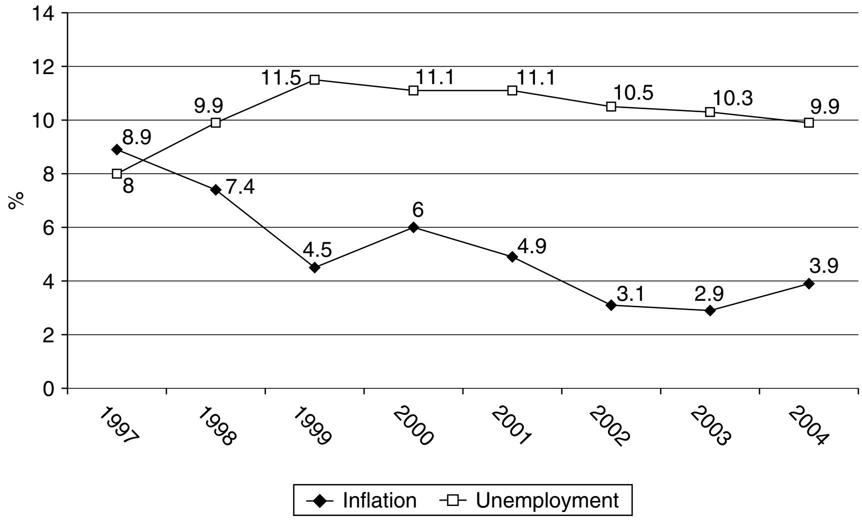
Table 1.8 Trade of EU-15 with NM-10 and CC-3, 2000

	Value (billion euro)		*% of total EU-15 trade with NM-10 and CC-3*	
	Imports	*Exports*	*Imports*	*Exports*
Austria	9.4	10.1	8.0	6.7
Belgium	4.6	6.5	3.9	4.3
Denmark	2.2	2.2	1.9	1.5
Finland	2.0	4.4	1.7	2.9
Germany	50.6	57.4	43.2	38.2
Greece	3.0	5.4	2.6	3.6
France	9.7	14.9	8.3	9.9
Ireland	0.8	1.7	0.7	1.1
Italy	13.3	20.4	11.4	13.6
Luxembourg	0.2	0.3	0.2	0.2
Netherlands	6.1	8.5	5.2	5.7
Portugal	0.8	0.5	0.7	0.3
Spain	1.8	2.5	1.5	1.7
Sweden	3.6	5.3	3.1	3.5
UK	9.0	10.3	7.7	6.9
EU-15	117.0	150.3	100	100

Source: Eurostat, *Statistics in Focus*, 'The 13 Candidate Countries' Trade with the EU', 2000.

1996 and 1999 as a result of the restructuring process that was under way; and since 2003 it has been stabilized at an average level of about 10 per cent (see Figure 1.2). In many NMs the employment problem is particularly serious for the young people aged under 25 years: they are experiencing on average an unemployment rate of 20.5 per cent as compared to 16.4 per cent in the EU-15. Long-term unemployment is also a problem for all the NM-10 countries except Cyprus, but it is particularly serious for Poland and Slovakia where it amounts to 10.7 and 11.1 per cent respectively of the total labour force. Of the 3 CC countries Bulgaria experiences particularly serious unemployment problems, currently having an unemployment rate of 11.9 per cent, long-term unemployment 8.9 per cent and youth unemployment 24.4 per cent. As far as inflation is concerned, in the NM-10 countries considerable progress has been made since 1997, when all of them undertook to implement stabilization policies (see Figure 1.2). However, inflation in most of them is still high when compared with that of the EU-15 average (see column (e) of Table 1.9), something requiring attention given its adverse impact on the competitiveness of the NMs' exports. At the same time, except in Malta, Slovenia and Cyprus, total labour productivity is well below the EU-15 average (see

Figure 1.2 Unemployment and inflation in the NM-10 countries



Source: Eurostat database, *Structural Indicators*

column (d)). In 2004, total labour productivity in the 10 new member states was on average no more than 60 per cent of that of the EU-15; and in the 3 CC countries it was on average no move than 35 per cent of that of the EU-15. In general, the much lower GDP per head in the newcomers and prospective members together with their low labour-productivity levels, high unemployment and inflation rates and the need to modernize their economies and adopt new technologies in industry require a lot of structural and cohesion spending.

Recognizing this need for additional resources to adapt their economies to the new environment, the EU-15 Heads of State at the Copenhagen Summit of December 2002 committed themselves to make available to the 10 NM states between 2004 and 2006 a total amount of 40.7 billion euro (see Table 1.10). Of this amount, the biggest item, almost 22 billion (Heading 2), is structural and cohesion funding. Structural and cohesion funding are financial instruments addressed to less prosperous regions and countries. Structural funds, set at 14.3 billion in total, aim at increasing regional growth, competitiveness and the creation of jobs. Cohesion funds are to be used to finance major investment in transport and the environment in the NM-10 states, assisting them to cope with the requirements of the internal market; they are set at 7.5 billion. As far as agriculture is concerned (Heading 1), a total amount of almost 10 billion euro has been made available, of which almost 5 billion concern direct

Table 1.9 Labour market conditions and inflation rates, 2004

	(a) Total unemployment rate, % of labour force	*(b)* Long-term unemployed, % of labour force	*(c)* Unemployment rate of persons aged under 25 years (%)	*(d)* Total labour productivity per person employed as % of EU-15 = 100	*(e)* Inflation rate
Cyprus	5.0	1.1	10.6	68.2	1.9
Czech Republic	8.3	3.8	21.1	59.8	2.6
Estonia	9.2	4.6	21.0	46.1	3.0
Hungary	5.9	2.4	14.8	64.5	6.8
Latvia	9.8	4.3	19.0	40.7	6.2
Lithuania	10.8	6.1	19.9	46.1	1.1
Malta	7.3	3.5	16.7	80.5	2.7
Poland	18.8	10.7	39.5	56.4	3.6
Slovakia	18.0	11.1	32.3	57.0	7.4
Slovenia	6.0	3.4	14.3	71.1	3.2
NM-10	9.9	5.1	20.5	59.1	3.9
Bulgaria	11.9	8.9	24.4	30.5	6.1
Romania	7.1	4.1	21.4	33.1	11.9
Turkey	10.2	2.4	20.5	39.0	*n.a*
CC-3	9.7	5.1	22.1	34.2	
EU-15	8.0	3.3	16.4	100	2.0

Sources: (a), (c) Eurostat database, *Long-term Indicators,* Population and Social Conditions
(b), (d), (e) Eurostat database – *Structural Indicators*

support to farmers and 5 billion are to be used for promoting rural development. Of the remaining amount, about 4 billion constitutes funding for internal policies and transitional expenditure (Heading 3) and almost 2 billion is to be used for administration (Heading 4). There is also Heading X, agreed during the negotiations that led to the signing of the Accession Treaty in December 2002, which includes a special cash-flow facility and a temporary-budget-compensation facility amounting to a total of about 3 billion euro. As regards the biggest items, namely Headings 1 and 2, of the total available resources for agriculture and structural actions (31.5 billion), about 25 per cent (8 billion) is to be made available in 2004, about 35 per cent (10.6 billion) will be made available in 2005, and the remaining 40 per cent (12.9 billion) will be released in 2006. In agriculture

Table 1.10 Enlargement funding (billion euro), 2004–2006

	2004	*2005*	*2006*	*Total 2004–2006*
Heading 1: Agriculture	1.9	3.7	4.1	9.7
• Common Agricultural Policy	0.3	2.0	2.3	4.6
• Rural development	1.6	1.7	1.8	5.1
Heading 2: Structural actions	6.1	6.9	8.8	21.8
• Structural Fund	3.5	4.8	6.0	14.3
• Cohesion Fund	2.6	2.1	2.8	7.5
Heading 3: Internal policies & transitional expenditure	1.4	1.4	1.4	4.2
Heading 4: Administration	0.5	0.6	0.6	1.7
Heading X: Special cash-flow facility and temporary budgetary compensation	1.3	1.1	0.9	3.3
Total of Headings	11.2	13.7	15.8	40.7

Source: Copenhagen European Council 12–13 December 2002, Presidency Conclusions, *Press Release* 14/2/2002, European Commission.

about 20 per cent (1.9 billion) of total resources (9.7 billion) will be made available in 2004 and about 40 per cent in 2005 and 2006 (3.7 and 4.1 billion). Serious problems may arise in this sector after 2013: from 2013 onwards, with the 10 new member states being fully incorporated into the EU, the Commission will be faced with the task of allocating the limited agricultural budget to 25 rather than to 15 states, something that will make more urgent the need for a reform of the common agricultural policy. Problems may also arise after 2007 in the area of regional and social policy. Regions with income per head less than 75 per cent of the EU average receive funding from the Cohesion Fund, while those with income per head more than 75 per cent of the EU's average are not eligible to such funding. At the moment, several regions in Portugal, Greece, Spain and Italy are recipients of such funding. When the 10 NM states will be fully incorporated into the European Union, the level of average income in the EU, on the basis of which cohesion funding is determined, will fall. A number of such regions will then find themselves outside the 75% limit, something that may create conflicts among the 25 member states.

Nevertheless, all the 10 new members, as well as the 3 candidate countries, are expected to have GDP growth rates above those in the EU-15 in the years to come, something that will help them acheive convergence with the rest of Europe in the longer run (see Table 1.11). The NM-10 on average experienced real GDP growth of 4.1 per cent

Table 1.11 Real GDP growth, GDP per capita in PPS and labour productivity – 2003–2006*

	Real GDP growth rate %				*GDP per capita in PPS (EU-15 = 100)*				*Percentage change between*	*Labour productivity per person employed (EU–15 = 100)*				*Percentage change between*
	2003	*2004*	*2005*	*2006*	2003	2004	2005	2006	*2003–2006*	*2003*	*2004*	*2005*	*2006*	*2003–2006*
Cyprus	1.9	3.5	3.9	4.2	74.5	75.0	75.8	76.7	3.0	67.7	68.2	68.9	69.8	3.1
Czech Republic	3.7	3.8	3.8	4.0	63.0	64.2	65.4	66.8	6.0	58.2	59.8	61.2	62.6	7.6
Estonia	5.1	5.9	6.0	6.2	44.4	46.4	48.4	50.6	14.0	45.0	46.1	47.6	49.4	9.8
Hungary	3.0	3.9	3.7	3.8	55.4	56.7	57.9	58.9	6.3	63.4	64.5	65.5	66.7	5.2
Latvia	7.5	7.5	6.7	6.7	37.5	39.8	41.8	43.8	16.8	38.8	40.7	42.6	44.4	14.4
Lithuania	9.7	7.1	6.4	5.9	41.9	44.2	46.2	47.9	14.3	44.5	46.1	47.9	49.5	11.2
Malta	−0.3	1.0	1.5	1.8	67.6	66.7	66.2	65.7	−2.9	81.5	80.5	80.3	79.9	−2.0
Poland	3.8	5.8	4.9	4.5	42.1	43.8	45.2	46.3	10.0	54.5	56.8	58.3	59.3	8.8
Slovakia	4.0	4.9	4.5	5.2	47.7	49.2	50.4	51.9	8.8	55.1	57.0	58.3	59.9	8.7
Slovenia	2.5	4.0	3.6	3.8	70.3	71.8	72.9	74.2	5.5	69.7	71.1	72.3	73.7	5.7
NM-10	4.1	4.7	4.5	4.6	54.4	55.8	57.0	58.3	8.2	57.8	59.1	60.3	61.5	7.3
Bulgaria	4.3	5.5	6.0	4.5	27.2	28.3	29.5	30.4	11.8	29.8	30.5	31.2	31.8	6.7
Romania	4.9	7.2	5.6	5.1	27.1	28.7	29.8	30.8	13.7	31.4	33.1	34.5	35.8	14.0
Turkey	5.8	8.5	5.0	5.3	25.4	26.7	27.0	27.5	8.3	37.3	39.0	39.2	39.5	5.9
CC-3	5.0	7.1	5.5	5.0	26.6	27.9	28.8	29.6	11.3	32.8	34.2	35.0	35.7	8.9
EU-15	0.8	2.2	2.2	2.3	100	100	100	100		100	100	100	100	

* 2005, 2006 forecasts

Source: Eurostat database – *Structural Indicators* in 2003 and 4.7 per cent in 2004 as compared to only 0.8 and 2.2 per cent respectively in EU-15; and recent estimates show that high growth rates will continue in 2005 and 2006 (real growth is expected to be at 4.5 and 4.6 per cent in 2005 and 2006 respectively in NM-10 as compared to 2.2 and 2.3 per cent (in EU-15). Labour productivity and GDP per head in PPS have also improved in all NM-10 (except Malta) since 2003 and are expected to continue on an upward trend, giving an average (predicted) increase for the whole period 2003–6 that has followed the signing of the Accession Treaty of 7.3 per cent for labour productivity and of 8.2 per cent for GDP per head. This is because most of the 10 NM states have good prospects for rapid investment. Installing new machines and adjusting to new technologies, for example, is likely to be a relatively easy process in most NMs, given their well-educated labour force (see Table 1.12, column (a), where the percentage of people having completed at least upper secondary education is on average 80.4 per cent of total population in the NM countries as compared to 64.6 per cent in EU-15). Their public-administration systems are also expected to function more efficiently in the coming years, given the major restructuring that is currently under way in their public sectors, something that will contribute further to investment growth and GDP growth. Moreover, foreign direct investment in the NM-10 countries has shown

Table 1.12 Labour force quality and hourly labour costs, 2002(*)

	(a) *% of the population aged 25 to 64 having completed at least upper secondary education*	*(b)* *Hourly wage cost (euro)*
Cyprus	66.5	9.9
Czech Republic	87.8	5.4
Estonia	87.5	3.7
Hungary	71.4	4.9
Latvia	82.6	2.4
Lithuania	84.8	2.9
Malta	n.a.	7.6
Poland	80.8	5.3
Slovakia	85.8	3.6
Slovenia	76.8	9.7
NM-10	80.4	5.5
EU-15	64.6	23.4

(*) latest available

Sources: (a) Eurostat, *Yearbook 2004* – Population and Social Conditions
(b) Eurostat, *Yearbook 2004* – Economy and Finance

a significant upward trend since 2000, as many European firms have sought to take advantage of both the abolition by the EU-15 of the trade barriers on manufactured imports from them and the cheap labour force in these countries (see Table 1.12, column (b), where in 2002 the average hourly wage cost in the NM countries was 5.5 euro as compared with 23.4 euro in EU-15). These factors suggest that all the NM states are most likely to develop into 'dynamic economies' in the longer run and thus be able to cope with the competitive pressures within Europe. Indeed, several recent studies suggest that in the longer run, the enlargement will lead to income gains for both sides, that is, for both the newcomers and the EU-15, although for the former the benefits will be relatively larger since they start form a lower economic base. For example, a recent study by the Commission (European Commission (2001)) predicts that the enlargement of May 2004 could increase the level of real GDP of the EU-15 by 0.7 percentage points on a cumulative basis and the rate of growth of real GDP in the NM countries by between 1.3 and 2.1 percentage points. Surveys of public opinion also show that over 55 per cent of the EU-15 citizens has welcome the enlargement; and that about 65 per cent of the citizens of the NM countries would have voted 'yes' in a referendum about EU membership.[55]

At the same time, with the increase in the number of EU states from 15 to 25 in May 2004 and probably to 27 by 2007, certain institutional changes have become necessary. For this reason, the *Protocol for the Enlargement of the EU (No 1)* and the *Declaration for the Enlargement (No 20)*[57] have been annexed to the Nice Treaty. According to the *Declaration for the Enlargement*, after 2007, when the EU will consist of 27 member states, the European Parliament will have 732 MEPs, with the more populous states retaining the power in the EP's decision-making (see Table 1.13). As far as the Council's decision-making procedure is concerned, the Nice Treaty in many cases replaces unanimity with qualified–majority voting. While there are some changes, the vote-weighting population-reflected complexities regarding qualified majority voting are retained. In particular, according to the *Declaration for the Enlargement*, a total of 345 votes are to be allocated to the 27 member states, with the distribution of votes not being in full accord with the population of the states. Proportionately the member states with smaller populations will still have more votes than their populations warrant. Thus Germany, the UK, France and Italy will have 29 votes each; Spain and Poland 27 votes each; Romania 14; the Netherlands 13; Greece, Belgium, Portugal, the Czech Republic and Hungary 12 votes each; Sweden, Austria and Bulgaria 10 votes each; Denmark, Slovakia, Finland and Lithuania 7 votes each; Latvia, Slovenia, Estonia, Cyprus and Luxembourg 4 votes each; and Malta 3 votes. When the Council is acting following a Commission's

Table 1.13 Number of Members in Parliament and votes in Council after the 2007 enlargement

	Number of Members in Parliament	*Number of votes in Council*
Austria	17	10
Belgium	22	12
Bulgaria	17	10
Cyprus	6	4
Czech Republic	20	12
Denmark	13	7
Finland	13	7
Germany	99	29
Greece	22	12
Estonia	6	4
France	72	29
Hungary	20	12
Ireland	12	7
Italy	72	29
Latvia	8	4
Lithuania	12	7
Luxembourg	6	4
Malta	5	3
Netherlands	25	13
Poland	50	27
Portugal	22	12
Romania	33	14
Slovakia	13	7
Slovenia	7	4
Spain	50	27
Sweden	18	10
UK	72	29
Total	732	345

Source: Eurostat database – *The European Union at a Glance, http://www.europa.eu.int/abc/index2_en.htm.*

proposal, qualified majority will require 258 casting votes plus 14 member states; in all other cases a majority of 258 casting votes plus 18 member states will be required for a measure to be passed. In general, the *Declaration for the Enlargement* creates a new system of dual majority whereby measures are not passed unless the member states in favour constitute a percentage significantly greater than 50 per cent of the EU's total population. As far as the composition of the Commission is concerned, the *Protocol for the Enlargement of the EU* accepts the principle that "each member state has one Commissioner". According to this principle, the five largest member states, namely Germany, France, Italy, Spain and the UK, will give up their second commissioner so that from May 2004 onwards all 25 EU states will have one commissioner each. However, in 2007 the number of commissioners will fall short of the number of states. The principle 'one state one commissioner' will then have to be amended; and the composition of the Commission will be decided by the Council acting on unanimity.

Notes

1 For a historical background and the development of the European Community, see Fontaine (1990), Urwin (1995), Salmon and Nicoll (1997), Dedman (1996), McAllister (1997) and Swann (1992). See also Nicoll and Salmon (2001), Maclay (1998), Bainbridge (1998), Pierson (1996), Archer and Butler (1996), Maresceau (1997) and Bulmer (1994).
2 According to Article 97 ECSC, the Treaty of Paris that established the ECSC was due to expire in July 2002 unless steps were taken for renewing it.
3 The invitation was initially accepted and a Board-of-Trade official was dispatched but later recalled by the Spaak Committee.
4 See Bulmer (1994).
5 The UK acceded to the Communities under a Conservative government with Edward Heath as prime minister. A referendum held in 1975 under a Labour government, with Harold Wilson as prime minister, endorsed overwhelmingly, by a nearly 2:1 majority, Community membership (see Irving, 1975).
6 The documents relating to the accession of Greece were signed in Athens on 28 May 1979, while the Treaties of Accession of Spain and Portugal were signed in Madrid and Lisbon, respectively, on 12 June 1985.
7 The EC and the EFTA countries, that is Austria, Sweden, Norway, Iceland, Finland and Liechtenstein, created the European Economic Area (EEA) that came into being at the beginning of 1994. This was viewed by many EFTA countries as a preliminary step to full EC membership.
8 Norway again remained outside of the Community because of a negative verdict delivered by the Norwegian people.
9 Negotiations with these countries were concluded in December 2002.
10 The SEA is published in the *Official Journal* 1987 L 169/1. See also Moravcsik (1991).
11 See COM (85) 310, and also Armstong and Bulmer (1998).
12 See European Commission (1992).
13 According to Article A (third paragraph) of the EU Treaty 'The Union shall be founded on the European Communities, supplemented by the policies and forms of co-operation established by this Treaty'. For an analysis

and assessment of the Maastricht Treaty see Wessels (1994), O'Keefe and Twomey (1995), Marks *et al.* (1996) and Grieco (1995).

14 To avoid confusion, the provisions of the EU Treaty are identified by letters in contrast with the other three Community Treaties where provisions are identified by numbers.

15 See 'Intergovernmental Conference on the Revision of the Treaties', Italian Presidency, *Collected Texts*, General Secretariat, Council of the EU, Brussels, July 1996.

16 See 'Conclusions of the Madrid European Council', *EU Bulletin* 12–1995, Annex 15.

17 See European Commission (1999, 2000). See also Moravcsik and Nicolaidis (1999), Walker (1998), Ehlermann (1998) and Shaw (1998).

18 See Pescatore (2001) and also Johnston (2001).

19 For an analysis and evaluation of the role of the Council in the Community's decision-making process see Westlake (1997) and Bulmer and Wessels (1987). See also Nugent (2003) and O'Nuallain (1985).

20 In relation to majority voting, it is worth mentioning the Luxembourg Compromise of 29 January 1966 that was in fact an 'agreement to disagree'. It is not a legally binding agreement but it has been used in practice. According to the Luxembourg compromise a member state can exercise a veto in the Council when its vital national interests are at stake.

21 Because of the EU enlargement to 25 members the distribution of votes has been changed in the Treaty of Nice (see the discussion on pages 48–50).

22 In connection with the blocking minority, something must be said about the so-called 'Ioannina Compromise' that deals with the appropriate size of the blocking minority when qualified majority voting applies to the Council after the accession of Austria, Sweden and Finland to the European Union. The Ioannina Compromise was passed in the Council Decision of March 1994 (*Official Journal*, 1994C 105/I) as amended by the Council Decision of 1 January 1995 (*Official Journal*, 1995CI/I). According to this decision, 'if members of the Council representing a total of 23 to 25 votes indicate their intention to oppose the adoption by the Council of a decision by qualified majority, the Council will do all in its power to reach, within a reasonable time a satisfactory solution that could be adopted by at least 65 votes. During this period and always respecting the rules of procedure of the Council, the President undertakes with the assistance of the Commission any initiative necessary to facilitate a wider basis of agreement in the Council.'

23 On this, Article 202 states that 'The Council may request the Commission to undertake any studies which the Council considers desirable for the attainment of the common objectives and to submit to any appropriate proposals.'

24 See the discussion on pages 48–50. For an analysis of the role of the Commission in the EC decision-making process see, for example, Nugent (2001) and Edwards and Spence (1994).

25 See the European Parliament's Rules of Procedure, Rule 33 (5).

26 There are numerous provisions that empower the Council to act on a proposal from the Commission when making Community legislation.

27 Although the Council has the power to pass legislation in nearly all cases, the Commission retains discretion as to the content and timing of the proposal it puts forward to the Council.

28 The justification for the Commission being granted the power of proposal was that its autonomy and its expertise would result in its being best able to represent the common European interest. See for example Featherstone (1994).

29 See COM(85) 310 final.

30 Council Decision 87/373 as amended. It should be noted that all different procedures involve committees composed of national officials.

31 There are three main procedures for the Commission's exercise of powers delegated by the Council:

- Advisory Committee, Procedure I.
- Management Committee, Procedure II.
- Regulatory Committee, Procedure III.

Procedure I places no constraint on the Commission's power to pass delegated law, while Procedure III imposes the greater restriction on it.

32 See Article 3(1) SEA and the ensuing Articles which refer to the European Parliament. For an extensive discussion of the EP's functions see for example Corbett *et al*. (1995) and Westlake (1994). See also Hix and Lord (1997) and Greenwood (1997).

33 See also Council Directive 93/109 on exercising the right to vote in European Parliament elections, *Official Journal*, 1993 L329/34.

34 The Treaty of Nice has changed this to allow for the participation of the 10 new member states.

35 The Bureau has a number of administrative and financial functions laid down by the Rules of Procedure.

36 There is no requirement for this session to be convened.

37 The Court of Justice and the Court of First Instance acting in their judicial role are excluded from the jurisdiction of the Ombudsman.

38 The Parliament must act in one way or the other in 45 days otherwise the budget is deemed to be finally approved.

39 All Council decisions connected with the budgetary procedure are taken by qualified majority.

40 See Article 6 of the Rules of Procedure of the Court, *Official Journal* 1991 L 176, as amended in *Official Journal*, 1995 L 44/61.

41 Council Decision 88/591 on 24 October 1988, *Official Journal*, 1988 L319 and *Official Journal*, 189C 215/1. For an analysis of the functions and role of the Court of First Instance, see for example Pappas (1990). For the role of the Court of Justice and of European Courts more generally see Plender (1997) and Schermers and Waelbroeck (1992).

42 For a discussion of the institutional arrangements regarding the ECB and the problems involved, see Pipkorn (1994), Smits (1996), Beaumont and Walker (1999), Crowley (2001) and Gormley and De Haan (1996).

43 For the legal dimensions of European integration see Armstrong (1998). See also Craig and De Burca (1997, 1999), Wyatt and Dashwood (1993), Greaves (1996), Dashwood (1996), Burns (1996), Timmermans (1997), Boyron (1996), Weatherill and Beaumont (1999) and Chalmers (1998).

44 Article 230 is the principal device to review the legality of Community Acts. That is, direct actions for the annulment of Community Acts may be brought before the Court of Justice under Article 230.

45 See Joined Cases 16 and 17/92, *Producteurs de Fruits* v. *Council* [1962] *European Court Reports* (*ECR*), 471, 478.

46 See Case C-322/88, *Grimaldi* v. *Fonds des Maladies Professionelles* [1989] *ECR*, 4407.

47 Rules of Procedure EP, Rules 53 and 54.

48 See for example Case 138/79, *Roquette Freres* v. *Council* [1980] *ECR*, 3333.

49 See Case C-65/93, *European Parliament* v. *Council*.

50 See Case C-388/92, *European Parliament* v. *Council* [1994] *ECR*, I-2067.

51 Case 1253/79, *Battaglia* v. *Commission* [1982] *ECR*, 297; Case C-331/88, *Queen* v. *Minister of Agriculture, Fisheries and Food and Secretary of State for Health, FEDESA and others* [1990] *ECR*, I-4023, 4067.

52 See *European Parliament Progress Report on the Delegations to the Conciliation Committee*, Annex II, 6. PE 223, 209.

53 See European Commission (2003).

54 Accession Treaty: *http://www.europa.eu.int/comm/enlargement/negotiations/treaty_of_accession_2003*

55 Other studies on the economic effects of enlargement include Baldwin, Francois and Porters (1997), Grabbe (2001) and Boeri and Brücker (2001). See also European Commission (2003) and the Commission's regular enlargement papers – *European Commission: Enlargement Papers*, *http://www.europa.eu.int/comm/economy/finance*

56 The Treaty of Nice does not reform drastically the institutional framework of the EU. The aim of the amendments provided in it is to simply absorb the new member states. The composition and the powers of the EU's political institutions cannot be viewed in isolation: political agreement on changing the number of commissioners has been inextricably linked to reform of the Council's voting system.

57 See Accession Treaty, Protocols: *http://www.europa.eu.int/comm/enlargement/negotiations/treaty_of_accession_2003*

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