



The Essential Guide to the European Union

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CHAPTER ONE

INTRODUCTION AND SUMMARY

1.1 Introduction

Lord Palmerston, with characteristic levity, had once said that only three men in Europe had ever understood [the Schleswig-Holstein question], and of these the Prince Consort was dead, a Danish Statesman (unnamed) was in an asylum, and he himself had forgotten it.

In R W Seton-Watson, *Britain in Europe 1789-1914*, 1937

This introductory guide explains the main aspects of the European Union (EU or “Union”) up to and including the draft European Constitution (or “Constitution”). The guide emphasises the economic and business aspects, but other issues are covered – albeit in less detail.^{1, 2, 3}

The EU is a vast and confusing topic (making the Schleswig-Holstein question look relatively straightforward). But it is of huge significance. It increasingly touches on nearly all aspects of our lives. Since the establishment of the European Economic Community (EEC) by the Treaty of Rome (1957) “Brussels”, for want of a better term to describe the centralised institutions of the EEC/EC/EU, has ceaselessly increased its powers. (The only time of real setback to the integrationist project was in the 1960s when General de Gaulle was President of France.) When the UK joined the EEC in 1973, progress to economic and political union in Europe was already getting back on track.

As the powers of Brussels have progressively increased, so the sovereign powers of the member states have progressively diminished. (And, incidentally, there is no such thing as “shared or pooled sovereignty”. A country either has sovereignty or it does not and what some politicians refer to as “shared or pooled sovereignty” is actually “lost sovereignty” or “delegated sovereignty”.) But there has never been an open and fair debate in the UK about this. There should be one, whether or not the proposed draft European Constitution⁴ goes ahead in its current form.

The paper is structured as follows:

- The EU and its treaties: a brief history (chapter 2).
- The EU’s institutions and law (chapter 3).
- The EU’s competences or powers:
 - Introduction (chapter 4).
 - The EU budget and economic and monetary union (chapter 5).
 - Trade, the internal market, social policy and related issues (chapter 6).
 - Agriculture and fisheries, environment and regional policy (chapter 7).
 - Justice, aid and foreign and security policy (chapter 8).
- Future developments: including the draft European Constitution (chapter 9).

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1.2 The EU and its treaties: a brief history

Chapter 2 clearly shows how political union has been developing in the EU since the 1950s.

(i) The 1940s and 1950s (see 2.2)

...the ever closer union of the peoples of Europe.

Preamble to the Treaty of the European Economic Community
Treaty of Rome, 1957

The story of political integration began with the European Coal and Steel Community (ECSC) in 1951. The far more significant Treaty of Rome establishing the European Economic Community (EEC) was signed in 1957. The Treaty of Rome is of crucial significance. The Euratom Treaty was also signed in 1957.

(ii) The 1960s (2.3)

During this decade French President de Gaulle attempted to model the EEC along broadly intergovernmental lines, led by France. His rejection of the UK's two applications reflected his determination to have no leadership rival in Europe. Nevertheless integrationist progress was made in the 1960s: the Common Agricultural Policy was launched and the system of "own resources" was developed. The Merger Treaty (1965) created common institutions for the three Communities.

(iii) The 1970s (2.4)

The 1970s was a decade of currency turmoil and economic recession in the wake of the quadrupling of oil prices. The policy achievements were relatively modest but, nevertheless, included the launch of the Common Fisheries Policy, the Social Action Programme, the beginning of activist social policies, and, in 1979, the European Monetary System (EMS).

The UK finally joined the EEC in 1973, in a very disadvantageous deal, along with Denmark and Ireland. (The Norwegian electorate rejected EEC membership in a referendum.) A referendum in the UK (in 1975) returned a safe majority in favour of staying in the "Common Market", the British electorate being led to believe that the EEC was principally about free trade and not about progressive political unification.

(iv) The 1980s (2.5)

Much of the 1980s was overshadowed by budget problems, which were reasonably satisfactorily resolved: the British rebate was agreed and the EU was put on a more assured basis. But the key theme of the 1980s was the Single Market Programme (to be achieved by end 1992), which was enabled by the Single European Act (SEA, 1986). The SEA was the first major amendment to the Treaty of Rome, it extended the Qualified Majority Voting (QMV) procedures and was a markedly integrationist development.

Other policy developments in the 1980s included:

- The crucially influential Delors Report (1989), which recommended a three-stage approach to Economic and Monetary Union (EMU).
- The Social Charter and other developments of Social Europe.

There were three new members in the 1980s. Greece joined in 1981 and Spain and Portugal joined in 1986.

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(v) The 1990s (2.6)

The 1990s was a decade of triumph for the builders of a nascent European State, with two major treaties: the Maastricht Treaty and the Treaty of Amsterdam. **The Maastricht Treaty** (1992) was concerned with both Economic and Monetary Union (EMU), setting out timetables and institutions, and European Political Union (EPU). The Treaty created the European Union – with 3 Pillars: the European Community (Pillar 1), the Common Foreign and Security Policy (CFSP, Pillar 2) and Justice and Home Affairs (JHA, Pillar 3). The second and third Pillars were to operate inter-governmentally. The Social Chapter was agreed by 11 of the then 12 members, the exception being the UK.

The Treaty of Amsterdam (1997) was less ambitious but, nevertheless, extended QMV further, developed the CFSP, transferred much of JHA from Pillar 3 to Pillar 1 and added new social provisions (whilst the UK agreed to the Social Chapter).

Alleged mismanagement, if not fraud, was endemic in the EU and in March 1999 the entire Commission resigned after pressure from the European Parliament. These problems remain.

The single currency was, in many ways, the theme of the 1990s and the decade's greatest achievement. The euro, an overwhelmingly political project, was launched in 1999 with 11 of the then 15 countries (Greece joined in 2001). The pace of the development of "Social Europe" speeded up, thus damaging the EU's international competitiveness even further (with the UK one of the most damaged because it had relatively lightly regulated labour markets).

Three more countries joined the EU in the 1990s: Austria, Finland and Sweden (all in 1995). The Norwegian electorate rejected EU membership for a second time by referendum.

(vi) The 2000s (2.7)

The **single market** was the theme of the Eighties; the **single currency** was the theme of the Nineties; we must now face the difficult task of moving towards a **single economy, a single political unity**.

Romano Prodi, 13 April 1999

The first few years of the 21st century have, so far, been eventful ones for the EU. **The Treaty of Nice** (2001) was mainly concerned with deciding the necessary institutional changes for enlargement though there were other important developments including Eurojust and the further erosion of unanimity voting procedures. Policy developments of the 2000s have, so far, included the Social Policy Agenda (SPA), another plan to "improve" the EU's declining global competitiveness, but counterproductive.

In May 2004, there was a quite unprecedented **enlargement** of the EU, with the accession of 10 new countries. Eight are ex-Communist countries located in Central and Eastern Europe (CEE) and are Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Lithuania, Latvia and Estonia. The other two are Cyprus (Greek part only) and Malta. Bulgaria and Romania are expected to join in 2007. Turkey and Macedonia have also applied to become members.

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The **draft Constitutional Treaty** was finalised in July 2003 and IGC talks on the Treaty began in October 2003. These talks broke down in December 2003 over voting rights. However, the Treaty is expected to be discussed at the June 2004 EU summit, with a view to agreement. (See 1.9 below for more.)

1.3 The EU's institutions and law

(i) *The EU's institutions (3.2 to 3.4)*

Chapter 3 discusses the EU's current institutions and their powers. There is no doubt that the EU has a comprehensive set of institutions, potentially well equipped for running the single "European State", including:

- The six major institutions that have, between them, huge powers (see 3.2):
 - The European Commission.
 - The Council of Ministers.
 - The European Council.
 - The European Parliament.
 - The Court of Justice (or the European Court of Justice (ECJ)).
 - The Court of Auditors.
- There are two consultative committees that are involved in EU legislative decision-making: the Economic and Social Committee and the Committee of the Regions. (See 3.3.)
- There is an extensive list of other EU institutions that are there to support a would-be single "European State", the most important of which is the European Central Bank (ECB). (See 3.4.)

(ii) *EU law (3.5)*

There are three basic sources of "EU" (virtually synonymous with Community) law and these are discussed in chapter 3. They are:

- The treaties.
- Legislation, including Regulations and Directives.
- Court of Justice (ECJ) case law.

(iii) *Constitutional issues (3.6)*

The main conclusions of chapter 3 on these issues are:

- Currently the Community (EC) has legal personality, but the EU does not.
- Currently the EU's has no formal constitution; its essential structure revolves round two "documents":
 - The Treaty of Rome (1957), as amended by the Single European Act (1986), the Maastricht Treaty (1992), the Treaty of Amsterdam (1997) and the Treaty of Nice (2001).
 - The intergovernmental segments of the Maastricht Treaty, as amended by the Treaty of Amsterdam and the Treaty of Nice.
- EC law has supremacy over national law, as tested in the Court of Justice.
- The EU cannot currently be described as a single "European State" because the powers of the EU currently derive from the member states, as set out in the treaties, and the constitutions of the member states are not subject to an EU constitution. This would profoundly change, however, if the draft Constitutional Treaty were to be enforced.

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1.4 The EU's competences: introduction

In the conclusions of chapter 4 are:

- It is quite clear that the EU already has a huge influence on policy making in the UK. Treaty by treaty the EU has extended its competences. There is not one UK department of state that is not affected by the EU (see section 4.1).
- No-one seems to quite know how many regulations British citizens are subject to as the result of EU membership, though probably in excess of 200,000. The majority of British legislation now originates in Brussels. (4.2.)

1.5 The EU budget and economic and monetary union

(i) The EU budget (5.2)

The EU's budget has greatly expanded since the 1960s. Expenditure on structural funds and research, industry, transport and the environment has increased rapidly since the 1960s, but spending on CAP still accounts for nearly half of the total spend. The current "own resources" ceiling is still only 1.27% of GNP and was agreed for the 7-year period of 2000-2006, despite the very considerable enlargement process. Partly as a consequence, the support for the 10 new countries is not generous.

Germany is the largest net contributor, followed by the UK. Of the EU15, the biggest beneficiaries in GNP per capita terms are Greece, Ireland and Portugal. Spain has the highest gross receipts.

(ii) The euro (5.3)

The euro was launched in 1999 with 11 of the then 15 countries; Greece joined in 2001. Notes and coins were introduced in 2002. There are two sets of problems emerging in the eurozone. Firstly, the "one size fits all" interest rate appears to be fitting very few and, secondly, several eurozone countries are running excessive deficits (with their fiscal deficit as a % of GDP running above 3%). Following enlargement, a small majority of EU countries (13) are not in the euro.

The UK is not adequately converged with the eurozone countries to live happily with the ECB's interest rates. Moreover, it is unlikely that adequate convergence will be achieved in the foreseeable future. The UK should, therefore, not join the euro for the "foreseeable future".

The Chancellor gave a statement in June 2003 saying that 4 out of his "5 tests" had not been met. As the years go by, it looks less and less likely that the UK will be joining the euro, especially if the public remains hostile. Enlargement has, moreover, taken the pressure off those countries who do not wish to join.

1.6 Trade, the internal market, social policy and related issues

(i) Customs Union and external trade policy (6.2)

The EEC's customs union for goods was very successfully achieved, ahead of schedule, in 1968 with the removal of tariffs and quotas within the Six. Non-tariff barriers, however, remained. The Common External Tariff (CET) is currently in the range of 1.5% to 3% and expected to decline further.

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Tariffs on trade in industrial goods, globally, have fallen dramatically over the last 50 years and, reflecting this, belonging to a regional trading block such as the EU has become much less important. Indeed it could be argued that Customs Unions are old-fashioned and past their “sell-by dates” and global trading relationships, as brokered by the WTO, are now much more relevant.

(ii) The internal market (6.3)

The internal, or single, market is central to the EU, but the success in achieving the “four freedoms” is patchy:

- There has been some progress in the freedom of movement of goods, not least because of the Single Market Programme, but there are still non-tariff barriers and the creation of the “internal market for goods” has led to many regulations. (Arguably, the EU has used the aim of completing the internal market as a pretext for bringing in other legislation.) There are, therefore, costs as well as benefits for business of the internal market in goods. The costs could outweigh the benefits.
- The internal market in cross border services is relatively underdeveloped compared with goods though the EU is making some “progress”. But given the downsides, of extra regulation for example, some would question whether the goal of an internal market in some services is really of benefit to British business.
- The freedom of cross border movement of persons is more advanced than for services. But cross border labour mobility remains low.
- Concerning the freedom of movement of capital, cross border takeovers remain difficult outside the UK and Ireland.

(iii) Taxation (6.4)

The EU’s reach on tax harmonisation is very substantial with regards to indirect taxes (especially VAT) and is growing with regard to business taxes. The harmonisation of corporate taxes (and, to a currently much lesser extent, other taxes) is happening “through the backdoor”, through ECJ decisions. The proposal for an EU-wide withholding tax on interest on savings has currently been shelved.

(iv) Competition policy (6.5)

The EU has huge, arguably draconian, powers with regard to cross-border mergers. The Commission has jurisdiction over large-scale company mergers and takeovers affecting more than one member state and exceeding certain domestic, EU and global turnover thresholds.

(v) Enterprise, the information society and research (6.6)

The enterprise, information society and research agendas are positive for business, but cannot offset the damage of other EU policy agendas.

(vi) Social policy (6.7)

This is one of the most developed policy areas in the EU and, from a business perspective, most unhelpful. In the pursuance of “Social Europe” (or the “European Social Model”) and social harmonisation the EU has introduced a large number of competitiveness-destroying and job-destroying employment Directives. They are particularly damaging to the UK because the UK has had a relatively lightly regulated labour market in recent years – which has been very beneficial for job creation. There seems to be little appreciation by the Commission that the “Social Europe” model results in economic sluggishness and high unemployment. By any standards the “European Social Model” is discredited.

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There is an unfunded pensions “time bomb” in many member states (including Germany, France and Italy but not so much in the UK). There is currently no requirement for member states to “bail out” other member states, but many worry that, as political integration (“solidarity” or “coordination”) relentlessly progresses, there will be increasing pressures for bails outs to happen.

(vii) Energy policy (6.8)

There is currently no formal common energy policy, but EU initiatives have sought to guarantee and diversify supplies, encourage energy efficiency, minimise environmental damage (including global warming) and open EU energy markets.

(viii) Transport policy (6.9)

The Treaty of Rome envisaged a Common Transport Policy – but there is currently no comprehensive transport policy. The EU’s decisions have tended to be made on a sector-by-sector basis.

(ix) Health and consumer protection (6.10)

Consumer protection has arguably been the Cinderella of EU policy-making, but the EU has acted in this area – not least of all in the area of food safety. There has been modest EU policy activity in the area of public health.

(x) Education and culture (6.11)

The EU’s main formal interests in education have been concerned with the mutual recognition of professional qualifications and vocational training. Many interesting and useful projects have been undertaken voluntarily. The EU’s budget for culture is a modest affair. The EU’s involvement in sport is increasing.

1.7 Agriculture and fisheries, environment and regional policy

(i) The Common Agricultural Policy (CAP) (7.2)

The Common Agricultural Policy has many failings. In particular, it is an expensive, wasteful and protectionist policy that leads to much conflict in trade talks and significantly disadvantages the developing world’s exports of agricultural products.

(ii) The Common Fisheries Policy (CFP) (7.3)

The Common Fisheries Policy (CFP), with its designation of most EU waters as a “common resource”, has meant that the British fishing industry has had to share British waters with the other members of the EU, some of which have large fleets (eg Spain). In addition, the policy of quotas and “discards” has severely damaged the quantity of fish British fishermen could land – and undermined fish stocks. Much of the EU’s “conservation policy”, and the consequent reduction in British quotas, has given access to British waters to other EU member states.

(iii) Environment (7.4)

The author is fully supportive of the protection of the environment but increasingly questions the direction of EU environmental policy, which dominates British policy-making in this area. There has to be a balance between imposing costly and potentially competitiveness-damaging policies on business, on the one hand, and protecting the environment, on the other. There are increasing concerns that the EU’s balance is excessively anti-business. There is also the problem that many environmental policies are based on contestable and dubious scientific evidence (eg on global warming).

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(iv) Regional policy (7.5)

The regional policy has certainly succeeded in transferring funds to the poorer regions of the EU with benefits – especially in the case of, for example, Ireland. But many commentators would also like to see much more evidence in EU thinking of encouraging risk-taking and enterprise throughout the EU by minimising competitiveness-damaging regulation.

1.8 Justice, aid and foreign and security policy

The European lawyer is content to paint with a relatively broad brush, leaving the detail to be worked out by others, including the courts.

Glanville Williams, *Learning the law*, Sweet & Maxwell, 2002.

(i) Freedom, security and justice (8.2)

There are increasingly integrationist policies and initiatives in the area of freedom, security and justice. The Maastricht Treaty was a turning point in this area with its creation of the Justice and Home Affairs “pillar” of the EU. The Treaty of Amsterdam was also very influential.

- **Concerning “freedom”:** major developments include the Schengen Agreement on the freedom of movement of persons (though the UK has an opt-out) and the Dublin Asylum Convention.
- **Concerning “security”:** there is increasing co-operation between police forces. Major events include the setting up of Europol and the planned introduction of the European Arrest Warrant.
- **Concerning “justice”:** there is increasing judicial co-operation in criminal matters. Major events include the setting up of Eurojust and the European Judicial Network. The proposed Corpus Juris (published 1997, on fraud), if adopted, would take precedent over national law, and would be the first instance of an autonomous body of EU criminal law. The Corpus Juris plan envisaged the setting up of a powerful European Public Prosecutor’s (EPP) Office to which each member state’s own prosecution service would ultimately be answerable.

(ii) Development and aid (8.3)

The EU and its member states are the largest providers of aid in the world. There has been a succession of trade and aid agreements with many, mainly developing, countries.

(iii) Common Foreign and Security Policy (CFSP) (8.4)

There have been significant moves to develop a Common Foreign and Security Policy (CFSP) and EU military capability, as currently manifested in the European Rapid Reaction Force (ERRF). The Common Security and Defence Policy (CSDP) (formerly the European Security and Defence Policy (ESDP)), is part of the CFSP. In 2003 the UK, France and Germany agreed that the EU should have its own military planning capability independent of NATO.

1.9 Future developments: including the draft European Constitution

(i) Introduction to the draft Constitution (9.2)

In drawing up the draft Constitution, the Convention on the Future of Europe took a highly integrationist approach. The Constitution, if adopted, would mark a significant increase in the Union’s powers, a big extension of majority voting and would have major constitutional implications. The draft Constitution was

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finished in July 2003 and an Intergovernmental Conference (IGC) to discuss the draft started in October 2003. As already stated, talks on the draft Constitution broke down in December 2003, but it is likely that it will be discussed at the June 2004 summit, with a view to agreement.

There are few, if any, close comparisons between the European Convention and the one held in Philadelphia in 1787 but one comparison must be made. Philadelphia was about “nation-building” – so is the draft Treaty. The Treaty is about building a European nation or country – a single European State.

(ii) The key implications (9.3.1)

The Constitution will profoundly change the nature of the EU, it is no mere “tidying up”. The Constitutional Treaty is like no previous EU treaty because of a combination of three main reasons: firstly, its constitutional implications are profound; secondly, there are major institutional changes and, thirdly, the treaty represents an unprecedented transfer of powers from the member states to the EU.

(iii) The key constitutional implications of the Constitution (9.3.2)

- The Constitution will give the EU full **legal personality** for the first time. The proposed Constitution will create a new Union, separate from member states and with its own legal personality and status, allowing it to sign international agreements and play a full part on the world stage, like a state. Only the Community currently has such a capacity by treaty law. The EU will, in effect, become a true single “European State”.^{5,6}
- The European Constitution will provide for a **full written constitution**. Moreover, the EU will derive its powers from this constitution and not derive them from the member states under the treaties, as at present. (The EU’s powers would not, in other words, be treaty-based.) The member states’ powers will be “permitted” (defined) by the Constitution.
- EU law will have complete supremacy over national law.
- The EU will become a unitary structure. Maastricht’s three pillars will be consigned to history.
- The Constitutional Treaty will repeal all previous treaties.

(iv) The institutional implications of the Constitution (9.3.3)

The Constitution contains several proposals for key institutional changes:

- The President of the **Commission** will be elected by the European Parliament and be the EU’s “Head of State”. The Foreign Minister would be the Vice-President of the Commission.
- In the **Council of Ministers**, Qualified Majority Voting (QMV) will increasingly be the “normal” procedure in decision-making, with the number of national vetoes declining.
- The **European Council** will become part of the EU’s institutional framework, with an elected President, who would become the “Head of State” of the EU. A Foreign Minister would be appointed.
- The **European Parliament** and the **Court of Justice** will both gain power.

(v) The extensions to powers (9.3.4 and 9.3.5)

The Constitution will lead to a major transfer of power to the Union from the member states.

- There will be an unprecedented transfer of powers. Moreover, as the Constitution has been deliberately engineered as an “enabling” constitution

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and the powers of the member states are not always strictly specified, the Constitution does not set limits to EU power. The EU's powers will, therefore, be effectively limitless. There is no repatriation of policies and the subsidiarity principle has been effectively gutted.

- The EU's competences (powers) will include:
 - "Exclusive" competences, including the ability to negotiate and sign all international agreements and treaties.
 - "Shared" competences, where member states will only be able to legislate provided the Union chooses not to. This includes energy as a new competence.
- The coordination of economic and employment policies, for all member states and not just those in the euro.
- The incorporation of the Charter of Fundamental Rights, which includes wide-ranging social and employment rights.
- The incorporation of all of the "freedom, security and justice" area (originally Maastricht's "3rd pillar") into the EU's main body and become a Union competence. There are proposals for the development of a common asylum policy and the development of a common immigration policy; the development of judicial co-operation in civil and criminal matters; the "approximation" of laws; the provision of a European Public Prosecutor.
- The incorporation of the Common Foreign and Security Policy (CFSP), (Maastricht's 2nd pillar), including the Common Security and Defence Policy (CSDP), into the EU's main body and become a Union competence. For the CFSP, the draft Constitution proposes an ever-increasing degree of convergence of member states' actions, bolstered by a very general "solidarity" clause. Member states will have to make military and civilian capabilities available to the CSDP. There would be a permanent Foreign Minister.

(vi) The British Government's White Paper (9.4)

The British Government released a White Paper on the European Constitution in September 2003,⁷ claiming that the Constitution would not "change the fundamental relationship between the EU and the member states". This is not true. The Government also "red-lined" some of the proposals in the Constitution, comprising the removal of vetoes on treaty changes, tax, social security, defence, "key areas of criminal procedural law" and "own resources".⁸

(vii) A referendum on the Constitution (9.5)

Tony Blair, somewhat surprisingly, announced a UK referendum on the Constitution in April 2004. The timing of a British referendum is, at the time of writing, uncertain. It depends on when (or even if) the Constitution is agreed by the 25 members of the EU. But assuming the referendum occurs, there would be broadly four options for the UK:

- Treaty not enforced and the UK votes "yes".
- Treaty not enforced and the UK votes "no".
- Treaty enforced and the UK votes "yes".
- Treaty enforced and the UK votes "no".

This is not the place to consider every permutation, combination and speculation about what may or may not happen with the Constitution. But the following general comments give a flavour of what, broadly, may be on the cards:

- If the Treaty is not enforced, whether the UK votes "yes" or "no", then this should give the EU time to reflect. The failure of this Constitution could potentially be disruptive to the EU. But disaster can be averted and, in

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particular, thought should be given to developing a much less centralist EU. A “no” vote in the UK could, in particular, stimulate debate on the need for reforming EU membership – possibly along the lines of a looser, much more flexible organisation.

- If the Treaty is enforced and the UK votes “yes”, then the EU would still be advised to slacken the centralist tendencies – especially in the light of the poor economic outlook of many over-regulated EU member states.
- If the Treaty is enforced and the UK votes “no”, then the UK (and possibly others) would probably negotiate reformed terms of EU membership, with an emphasis on flexibility. There is absolutely no need to leave.⁹ And there are, of course, many options for continued membership.¹⁰

(viii) A Europe of the Regions (9.6)

In addition to the draft Constitution there is the issue of the developing regionalisation of the EU to be considered. The UK (especially England) is being “regionalised”, in other words, dismembered. This, with the draft Constitution creating a single “European State”, is resulting in the delegation of British power upwards to the Union and downwards towards the regions. The Union is becoming a single “European State of the Regions”.

(ix) Economic prospects of the EU (9.7)

The major eurozone economies are hampered by the “socialist” policies of over-regulation and job protection inherent in their European Social Model. Their adherence to the Model is one reason for their economic underperformance. It is failing and discredited – but the Union actively promotes it and it is enshrined in the Constitution. The Constitution will not just create a single “European State” – it will create a single “Socialist Europe State”.

It is clear that the major eurozone economies are experiencing sluggish growth and high unemployment and are in desperate need of reform. Their future does not look bright. Indeed, Ifri (a prestigious French think-tank), concluded that, unless it changes its policies, the EU will fail totally to rival the US and will soon enter a downward spiral of relative economic decline.

Ifri’s report *World Trade in the 21st century* concluded that:¹¹

The enlargement of the EU won’t suffice to guarantee parity with the US. The EU will weigh less heavily on the process of globalisation and **a slow but inexorable movement onto ‘history’s exit ramp’ is foreseeable.**

Eurozone underperformance is a hindrance to British business. But worse is the fact that the EU advocates socialist anti-business policies that are failing and yet it completely ignores the highly competitive economies and rising Asia.¹² With policies and attitudes like these, Europe will indeed move onto “history’s exit ramp.” And the UK, having lost much political independence, will find that its own policy making is significantly restricted.

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1.10 Britain and Europe: a dishonest debate

Matilda told such Dreadful Lies
It made one Gasp and Stretch one's Eyes.
For every time She shouted 'Fire!'
They only answered 'Little Liar!'
And therefore when her Aunt returned,
Matilda, and the House, were burned.

Hilaire Belloc, *Cautionary Tales*, 1907

It contains a misleading impression, not a lie. It was being economical with the truth.

Sir Robert Armstrong (Baron Armstrong), referring to a letter during the *Spycatcher* trial, Supreme Court, New South Wales, 1986

As chapter 2 shows, the debate about the development of the EU has been marked by the openness of Continental politicians in their aim to build a single “European State” and achieve their vision of a stable and peaceful Europe, on the one hand, and the dishonesty of many equivocating British politicians on the other. Call it “lies”. Call it “misleading impressions” and “economy with the truth”. Call it what you will. But many British politicians **have** been dishonest about the EEC/EC/EU as a fledgling state.¹³ These politicians have been dishonest because they know that the vast majority of the British people oppose their country being absorbed into a “European State”. The majority of people believe that the UK, as a nation state, is a much better guarantor of their democratic beliefs and aspirations than the distant, alien and amorphous EU.

Some British politicians are fond of declaring that the EU is “moving our way”. This is simply not true. The EU is not moving Britain's way; it never has done and is most unlikely ever to do so, even after the accession of the 10 new countries. (The latest enlargement does, however, make it slightly more possible.) The EU is quintessentially a European construction, run by anti-democratic political and bureaucratic élites who are working for European integration.

The UK has supported inter-governmentalism in the EU (not least of all for foreign, security and defence matters), but this would go if the Constitution is enforced. And even though the British Government prides itself on protecting its “red lines” (national vetoes) – these will almost certainly fade away like the Cheshire cat's grin if the Constitution goes ahead and as EU integration progresses. This is how many Continental politicians see it, say it and want it. It is only here, in the UK, that much of the political establishment denies the truth.

References to Chapter One

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 4. *The Draft Treaty Establishing a Constitution for Europe*, as submitted by the Chairman of the European Convention to the President of the European Council in Rome, 18 July 2003.
 5. For all the draining away of national powers through successive EU treaties, the British constitution (the core of which is Parliamentary sovereignty) is still not subject to the authority of a “higher” supranational constitution. But under the Constitution, where the national constitutions would be subject to a supranational constitution, this would change and, in a limited way, there would be some similarities between the UK’s position within the EU and Texas’s position within the USA.
 6. There is, however, an “exit clause”. The European Constitution’s Article I-59 on voluntary withdrawal from the Union is the “exit clause”.
 7. FCO, *A Constitutional Treaty for the EU: The British Approach to the EU Intergovernmental Conference 2003 (White Paper)*, Cm 5934, September 2003.
 8. The draft Constitutional Treaty retains the veto in these areas, albeit not with 100% coverage. An element of QMV has crept into taxation, for example.
 9. Giscard d’Estaing made it quite clear that a “no” vote in the UK would not require the UK to leave the EU. (BBC R4, Today programme, 29 April 2004.)
 10. See Norman Blackwell, *What if we say no to the EU Constitution?*, CPS, 2004.
 11. “EU heading for history’s ‘exit ramp’”, *Eurofacts*, 30 May 2003.
 12. The global economy’s tectonic plates are shifting as China and India resume their places as very major players in the world economy.
 13. For an excellent account of British politicians’ dissembling over EU matters see Christopher Booker and Richard North’s *The Great Deception: the secret history of the European Union*, Continuum, 2003.

CHAPTER TWO

THE EU AND ITS TREATIES: A BRIEF HISTORY

2.1 Introduction

No government dependent upon a democratic vote could possibly agree in advance to the sacrifice, which any adequate plan must involve. The people must be led **slowly and unconsciously** into the abandonment of their traditional economic defences, not asked...to make changes of which they may not at first recognise the advantages themselves.

Design for Freedom, largely written by Peter Thorneycroft MP, 1947

We should frankly recognise this surrender of sovereignty and its purpose.

Edward Heath, Hansard, 17 November 1966

There are some in this country who fear that in going into Europe, we shall in some way sacrifice independence and sovereignty... these fears, I need hardly say, are completely unjustified.

Edward Heath, TV broadcast, January 1973

The history of the EU, and the Britain's difficult relationship with the EU, is characterised by two main features. Firstly, there has been the ever-increasing European economic and political integration driven by the vision of the Franco-German alliance. The alliance's original aim was undoubtedly to stop war in Europe and the endgame of political integration was quite clear from the start. The preambles to the both the Treaty of Paris establishing the European Coal and Steel Community and the Treaty of Rome establishing the European Economic Community, for example, show this. The integrationist aim has been frequently and robustly expressed by many Continental politicians ever since.^{1,2} Moreover, it was also clear from the start that "Europe" would be run by an all-powerful supranational bureaucracy (an élite),³ and heavily influenced by the aims and ambitions of the European protectionist, "social market" model ("Social Europe").⁴

Secondly, there has been incomprehension, partly, and deceit, partly, by the British Government and its civil service right from the "start". Doubtless aware that the people would willingly accept nothing more integrationist than a free trade area, pro-EEC politicians of both main parties claimed that the EEC was little more than just that. It is harder to think of a more grotesque deceit. In addition, there has been the bizarre way in which successive British governments have claimed to be modelling "Europe" along British lines as a Europe of democratic nation states, along with the "Anglo-Saxon" model of running the economy and free trade. Such a vision of Europe has never been on the cards and is most unlikely ever to be on the cards.⁵ So Britain has been living a partial lie about the EU and the country finds itself in a permanent dilemma about its EU membership.^{6,7}

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The purpose of this chapter is to give a broad brush historical overview of the development of the EU, including its treaties.⁸ For details there are other texts.⁹ This chapter stops before the draft European Constitution, which will, if enforced, represent another huge ratchet on the path to political integration (see chapter 9).

- Section 2.2 looks at the origins and beginnings of the European project in the 1940s and 1950s, including the treaties establishing the Communities (the European Coal and Steel Community, the European Economic Community and the Euratom) for the original “Six” .
- The 1960s was the decade in which a brake, mainly in the form of President Charles de Gaulle, was applied to the integrationist progress. (Section 2.3).
- In the 1970s “progress” resumed and the UK, along with Denmark and Ireland, joined the Communities to form the first enlargement. (Section 2.4).
- The Single European Act (SEA) was the first major amendment to the original Treaty of Rome and, along with further enlargements and progress on the single currency, marked the 1980s. (Section 2.5).
- The integrationist “train”¹⁰ gathered speed in the 1990s with the Maastricht Treaty, which established the European Union, the euro, further enlargements and the Treaty of Amsterdam. (Section 2.6).
- The 2000s have already seen the Treaty of Nice, the accession of 10 new countries and a draft Constitution of supreme significance. (Section 2.7).

2.2.1 The 1940s and 1950s: introduction

This crucial period is discussed under the following sub-headings:

- Origins and the ECSC (2.2.2)
- The Treaty of Rome (2.2.3)

2.2.2 Origins and the ECSC (1951)

...to substitute for age-old rivalries...among peoples long divided by bloody conflicts...the foundations for institutions which will give direction to a destiny henceforward shared.

Preamble to the “Treaty establishing the European Coal and Steel Community”,
Treaty of Paris, 1951

The catalyst for European co-operation and integration was the wholly admirable wish to prevent any recurrence of war in Western Europe. Germany had tried to overrun Western Europe in the second-world war and had fought three ferocious wars with France over a period of 70 years. The peace that has ensued since 1945 is partly because of the determination of the “founding fathers”, chief of whom was Jean Monnet, to avoid any repetition of hostilities – especially between Germany and France. The UK’s involvement in this was peripheral.

The fear of the USSR was another factor. Its brutal suppression of the countries of Eastern Europe forced several countries to seek co-operation. As early as 1948 the Treaty of Brussels was signed between the UK, France, Belgium, the Netherlands and Luxembourg, creating the Brussels Treaty Organisation (BTO). (The BTO was renamed the Western European Union (WEU) in 1954 after the collapse of the European Defence Community (EDC) see below.) The BTO/WEU provided “for collaboration of in economic, social and cultural matters and for collective

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self-defence”. In practice the WEU was largely superseded by the creation of the North Atlantic Treaty Organisation (NATO) in 1949.

The next significant move towards European co-operation, and the all-important Franco-German reconciliation, was Jean Monnet’s proposal for the West German and the French coal and steel industries to be placed under a single, supranational, High Authority, which should supervise their development. (His proposal was a response to French concerns over the possible integration of the disputed territory of Saarland into West Germany and the subsequent implications for Germany’s coal and steel industries.) Monnet’s proposal was put forward by the French government as the Schuman plan, after the French foreign secretary Robert Schuman, in 1950.

Schuman said at the time:

The solidarity between the two countries established by joint production will show that a war between France and Germany becomes not only unthinkable but materially impossible.

The Schuman plan was the basis of the Treaty of Paris (1951), which established the European Coal and Steel Community (ECSC).¹¹ Its signatories were France, Germany, Italy, Belgium, the Netherlands and Luxembourg – the “Six”. The Treaty came into force in 1952 and lapsed in July 2002.

In the early 1950s, ministers from the six members of the ECSC drafted a constitution for a new form of democratic government to control the planned European Defence Community (EDC). Monnet had intended that the EDC would be a parallel organisation to the ECSC. This so-called European Political Community (EPC) would be able to levy taxes and would establish a Common Market.¹² The collapse of the EDC, voted down by France (the other five had agreed to it), led to the EPC being shelved.

2.2.3 The Treaty of Rome (1957): the EEC

The future treaty which you are discussing has no chance of being agreed; if it is agreed, it would have no chance of being ratified; if it was ratified, it would have no chance of being applied. And if it was applied, it would be totally unacceptable to Britain. You speak of agriculture, which we don’t like, of power over customs, which we take exception to, and of institutions, which frighten us. Monsieur le Président, messieurs, au revoir et bonne chance.

Russell Bretherton, Board of Trade official, addressing the Messina Conference,
1955

...the ever closer union of the peoples of Europe.

Preamble to the Treaty of the European Economic Community,
Treaty of Rome, 1957

In June 1955 the Six’s foreign ministers met in Messina and appointed Belgian foreign minister Paul-Henri Spaak to produce a report. This report led to the 1957 Treaty of Rome and the formation of the European Economic Community (EEC) or “Common Market”. The British, apparently, did send an emissary (Russell Bretherton, see above for his quote) but did not officially attend the conference. It is sometimes argued that this was Britain’s “lost chance” to influence the embryonic EEC “along British lines”. But, as argued at the

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beginning of this chapter, this was quite unrealistic and, therefore, is quite misguided. The continental Europeans wished to create a centralist, integrationist and bureaucratic Europe strongly influenced by protectionism and the social market model from the start. The British did not. Right from the start it was clear that the aims and objectives and approach and style of the Continentals and the British were different and incompatible.

The Treaty of Rome, along the model of the ECSC Treaty but with a much broader range of objectives, was signed in March 1957 and is by far the most important of the two Treaties. It is strictly known as the “Treaty establishing the European Economic Community (EEC Treaty)”. The Treaty established the four main institutions of the European Economic Community (EEC), to give effect to the provisions of the treaty. These institutions were the Commission, the Council of Ministers, the European Parliament (though it was called the “European Parliamentary Assembly” or the “Common Assembly”) and the European Court of Justice (the ECJ). (See chapter 3 for discussion of these institutions.)

The main objectives of the Treaty of Rome were:¹³

- A Common Market and progressive “approximation” of economic policies of member states.
- Promotion of harmonious economic development and higher living standards.
- Closer relations between member states.
- Removal of all tariffs and quantitative restrictions on imports and exports between member states.
- A common external tariff (CET) and a common commercial policy towards third countries.
- Free movement of goods, services, capital and labour.
- Common policies for agriculture and transport.
- A European Social Fund (the oldest of the structural funds). There were also articles on social policy.
- A European Investment Bank (EIB) to finance investment projects in the signatory states.

A key figure in the early years of the EEC was Walter Hallstein, the first president of the Commission (from 1958-67), who believed in strengthening the Commission’s position. He also believed that economic integration would lead to political integration. He clashed with President de Gaulle (President of France 1958-1969), as discussed below.

The Treaty establishing the European Atomic Energy Community (EAEC or Euratom) was signed on the same day as the Treaty establishing the EEC in Rome – in March 1957. It was a sector-specific Treaty of, especially with hindsight, limited application.

2.3.1 The 1960s: introduction

This decade, the decade when French President de Gaulle applied a brake to integrationist progress, is considered under the following sub-headings:

- Developments in the EEC and the dominance of de Gaulle (2.3.2).
- Britain’s two applications for membership and their veto by de Gaulle (2.3.3).

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2.3.2 Developments in the EEC and de Gaulle

French President Charles de Gaulle (1958-69), who dominated the EEC during the 1960s, had two main aims. The first aim was to sever Europe's dependence for military security on the Atlantic Alliance (NATO) and the USA.¹⁴

The second aim was to restructure the EEC by turning it into a voluntary union of independent states,¹⁵ based in Paris, with extensive national veto powers over all common policies. France and its leader would be the undisputed leader in Europe.¹⁶ French diplomat Fouchet was the effective mouthpiece of de Gaulle's designs for Europe and his 1961-62 proposals (the Fouchet Plan) were concerned with redesigning the whole institutional structure of the EEC. (The Commission's powers, for example, were to be drastically reduced.) The other five member states rejected the Fouchet Plan in 1962. An extended and uncomfortable period of French intransigence followed, which were noted for the clashes between de Gaulle and the integrationist Commission president Walter Hallstein, who eventually resigned in 1967.

France also boycotted the Council of Ministers ("the empty chair crisis") in 1965. This "crisis" was eventually resolved by the 1966 "Luxembourg compromise", which effectively extended national vetoes beyond the transitional period envisaged in the Treaty of Rome in order to placate de Gaulle. The "Luxembourg compromise" frustrated EEC decision-making into the early 1980s. De Gaulle also twice vetoed Britain's applications, not least of all because he did not want a leadership rival in Europe. This is discussed below.

Politically the other crucial development during this period was de Gaulle's very close relationship with West German Chancellor Konrad Adenauer. This greatly strengthened the Franco-German alliance that has been the central axis of the Community, barring some serious problems, ever since.¹⁷

The cornerstone of post-war co-operation between France and West Germany was established by the **Treaty of the Elysée**, signed by de Gaulle and Adenauer in January 1963. This treaty provides for the co-ordination of the two countries' policies in foreign affairs, defence, information and cultural affairs. The fundamental understanding behind the Treaty was a deal. West Germany would gain international "rehabilitation" and open markets for German industrial goods whilst France would have the political leadership of the EEC and secure high agricultural prices for her farmers. (The Common Agricultural Policy [CAP] was in the Treaty of Rome and launched in 1962.) As CAP's agricultural subsidies would largely be financed by the German taxpayer, this transfer of money from Germany to France arguably amounted to German reparations.

Despite de Gaulle, the EEC did make some integrationist "progress" in the 1960s. The principal developments were:

- The "Treaty establishing a single Council and a single Commission of the European Communities" (the **Merger Treaty**) was signed in April 1965 in Brussels. It amended the ECSC, the EEC and the Euratom Treaties to create a Council and a Commission serving all three Communities. (The three Communities had always had the same membership, of course.) It came into force in 1967. The three Communities, nevertheless, remained legally distinct. The Merger Treaty was repealed by the 1997 Treaty of Amsterdam.

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- The system of “own resources” for financing the EEC budget was developed (with a Decision taken in 1970). See chapter 5 for discussion of the budget and “own resources”.
- CAP was launched in 1962. CAP is discussed in chapter 7.
- The Yaoundé Convention, a trade and aid agreement between the EEC and 18 African states, was signed in 1963. Development and aid policies are discussed in chapter 8.

2.3.3 Britain applies – twice

Parliament must...resign itself to becoming a rubber stamp.

Lord Kilmuir, advice to Edward Heath, December 1960

It means the end of a thousand years of history.

Hugh Gaitskell (1906-63), on a European federation; speech at Labour Party Conference, 1962

Unless you are prepared to moor yourself off the coast of Europe, you are not really fit and ready to become a member of our European Community.

General de Gaulle, explaining why France could not accept the UK's application to join the Common Market, 1963

The primary reason why Britain entered into these negotiations was political, political in its widest sense.

Edward Heath, lecture at Harvard, 1967

The UK in the 1960s was a country in a fairly sorry state (even though it had had PM Harold Macmillan telling it that it had “never had it so good” and it was in a far sorer state in the 1970s) It was “losing its empire and not yet finding a role”. The UK saw the newly resurgent economies of continental Europe overtaking its own relatively weak economy, which was being damaged by “stop-go policies”, dragged down by the post-war experiment with socialism and, in an era of high tariffs, outside the large trading blocks. (EFTA, which had been formed in 1960, and the Commonwealth were modest in size.) The “solution” to the country's problems seemed to be to join the EEC, the “Common Market”, irrespective of any damage to the loyal Commonwealth. The US was, incidentally, in favour of a United Europe that included a United Kingdom.

There was undoubtedly some soul searching as to the impact on sovereignty – not least of all by Hugh Gaitskell.¹⁸ But such qualms were set aside and the UK applied to join the EEC in 1961, under Harold Macmillan, and, secondly, in 1967, under Harold Wilson. Both applications were effectively vetoed by de Gaulle, in 1963 and 1967 respectively, because he wanted no leadership rival in Europe. Only when de Gaulle was succeeded by Georges Pompidou was the French veto lifted and then negotiations to join the EEC began in earnest. Negotiations also began with Ireland, Denmark and Norway.

2.4.1 The 1970s: introduction

The 1970s, a decade marked by modest policy progress, economic turmoil and eventual British membership, is discussed under the following sub-headings:

- Policy developments in the EEC (2.4.2).
- Enlargement – the UK, Denmark and Ireland (2.4.3).
- The 1975 referendum in the UK (2.4.4).

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2.4.2 Policy developments: 1970s

The main policy developments in the 1970s were set against a background of economic problems – turmoil in the foreign exchange markets, following the collapse of Bretton Woods system of fixed exchange rates based on the dollar in 1971, and economic recession and inflation following the Yom Kippur war of 1973, and the consequent quadrupling of oil prices.

There were two notable “political” developments in the EEC during the 1970s. Firstly there was the **Tindemans report** (1975), which was a wide-ranging study of the European Community and of the steps that might be taken to achieve a more integrated Europe closer to the citizen. (Tindemans was the Belgian PM who requested the report.) And, secondly, there was the **European Elections Act**, 1976, which was concerned with the election of the representatives of the European Parliament by direct universal suffrage. This Act was the basis for the first European election where the European Parliament was directly elected (1979) and all subsequent elections. It came into force in 1978.

There were also two treaties dealing with budgetary and financial matters (which matters are discussed further in chapter 5). They were:

- The Treaty amending certain Budgetary Provisions of the Treaties establishing the European Communities (and of the Merger Treaty) (**Treaty of Luxembourg**). This Treaty was signed in 1970 and came into force in 1971. It laid down a new procedure for settling the Budget and introduced the system of “own resources”, which replaced contributions from member states.
- The Treaty amending certain Financial Provisions of the Treaties establishing the European Communities (and also the Merger Treaty). This treaty was signed in 1975 and came into force in 1978. It refined the budgetary procedure to give the European Parliament more power and set up the **Court of Auditors**. (The Court of Auditors is discussed in chapter 3.)

The other main policy developments included the following:

- The **Werner Report** of 1970 was an early blueprint of monetary union. It inspired a number of ophidian initiatives including the “Snake”, which was created in 1971 but collapsed in the same year following the collapse of the Bretton Woods system, and the “Snake in the Tunnel”, which effectively collapsed by 1976 following the 1973 oil crisis. A commitment was made in the early 1970s to move to a single currency in 1980, but by the mid-1970s there was little to show for this ambitious project. (See chapter 5 for more.)
- In 1979 the **European Monetary System** (EMS) was set up with 2 components: the European Currency Unit (ECU) and the Exchange Rate Mechanism (ERM, which the UK did not join until 1990). (See chapter 5 for more.)
- The **European Regional Development Fund** (ERDF) was set up at the Paris summit (December 1974). (See chapter 7 under regional policy.)
- The **Social Action Programme** (SAP) was set up in 1974 and several key Directives were agreed. The Social Market model began to “have teeth”.
- **CAP** developed and the new **Common Fisheries Policy** (CFP) was drawn up. (See chapter 7.)
- There were trade agreements with the Maghreb countries (Tunisia, Algeria, Morocco, came into force in 1978) and the Mashreq countries (Egypt, Syria, Jordan, Lebanon, also came into force in 1978). The trade and aid Lomé Convention was signed in 1975. (See chapter 8.)

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2.4.3 Enlargement: the UK joins (1973)

What mattered was to get into the Community and thereby restore our position at the centre of European affairs which, since 1958, we had lost. None of [the Community's] policies was essential to us; many of them were objectionable. But in order to get in we either had to accept them or to secure agreed adaptations.

Sir Con O'Neill, the British diplomat who led the UK's negotiations for EEC membership under Heath, quoted in Hugo Young, *This blessed plot: Britain and Europe from Churchill to Blair*, Macmillan, 1998

The Government's guiding principle was...to swallow the lot and swallow it now.

Sir Con O'Neill, the British diplomat who led the UK's negotiations for EEC membership under Heath.

In 1970 the UK Government made further overtures to the Community for membership and, with the de Gaulle veto lifted, the Government of the day (under Edward Heath) pressed ahead with membership. In July 1971 a European Communities White Paper¹⁹ was released which was ardently pro-membership.

The White Paper asserted:

HM Government are convinced that our country will be more secure, our ability to maintain peace & promote development in the world greater, our economy stronger, and our industries and people more prosperous, if we join the European Communities than if we remain outside them.

Moreover, it was decidedly "economical with the truth"; it included the outrageous statement that:

There is no question of any erosion of essential national sovereignty; what is proposed is a sharing and an enlargement of individual national sovereignties in the general interest.

Indeed the whole episode of Britain's joining the European Communities is full of deceit.^{20, 21, 22} Moreover, the deal that was finally struck was in several ways deeply disadvantageous to the UK. Problems included the Common Fisheries Policy (CFP) which the White Paper did criticise,²³ but the Heath Government then went on to accept, and the fact that the UK's contribution to Community Funds was disproportionately high reflecting the way CAP and the budget operated. In addition to this, there were many criticisms at the time about jeopardising sovereignty and deserting the Commonwealth and, to a lesser extent, EFTA. These criticisms were all valid. The European Communities Act, paving the way to UK membership of the EEC, was passed in 1972.

The UK joined the European Communities, popularly known as the "European Community" or EC, on 1 January 1973, along with Denmark and Ireland.²⁴ Norway's membership bid was halted in September 1972 by a referendum in which 53.6% of the voters voted "no". The UK and Denmark left EFTA on their accession to the European Communities, but they were not required to sever their trading links with the remaining EFTA members. The remaining members of EFTA²⁵ negotiated industrial free trade agreements with the EC and formed a sort of "outer ring", sharing the benefits of tariff-free trade, except for agricultural produce, without having to accept any of the obligations of EC membership.²⁶

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2.4.4 The British referendum (1975)

The British Parliament in Westminster retains the final right to repeal the Act which took us into the Market on January 1, 1973.

Government campaign literature for the “Yes” vote in the 1975 referendum

We are only at the start of our relationship with the Community. If we stay inside we can play a full part in helping it to develop the way we want it to develop.

Government campaign literature for the “Yes” vote in the 1975 referendum

There is no question of erosion of essential national sovereignty.

Edward Heath, during the Common Market referendum campaign, 1975.

Harold Wilson was returned to Government in 1974, undertook a token renegotiation of the Heath Government’s terms of accession²⁷ though Wilson claimed the renegotiations were much more significant, and called for a nationwide referendum.

The Government pamphlet advocating a vote to stay in the European Communities, which claimed significant improvements in the terms of membership, was prefaced by the following comment by Wilson:²⁸

HM Government have decided to recommend to the British people to vote for staying in the Community.

The referendum took place in June 1975. The details of the referendum are well written up elsewhere.²⁹ In short, after an uneven campaign in which the pro-Common Market campaign spent more than ten times the anti-Common Market campaign, the outcome to question “*Do you think the UK should stay in the European Community (the Common Market)?*” was 67.2% voted yes whilst 32.8% voted no.

2.5.1 The 1980s: introduction

In ten years, 80% of the laws on the economy and social policy will be passed at the European and not the national level. We are not going to manage to take all the decisions needed between now and 1995 unless we see the beginnings of a European Government.

Jacques Delors, 1988, to the European Parliament.

We want European Union, the United States of Europe.

Chancellor Kohl, on the fall of the Berlin Wall, 1989.

The pace of progress picked up significantly in the 1980s as integrationists Commission President Jacques Delors (1985-95) and West German Chancellor Helmut Kohl indicate in the above quotations. French President François Mitterrand was also an arch integrationist. These men were clearly beginning to see that their goal of a single European State was at last turning into reality by the end of the decade. The UK either didn’t see this or didn’t want to. Both the Declaration on European Union (Stuttgart Summit, 1983, which signalled France’s conversion to the cause of political integration) and the Single European Act furthered integrationist ambitions.

The main policy developments of the 1980s are as follows:

- Budget issues: the British rebate, the 1980s budgetary crises and the Delors I package (2.5.2). (See also chapter 5.)
- The single internal market and the Single European Act (2.5.3). (See chapter 6.)

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- Economic and Monetary Union developments: the Delors report (2.5.4). (See chapter 5.)
- Social policy developments (2.5.5). (See chapter 6.)

In addition there was:

- Further enlargement to include Greece, Spain and Portugal, and turmoil in Central and Eastern Europe (CEE) (2.5.6).

2.5.2 Budget issues: 1980s

The UK budget problem (“British Budget Problem”) had proved intractable for several years before it was finally “solved” in 1984. The fact that the UK was liable to pay an unacceptably high net contribution, once its transitional stage had come to an end, came to light during the closing months of James Callaghan’s Government in 1979. (The problem had clearly not been solved by Harold Wilson’s renegotiations.) The basic reason for this was agriculture continued to take the lion’s share of the Community’s budget. As a large importer of food, the UK was paying a disproportionately high amount in import levies, but as a (relatively) small food producer it was getting much less than its proportionate share back in payments under CAP. In May 1980, new PM Margaret Thatcher succeeded in securing a temporary agreement limiting UK contributions for 2-3 years while a longer-term solution was sought. The search for a long-term solution went on until the Fontainebleau Agreement in 1984, which gave the UK its “abatement” (also known as the “British rebate”).

The UK budget dispute inevitably got bound up with the looming crisis of the Community’s budget, in that its “own resources” (as developed in the 1960s and decided on in 1970) were proving inadequate to meet the many demands on its budget. At the Fontainebleau summit (1984), President Mitterrand not only “solved” the British budget problem but also obtained agreement on increasing the Community’s own resources as well as restraining CAP spending.

But following the accession of Spain and Portugal (in 1986), these budgetary measures came unstuck. And in a situation where world prices and the dollar were falling, the cost to the EC of export refunds for its food exports rose dramatically. Guidelines for agricultural spending could not be adhered to and, despite the increase in “own resources” revenue, the Community budget was once again becoming exhausted. This was obvious by the beginning of 1987. Commission President Jacques Delors’ proposal was a programme designed to put the funds of the Community on a more assured basis, while reinforcing control over farm spending and releasing money for priority objectives, including R&D and structural funds. This programme was known as the first “Delors package” or “Delors I” with a further review of financing fixed for 1992. (This is discussed below; budget issues are also considered in chapter 5.)

“Delors I” was only partly agreed at a special meeting in Brussels in February 1988, but the proposed fourth “own resource” based on GNP was accepted. The 1988 meeting also agreed to introduce “set-aside” payments to encourage farmers to take less fertile land out of production.

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2.5.3 The single market and the Single European Act (1986)

In the early 1980s the Common Market had effectively “ground to a halt”. There was a heavy backlog of draft Directives and Regulations. In 1985 the Commission was instructed to draw up a remedial timetable. The result was the Cockfield White Paper, which was produced for the June 1985 Milan summit. It identified some 300 measures for improving the functioning of the Common Market and specified end-1992 as the target date for completing the “single market”. This **Single Market Programme** was widely referred to in the UK as the “1992 Programme”.

Cockfield’s White Paper divided the obstacles to free trade into three groups:

- Physical (eg frontier controls).
- Technical (eg product standards, public procurement policies and restrictions on free trade in services).
- Fiscal (eg differing rates of VAT and exercise duty).

The Cockfield single market proposals were an important part of the **Single European Act (SEA)**, which was signed in February 1986 and came into force in July 1987. The SEA was also characterised by the surrendering of vetoes in various contexts and the laying down of new procedures for foreign policy co-operation. It was the first major revision to the Treaty of Rome and marked a significant step forward on the integrationist road.

The main provisions of the SEA were (and see annex 2A):

- The single internal EC market would be completed by December 1992 and all remaining barriers to intra-Community trade removed.
- The scope of Qualified Majority Voting (QMV) in the Council was extended, ending the national veto in most areas pertaining to the single market (included health and safety).
- Formal standing was given to the European Council, by which the heads of state and government of the member states met to discuss and determine policy.
- Six new policy areas to European Community competence were added: the single market, monetary co-operation, social policy, cohesion (i.e. between richer and poorer regions), R&D and environmental standards.
- The European Parliament’s (EP) powers were extended. The EP had the right to be consulted twice over certain types of legislation (the co-operation procedure) and to veto accession treaties and Association Agreements (the assent procedure).

2.5.4 Economic and Monetary Union: 1980s developments

Once the Brussels settlement on the budget was agreed in February 1988, and with the Single Market Programme well under way, the Community returned to **Economic and Monetary Union (EMU)**. In April 1989 the Delors report on EMU was released and made recommendations for a concrete 3-stage process, though without attaching any timetable:

- Stage 1: co-operation and coordination in economic and monetary fields.
- Stage 2: laying down the basic institutional and operational rules necessary for the realisation of EMU.
- Stage 3: the move towards irrevocably locked together exchange rates, leading to a single currency.

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The Madrid Council (June 1989) agreed that stage 1 (including removing most exchange controls and measures to encourage convergence) should start on July 1990. It was also agreed that there should be an IGC, which would prepare for the other two stages.³⁰

2.5.5 Social policy: 1980s developments

The Community's Social Market model began to "have teeth" in the 1970s (see section 2.4). The 1980s saw further significant developments:

- In 1985 Commission President Jacques Delors held the first meeting at Val Duchesse (Belgium) concerning the promotion of "social dialogue" between workers and employers. The main participants were the European Trade Union Confederation (ETUC), the Union of Industries of the European Communities (UNICE, the European Employers' Federation) and the European Centre for Public Enterprises (ECPE) – the "social partners". "Social partners" used to be known in the UK as the two sides of industry.
- The Single European Act, by extending QMV, made it easier to pass legislation thus providing a boost to social legislation. The SEA permitted qualified majority voting for health and safety Directives (Article 118a) and extended the Community's competence in the area of economic and social cohesion.
- In 1989, at the Madrid summit, the **Social Charter** was adopted by 11 of the then 12 EC member states (excluding the UK). It covered the following 12 policy areas: (1) freedom of movement, (2) fair wages, (3) improvement of living and working conditions (working hours), (4) social protection, (5) freedom of association and collective bargaining, (6) vocational training, (7) equal opportunities, (8) worker consultation (information, consultation and participation by workers), (9) health, protection and safety in the workplace, (10) protection of children, (11) elderly persons, (12) disabled persons. A 5-year Social Charter Action Programme was set up to implement the Charter throughout the EC.

2.5.6 Enlargement and related issues: 1980s

Three new countries joined the EC in the 1980s: Greece (in 1980) and Spain and Portugal (in 1985). See annex 2B: tables 2/1 and 2/2 for more on enlargement.

Momentous events were happening in the Central and Eastern European Countries (CEECs) in the late 1980s, as communism collapsed. The Berlin Wall was breached in 1989 – a symbol of the disintegration of Soviet power and the birth of German reunification (which formally occurred in 1990). These countries will be discussed further in sections 2.6.7 and 2.7.4.

2.6.1 The 1990s: introduction

We're not here just to make a single market, but a political union.

Jacques Delors, 1993

"The day of the nation state is over."

Roman Herzog, president of Germany, September 1996

In order to ensure its political future, the European Union must go beyond the completion of the internal market and the introduction of the single currency and move towards a real political union.

Resolution of the European Parliament, 22 October 1998

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The progress towards economic and political integration forged ahead in the 1990s as two major treaties were agreed and Economic and Monetary Union was achieved. In addition, further enlargement occurred and, in the wake of major political changes in Central and Eastern Europe, further enlargement(s) were set in motion. A single European State was unequivocally beginning to take shape.

Firstly, in this section two treaties are considered:

- The Maastricht Treaty³¹ (2.6.2).
- The Treaty of Amsterdam³² (2.6.3).

Secondly, some policy issues are discussed:

- Budget issues including fraud (alleged) and the resignation of the Commission (2.6.4). (See also chapter 5.)
- EMU and the launch of the euro in 1999 (2.6.5). (See chapter 5.)
- Social policy developments (2.6.6). (See chapter 6.)

Thirdly, enlargement and related issues, including the EEA and developments in Central and Eastern Europe are discussed (2.6.7).

2.6.2 The Maastricht Treaty (1992)

The European Union Treaty introduces a new and decisive stage in the process of [the] European Union which within a few years will lead to the creation of what the founding fathers of modern Europe dreamed of after the war, the United States of Europe.

Chancellor Kohl, on the completion of the Maastricht Treaty, 1992

This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, where decisions are taken as closely as possible to the citizens... the process of creating an ever closer Union...in order to advance European integration.

Treaty on European Union, 1992

The Maastricht Treaty or the Treaty on European Union followed on two Intergovernmental Conferences (IGCs):

- Economic and Monetary Union (EMU).
- European Political Union (EPU).

It is, therefore, crucial to appreciate that the Maastricht Treaty was about economic integration and political integration.

The Treaty was signed in February 1992 and, after some ratification difficulties, came into force in November 1993 when the European Union officially began, incorporating the European Communities.³³ It is of monumental importance, amending and expanding the Treaty of Rome. It has 7 Titles, a goodly number of Protocols (including the agreement on social policy agreed with 11 of the then 12 member states excluding the UK, the “Social Chapter”) and a fair number of Declarations. The Titles are listed in the following Table.

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The Titles of the Treaty on European Union (TEU)

Number	Name	Significance
I	Common Provisions	
II	Provisions amending the Treaty establishing the European Economic Community (the 1957 Treaty of Rome, or EEC Treaty) with a view to establishing the European Community (Treaty of the European Community, TEC, or EC Treaty)	Formally renaming the EEC the European Community, which becomes the 1 st pillar of the EU
III	Provisions amending the Treaty establishing the European Coal and Steel Community (ECSC) (the 1951 Treaty of Paris)	Concerned with the ECSC
IV	Provisions amending the Treaty establishing the European Atomic Energy Community (Euratom, also signed in Rome in 1957)	Concerned with Euratom
V	Provisions on a Common Foreign and Security Policy (CFSP)	Inter-governmental, the 2 nd pillar of the EU
VI	Provisions on co-operation in the fields of Justice and Home Affairs (JHA)	Inter-governmental, the 3 rd pillar of the EU
VII	Final Provisions	

Source: FCO, *Treaty on European Union (including the Protocols and Final Act with Declarations)*, HMSO, Cm 1934, 1992

Constitutionally, therefore, the Maastricht Treaty is in two parts:

- The amendments to the Treaty of Rome (EEC Treaty), principally to institute **EMU**.
- The creation of the EU, principally through the addition of the intergovernmental pillars on foreign and home affairs (“**European Political Union**”).

The EU still did not have a “legal personality”, under Maastricht, but the European Community did. The draft European Constitution will, however, provide the EU with a legal personality if it is enforced (see chapter 9).

The main elements of the Treaty were:³⁴

- It created the EU.
- It established “European Citizenship”.
- It established a 3-pillared structure for the Union:
 - First Pillar: the European Community.
 - Second Pillar: the CFSP.
 - Third Pillar: JHA
- It set out a procedure for EMU:
 - Stage 1 – co-operation and coordination in economic and monetary fields: it had already been agreed at the Madrid summit to begin this in July 1990.
 - Stage 2 – laying down the basic institutional and operational rules necessary for the realisation of EMU: to start in January 1994.
 - Stage 3 – the move towards irrevocably locked together exchange rates, leading to a single currency: to start in January 1999, at the latest.
- It created a “cohesion fund” for the 4 poorer members – Spain, Portugal, Ireland and Greece.

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- It set out procedures for intergovernmental co-operation in Foreign and Security Policy – the 2nd Pillar.
- It set out procedures for intergovernmental co-operation in Justice and Home Affairs (including issues of police and judicial co-operation in criminal matters) – the 3rd Pillar.
- It extended EC competences: to consumer protection, public health, education and vocational training, culture and “Trans-European Networks” (TENs). It expanded (deepened) existing powers in environmental policy, industrial policy and R&D.
- It introduced the “Social Chapter”.
- It established the principle of subsidiarity – the principle that decisions should be taken at the lowest level consistent with effective action within a political system (some would say, cynically, as a “sop” to the UK).
- The European Council was identified as responsible for providing the EU with the impetus for development and for defining the EU’s general political guidelines.
- It extended the use of QMV in the Council.
- It increased the powers of the EP: co-decision was introduced (see chapter 3).
- It created a Committee of the Regions (see chapter 3).
- It upgraded the Court of Auditors to a full Community institution.

2.6.3 The Treaty of Amsterdam (1997)

The Maastricht Treaty contained a commitment to convene an Intergovernmental Conference (IGC) in 1996. A “Reflection Group” was set up ahead of the IGC and reported in 1995; its report was regarded as a “sound basis” for the IGC. The subsequent Treaty of Amsterdam was agreed at the Amsterdam summit (in June 1997, just after the Labour victory in the UK), signed in October 1997 and came into force in May 1999.

The main elements of the Treaty of Amsterdam were:³⁵

- It extended QMV to the following fields: employment guidelines and incentive measures; social exclusion; free movement of persons (after 5 years); special treatment for foreign nationals; public health; equal opportunities and equal treatment for men and women; R&D; countering fraud; customs co-operation; statistics; data protection and the peripheral regions. The intention was that QMV will become the normal procedure.
- It added new provisions on social policy (there were new Articles on, for example, equal treatment) and the UK signed up to the Social Chapter.
- It added a new “flexibility” clause, enabling groups of member states to use the Community institutions to co-operate more closely on specific areas not within the exclusive competence of the EC.
- It transferred much of the decision-making on JHA (including asylum and immigration) from Pillar 3 to Pillar 1.
- It stepped up co-operation on internal security matters.
- There were some institutional changes.
- It extended co-decision.
- The CFSP was developed, including the creation of the Union’s “High Representative for the common foreign and security policy” – filled by the Secretary-General of the Council. There was the growing importance of the WEU and discussion of its possible eventual integration into the EU.

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- It created “constructive abstention”, where a member can abstain without blocking an otherwise unanimous decision.
- It incorporated the Schengen Agreement, providing for an area without impediment to free movement of travel between 13 of the then 15 member states (the UK and Ireland have opt-outs; Denmark had a partial opt-out).

2.6.4 Budget issues including mismanagement: 1990s

Two features are worthy of comment here. Firstly, concerning the budgets for 1993-1999 and 2000-2006:

- Delors’ second report on budget matters, Delors II (see above in section 2.5 for Delors I), was published in 1992. It was only partly agreed at the Edinburgh summit (1992) and the 7-year financial perspective which was eventually drawn up (for **1993-1999**) was less generous than that envisaged by Delors.
- The Commission’s reflections on the financial perspective over the period **2000-2006** were published in 1997 as part of the “Agenda 2000” document, in preparation for enlargement. The Commission concluded that it would be possible to “face the challenges posed by...reforms and... accessions” without raising the current “**own resources**” **ceiling of 1.27% of GNP**. In March 1999, the Agenda 2000 proposals were agreed. These proposals inevitably meant that the support for the new members would not be generous.

Secondly, mismanagement (if not fraud), allegedly, was endemic in the EU.³⁶ In the 1990s “things came to a head” when the European Parliament refused to approve the final accounts of the 1996 budget because of concerns about fraud, mismanagement and cronyism, allegedly involving several Commissioners.³⁷ To head off a possible vote of censure, Commission President Jacques Santer agreed to the appointment of a 5-member independent committee to audit the work of the commission. The 5 “wise men” report strongly criticised Mrs Cresson (the Commissioner for science and education), but made only minor criticisms of other Commissioners. Despite having turned up little in the way of active corruption, the report contained the stinging phrase “it is becoming difficult to find anyone who has even the slightest sense of responsibility”. Meanwhile Mrs Cresson refused to resign and Santer failed to demand her resignation. Eventually all the Commissioners tendered their resignations, because it became clear that the European Parliament could get the two-thirds majority to require the dismissal of the entire Commission. (Please note that the European Parliament did not, however, have the power to censure individual Commissioners.) The Commission resigned in March 1999. Romano Prodi took over the Presidency of the Commission in September 1999 serving out Santer’s remaining 4 months before taking on his own full 5 year term, which started in January 2000 and will finish in December 2004.

2.6.5 EMU and the euro

The single currency was the theme of the 1990s as the single market was the theme of the 1980s. The salient points are (see chapter 5 for more):

- July 1990: beginning of stage 1 (co-operation and coordination in economic and monetary fields).
- January 1994: beginning of stage 2 (laying down the basic institutional and operational rules necessary for the realisation of EMU) with the setting up of the European Monetary Institute (EMI).

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- January 1999: beginning of stage 3 (the move towards irrevocably locked together exchange rates, with interest rates set by the European Central Bank, leading to a single currency) with 11 of the then 15 countries (Germany, France, Italy, the Netherlands, Belgium, Luxembourg, Spain, Portugal, Austria, Finland and Ireland). Greece joined in January 2001. The euro notes and coins were launched in January 2002.

2.6.6 Social policy: 1990s developments

The 1990s was a decade in which the Social Market model (“Social Europe”) gained even more competitiveness-destroying power. The Commission, and many of the politicians of Europe, apparently either have no understanding of international economic events and the concept of international competitiveness or they do have understanding but choose to ignore it. Europe is condemned to economic decline unless there are radical changes.

More specifically the 1990s were noted for:

- The Protocol on Social Policy and Agreement on Social Policy (the “Social Chapter”) was appended to the Maastricht Treaty. The UK did not agree to the Protocol (the UK opt-out).
- The Treaty of Amsterdam, which included new social provisions, for example on equal treatment.
- Many new Directives were agreed in the 1990s – especially after the UK signed the Social Chapter at Amsterdam.

2.6.7 Enlargement and related issues: 1990s

There were two main sources of countries wishing to join the EU during the 1990s:

- The remaining members of EFTA.
- The countries of Central and Eastern Europe (CEE) in the wake of the collapse of communism.

EFTA and the EEA

At the beginning of the 1990s there was pressure from the remaining EFTA countries for greater economic ties with the EU. The first step was the establishment of the European Economic Area (EEA) through the EEA Treaty (which is a type of Associate Agreement). The Treaty was signed in 1992 and came into force in 1994.

The EEA is a free trade area, though incorporating the obligations of the single market, which are burdensome and yet the non-EU members of the EEA have no influence over them. Non-EU EEA members are, however, not committed to the CAP, the CFP, EMU, budgetary demands, JHA co-operation or the CFSP, for example. In 1994 the EEA comprised the then 12 members of the EU plus Austria, Finland, Sweden, Norway, Iceland and Liechtenstein (18 in all). Switzerland had signed the EEA Treaty but its independently minded electorate voted it down in a referendum in 1992.

Austria, Finland, Sweden and Norway wanted even closer integration with the EU and already had applications on the table: Austria (1989), Sweden (1991), Finland (1992) and Norway (1992). Referenda were held in all these countries, with the Norwegian electorate rejecting EU membership for the second time. Austria, Sweden and Finland became members of the EU in January 1995. (See annex 2B: tables 2/1 and 2/2.)

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The EEA currently comprises the 25 members of the EU (EU25) plus Norway, Iceland and Liechtenstein (28 in all).

The Countries of Central and Eastern Europe

When Soviet-style communism collapsed in the late 1980s the Central and Eastern European countries (CEECs) looked “west” for trade, aid and political ties. There was a true political revolution in Europe. One of the first major events was the **reunification of Germany** in 1990 and East Germany’s consequent accession to the EU.

The next significant events were the various “**Europe Agreements**” (which are also types of “Association Agreements”) ³⁸ arranged with Poland (1991), Czechoslovakia (1991, later amended because of the splitting up of Czechoslovakia into the Czech Republic and Slovakia) and Hungary (1991). By 1994 there were also Agreements with Romania, Bulgaria, Albania, Estonia, Latvia and Lithuania. During the 1990s most of the CEECs applied to join the EU. (See annex 2B: tables 2/1 and 2/2 for more information.)

2.7.1 The 2000s: introduction

If we are to meet this historic challenge, and integrate the new member states without substantially denting the EU’s capacity for action, we must put into place the last brick in the building of European integration, namely political integration...this latest stage of European Union...will depend decisively on France and Germany.

Joschka Fischer, German Foreign Minister, 12 May 2000

The EU is on the brink of becoming a European federation by the year 2010 although this Europe would not be a purely federal state. I expect no opposition from Britain. Mr Blair signalled in his Warsaw speech earlier this month that he wants to participate in shaping Europe and he is a convinced European. But we have to be realistic. Naturally, Mr Blair has to work under certain given conditions. A British PM who declared himself in favour of federation would create huge problems for himself at home. Nonetheless I feel sure that Britain will fall into line. It is a fact that Britain has always made its decision on a pragmatic basis when the pragmatic reasons for a positive step have predominated.

Joschka Fischer, German Foreign Minister, 16 October 2000

The Union stands at a crossroads, a defining moment in its existence. The unification of Europe is near. At long last, Europe is on its way to becoming one big family.

Laeken Declaration setting up the Convention on the Future of Europe,
December 2001

It is now clear that the Founding Fathers’ vision of a single European State is being achieved. The draft European Constitution is yet another step towards that goal. The other major development of the current decade, so far, is the significant enlargement of the EU, which was, partly, behind the Treaty of Nice.

This decade is a crucial one for the EU and the main issues are discussed under the following headings:

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- The Treaty of Nice (2.7.2).
- General policy developments (2.7.3).
- Enlargement (2.7.4).
- The draft European Constitution will be discussed in chapter 9.

2.7.2 The Treaty of Nice (2001)

The Treaty of Nice was signed in February 2001 and came into force in February 2003.³⁹ It was partly, though not exclusively, concerned with revising the membership and voting powers of the EU institutions following enlargement.

The new aspects of the Treaty of Nice were (and see annex 2A):

- New Protocol on Enlargement was adopted.
- Institutional changes, mainly in preparation for enlargement:
 - Commission President was given more power to manage the Commission, and to force the resignation of an individual Commissioner. From 2005, Commission to consist of one member per member state until membership of the EU reaches 27. After that, membership to be fixed at a number, and according to a system of national rotation, to be determined by unanimous vote at Council.
 - A re-weighting of votes in the Council of Ministers to strengthen the position of the larger member states.
 - The larger member states would give up their right to a 2nd Commissioner.
 - European Parliament (EP) numbers decided for existing and prospective members. Maximum number of Members of the EP fixed at 732.
 - Membership numbers for other EU institutions also agreed.
 - Some European Council meetings (which currently take place in the country holding the Presidency) to be held in Brussels. From the accession of the 18th member state, all European Councils are to be held in Brussels.
 - Minor changes are to be made to the ECJ and the ECB.
- New judicial co-operation body, Eurojust, established.
- The scope of the “flexibility” clause of the Treaty of Amsterdam extended.
- Establishment of an advisory Social Protection Committee.
- Procedure defined for setting up “political parties at European level”.
- There were new provisions to facilitate the implementation of the [Common] European Security and Defence Policy ([C]ESDP).
- QMV in the Council of Ministers extended to over 30 more Articles of the TEC, including notably the appointment of the president of the commission. The EP’s powers of co-decision are extended to 10 more Articles.
- “Formalisation” of “Enhanced Co-operation”, in which groups of at least 8 member states may make agreements among themselves which enable them to go further in particular policy areas than the rest were prepared to do.

In a “Declaration on the Future of the Union” annexed to the Treaty of Nice the member states committed themselves to considering the status of the Charter of Fundamental Rights in the course of the next Intergovernmental Conference (IGC) (which started in October 2003). The Charter is included in the draft European Constitution. Declarations should always to be taken seriously – as, indeed, should Preambles.

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2.7.3 Policy developments: 2000s

[The EU is to] ...become the most competitive and dynamic knowledge-based economy, capable of sustainable economic growth with more and better jobs and greater social cohesion [by 2010].

The Social Policy Agenda's (SPA) main objective, Lisbon summit, 2000

Policy-making is proceeding apace, but only EMU and social policy are considered here:

- EMU: Greece joined EMU in 2001 and the notes and coins were launched in January 2002. (See chapter 5.)
- The **Social Policy Agenda** (SPA) was launched at the Lisbon summit in March 2000 (see quote above). Despite its glorious aim of the EU becoming the “most competitive and dynamic economy”, its means included yet more social protection along social market model lines – thus ensuring the EU’s international competitiveness would be hampered further. Every so often the EU, looking at its declining place in the world economy, comes up with “we must do something” plans (or agendas or initiatives) and the Social Policy Agenda was one such plan. Because the SPA is full of internal contradictions, and simply fails to understand what competitiveness is, it is doomed to fail. (See chapter 6.)
- The Charter of Fundamental Rights, which as the SPA, can only hamper competitiveness and job creation. (See chapter 9.)

2.7.4 Enlargement

The EU had already made major preparations for enlargement, prior to its occurrence, without recourse to the draft Constitution:⁴⁰

- In March 1999, the European Council agreed the EU’s budgetary arrangements for the period 2000-06, making some financial provision, albeit not very generous, for the first new member states to join the Union in that period.
- The Treaty of Nice provided for the institutional changes necessary for enlargement.

In May 2004 there was a very significant and unprecedented expansion of the EU. Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Estonia, Latvia, Lithuania, Cyprus and Malta joined, bringing the total of members to 25 (EU25).

Whilst the recent enlargement will mean enhanced market opportunities for British business and the prospect of improved economic and political stability in CEE, some reservations should be expressed:

- British business should keep EU enlargement in perspective. The combined GDP of the 10 new accession states is barely more than that of the Netherlands. It accounts for less than 5% of total EU GDP.
- On a rather parochial note, Merseyside, South Yorkshire and West Wales and the Valleys can expect to lose their “Objective One” funding as structural funds are redirected to poorer areas in the new member states.
- The 10 new member states will not “gain” access to western European markets, since they already have a series of free trade agreements with the EU. Their businesses will, however, be obliged to adopt potentially

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damaging EU rules and regulations. These regulations could also deter inward investment.

Further expansion is planned:

- Bulgaria and Romania are “targeted” to join in 2007, making EU27.
- Turkey was accepted as an applicant in 1999 and negotiations are planned to start by end-2004, with a target accession date of 2007.⁴¹
- Macedonia (The Former Yugoslav Republic of Macedonia, FYROM) signed a Stabilization and Association Agreement (SAA) in 2001 and applied for EU membership in February 2004.^{42, 43}

References to Chapter 2

1. For more on the EU “project” see Christopher Booker and Richard North’s *The Great Deception: the secret history of the European Union*, Continuum, 2003.
2. John Stewardson: *The Ratchet*, June press, 2000. Stewardson wrote “in 1946-48 Churchill in his speeches showed an interest in a United States of Europe, but not for the UK to be part of it. In 1950 the UK refused to join the ECSC promoted by Monnet and Schuman and in December 1951 a Foreign Office policy document stated that the UK ‘cannot consider submitting our political and economic system to supranational institutions’. Throughout the whole post-war period the Franco-German axis has always been, and continues to be, the engine of developing federal union, and so it is unlikely that in the run-up to the Treaty of Rome in 1956-57 the UK could have altered the federal course or the socialist bureaucratic institutions being developed on the Continent, even if it has wanted to do so. The merger (or cession) of sovereignty was an underlying theme even then...it should be clearly understood that an inchoate federal union was initiated by the Rome Treaty itself.”
3. David Heathcoat-Amory, *The European Constitution and what it means for Britain*, CPS, 2003. Heathcoat-Amory wrote “The Founding Fathers of the EU (Monnet, Hallstein, Schuman, Spaak and others) had no doubt that Europe must be run by supranational institutions. Economic integration would be the forerunner of political integration. Moreover this project had to be carried through by a bureaucratic élite, separate and insulated from the discords and rivalries of national governments.”
4. John Stewardson, *The Ratchet*, June press, 2000. Stewardson wrote “the whole spirit and essence of the 50 year-old socialist centrist bureaucratic model is immutably fixed and is not susceptible to change in favour of free-trade independent ways”. He also wrote “there is little doubt that right from the start of, what is now the EU, it was to be much more than a free trade area. Not merely did it talk about the “ever closer union of the peoples of Europe”, but it also has a “social” element. It [the Treaty of Rome] included references to social policies (including labour law and industrial relations). It also touched on the concept of the “harmonisation” of working conditions – as well as standards of living and social systems”.
5. As Lord Lamont has written “we deceive the British people and we deceive ourselves if we claim we are winning the argument in Europe. There is no argument in Europe. There is Britain’s point of view, and there is the rest of Europe. The only question at Maastricht was how much Britain could swallow and what special arrangements could be made for us. There is not a shred of evidence at Maastricht or since that anyone accepts our views on Europe. The plain fact acknowledged by every Continental politician –

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- except those on the fringes of power – is that the other members want a European State whether they express it in these precise terms or not.”
6. See David Winn, *Britain v Europe: a factual account of Britain's fifty-year dilemma over Europe*, Futuro Publishing, 2003. This book “explains how the history of each (British) government shows that the periods of initial compromise aimed at gaining influence were in each case followed by the appearance of policy boundaries they simply couldn't cross. In previous (pre-Blair) cases this led inevitably to British obstruction of the general European flow...the British vision of Europe is unattainable, both now and as it has been right from the first discussions at Messina”. It “describes both the disgraceful motives of politicians stealthily trading pieces of national sovereignty for temporary benefits, and the high-minded ideals of those committed to the future peace and prosperity of the entire continent. Britain has remained uncertain whether to be independent in the world or to be an integral part of Europe. This is the essence of the British contradiction, and its enduring dilemma...the people cannot permanently pretend to be both, even though this illusion best serves many of their politicians.”
 7. David Winn also highlights the uncomfortable relationship between the UK and the EU and the fundamental and persistent divergence between British and European thinking on Europe. He wrote that [this] “...implies that in future Britain is likely to remain on the minority side of most arguments. This, in turn, reveals the basic weakness in considering what type of Europe Britain would like. The reality is that Britain and its people will be given no such choice. The story of Europe is one of relentless advance towards federation, which will not be stopped. They, in Europe, simply do not want it to be stopped.” He also wrote “the future Europe will almost certainly be built in the same way as the present one. Guiding principles will largely be European and distinctly at variance with opinions regarding the role of governments, freedom of individuals which most people hold even though they rarely consider such values. Europe will develop in directions which the British would not themselves choose.”
 8. See annex 2A on the treaties.
 9. See (1) Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002, is a particularly useful introduction to the treaties. (2) Gabriel Gloeckler et al (College of Europe), *Guide to EU policies*, Blackstone, 1998, is especially useful on policies.
 10. Using forms of transport (trains, buses, boats etc) to explain political developments is a very popular conceit in EU-speak. It is, therefore, often said that the UK, for example, is “missing the train and/or the boat” by not joining, for example, the euro.
 11. For detailed information on the treaties and EU law see (1) Clive Church and David Phinnemore, *The Penguin Guide to the European Treaties*, Penguin Books, 2002, and (2) Stephen Weatherill and Paul Beaumont, *EU law (3d edition)*, Penguin Books, 1999.
 12. A facsimile of the Times for 2 June 1953 was given away in the Times for 2 June 2003 (for the 50th anniversary of the Queen's Coronation). It included two articles on political integration in Europe. They were, firstly, “Concern over Treaties: European integration”, which reported that “the Germany's Chancellor Adenauer would join ministers of the ECSC in Rome ‘to consider the draft of a constitution for the political community’ of ‘Little Europe’ (‘The Six’)” and, secondly, “Dr Adenauer for Rome talks: concern over treaties:

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European integration”, which concerned the ECSC. This article included the sentence: “the original intention was that the deputies [of the ECSC] should meet to consider the draft of a constitution for the proposed political community, but in view of the coming Bermuda meeting, which is assuming ever greater importance in German eyes, the Chancellor hopes that Rome may show, especially to American public opinion, that the movement towards European integration is not stagnating.”

13. See Robert Jones, *The politics and economics of the European Union*, Edward Elgar, 1996. For further details on the provisions of the Treaty of Rome see annex 2A.
14. De Gaulle said to Alain Peyrefitte in 1962 “What is the point of Europe? It must serve to prevent domination either by the Americans or the Russians”. Anti-Americanism and the “need” to be an offsetting counterweight to American military and economic power has been (and is) a common theme throughout the EU’s history. Needless to say, Europe has comprehensively lost the battle. Several decades later Ken Livingstone said: “I’ve always been pro-Europe. I want to see the end of the nation state, and a United States of Europe so we can stand up to the Americans and the Japanese.” In this regard arch French nationalist Charles de Gaulle and a latter-day europhile anti-nation state international socialist are at one!
15. “Europe des patries” (or “L’Europe des nations” or a “Europe of nation-states”) is a phrase associated with de Gaulle. It encapsulates a model of European integration in which the states are the essential building blocks, and in which the decision-making procedures reflect the pre-eminence of the states within the system. See Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.
16. De Gaulle said to Alain Peyrefitte in 1962 “Europe is the way for France to become what she has ceased to be since Waterloo: the leading power in the world.”
17. See also John Stewardson, *The Ratchet*, June press, 2000. Stewardson wrote “France and Germany are the axis and the engine, a position reaffirmed in the Elysée Treaty of January 1963 between Chancellor Adenauer and President de Gaulle”.
18. Stewardson, *op cit*, wrote “in July 1960 Sir Norman Brook (the Cabinet Secretary) produced a report referring to sovereignty questions and federalism and to the fact of ‘some progressive loss of sovereignty over a number of matters’. In 1962 Hugh Gaitskell expressed the view that for the UK to enter the federation which the Community was seeking would make us a mere ‘province’ in the United States of Europe. At Gaitskell’s instigation Harold Wilson set up a committee which produced a paper which indicated a ‘very serious erosion of sovereignty’ and asked whether we were giving away our political birthright under the guise of a trading relationship...[the] British Establishment did a “somersault” (Douglas Jay) during the 1960s...[and] after 1966 the European Integration Unit was set up in the FO”.
19. FCO, *The UK and the European Communities (White Paper)*, Cmnd 4715, July 1971. COI, *Britain and Europe: a short version of the Government’s White Paper*, July 1971, was also released.
20. “And the lies they told us 30 years ago”, *Daily Mail*, 17 May 2003, included “a report by the Foreign Office (1971) openly admitted that joining Europe would mean abandoning control over defence, foreign policy and economic

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- policy”. The information was obtained from newly released reports from the Public Record Office.
21. “Secret dirty tricks team spread pro-Europe propaganda for Heath”, *Daily Telegraph*, 23 June 2003, reported that the European Community Information Unit operated 1970-1972, with Sir Con O’Neill leading the unit. A fact sheet on sovereignty was suppressed rather than admit that Parliament would have to accept European regulations that conflicted with its own statutes.
 22. FCO, *The UK and the European Communities (White Paper)*, Cmnd 4715, July 1971, said that “the common law will remain the basis of our legal system, and our courts will continue to operate as they do at present” even though the European Court of Justice was part of the deal.
 23. FCO, *The UK and the European Communities (White Paper)*, Cmnd 4715, July 1971, included the statement that “we and the other applicant countries have made clear that we do not consider the common fisheries policy, decided upon at the time our negotiations began, to be appropriate to the needs and circumstances of an enlarged Community, particularly in respect of access to fishing grounds”.
 24. The act of joining the EU is known as “accession” and the treaties that embody the conclusions of the negotiations between applicant states and the member states of the EU are known as “Treaties of Accession”. See annex 2B: tables 2/1 and 2/2 for more on enlargement.
 25. Austria, Portugal, Norway, Sweden, Iceland, Switzerland and Liechtenstein and Finland (an associate member). Ireland had not been a member of EFTA.
 26. Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.
 27. The main change, following Wilson’s renegotiations, was on the ineffective “corrective mechanism”, intended to prevent excessive UK contributions to the EC budget. (Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.)
 28. *Britain’s New Deal in Europe*, 1975.
 29. David Butler and Uwe Kitzinger, *The 1975 referendum (2nd edition)*, Macmillan press, 1996.
 30. Stage 2, with the newly created EMI, and stage 3, the irrevocable locking together of currencies, began in 1994 and 1999 respectively.
 31. For the Maastricht Treaty see, for example, (1) Council of the European Communities, *Treaty on the European Union*, Luxembourg, 1992, or (2) FCO, *Treaty on European Union (including the Protocols and Final Act with Declarations)*, HMSO, Cm 1934, 1992.
 32. For the Treaty of Amsterdam see, for example, (1) Economic Research Group, *A guide to the Treaty of Amsterdam*, ERG, 1997, (2) British Management Data Foundation, *The Treaty of Amsterdam in perspective*, BMDF, 1998, or (3) Martin Howe, *From Maastricht to Amsterdam*, CPS, 1997.
 33. See annex 1B for definitions.
 34. Robert Jones, *The politics and economics of the European Union*, Edward Elgar, 1996. For further details see annex 2A.
 35. For further details see annex 2A.
 36. Bernard Connolly, *The rotten heart of Europe*, Faber & Faber, 1995. It probably remains, allegedly, endemic.
 37. Dick Leonard, *Guide to the European Union” (8th edition)*, Economist, 2002.
 38. See Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002, for discussion of Association Agreements, Europe Agreements and the EEA Treaty.

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39. For the Treaty of Nice see, for example, (1) British Management Data Foundation, *The Treaty of Nice in perspective (2 volumes)*, BMDF, 2001, (2) Brian Hindley, *Nice and after: the EU Treaty and associated issues*, CPS, 2001 (which includes lists on the national vetoes removed by the Treaty and the reduced number of Council decisions subject to national vetoes after the Treaty), and (3) Christopher Booker, *Nice and beyond: the parting of the ways?*, CPS, 2000.
40. See National Statistics (ONS), *UK 2003*, TSO, 2002, on Agenda 2000.
41. Author's discussion with the "European Commission Representation in the UK" office in March 2004.
42. "EU ratifies stabilization and association agreement with Macedonia", *ReliefWeb website*, 24 February 2004.
43. The EU launched its Stabilization and Association (SA) process in 1999. The SA applies to Croatia, Bosnia-Herzegovina, the Federal Republic of Yugoslavia (FRY, since February 2003 the loose federation of "Serbia and Montenegro"), Macedonia and Albania. An important aspect of the SA process is the Stabilization and Association Agreement (SAA). Source: "Croatia's EU Odyssey", *Central Europe Review website*, 15 May 2000.

CHAPTER THREE

THE EU'S INSTITUTIONS AND LAW

3.1 Introduction

The battles with Communism are yesterday's battles. Today's enemy is bureaucracy, and the people are losing the struggle.

Vaclav Klaus, PM of the Czech Republic, 1995

They are grown used to their own unreason; chaos is their cosmos.

GK Chesterton's essay, "The Mad Officials"

I recall one low point when nine Foreign Ministers solemnly assembled in Brussels to spend several hours discussing how to resolve our differences on standardising a fixed position of rear-view mirrors on agricultural tractors.

Memoirs of James Callaghan, 1987

This chapter discusses the EU's institutions, what they are and how they are changing as EU integration proceeds.^{1,2} The implications for the EU's institutions of the European Constitution are considered in chapter 9.

- In section 3.2, the core of this chapter, the main institutions of the EU are covered. They are the Commission, the Council of Ministers (and COREPER), the European Council, the European Parliament, the Court of Justice (and the Court of First Instance) and the Court of Auditors.
- The two consultative committees are then discussed in section 3.3: the Economic and Social Committee and the Committee of the Regions.
- Section 3.4 covers the other institutions: the European Investment Bank (and the European Investment Fund), the European Central Bank, the European Ombudsman and the decentralised EU agencies.
- EU law is discussed in section 3.5.
- The question is the EU a single "European State" is considered in section 3.6.

3.2.1 Main EU institutions: introduction

In this section the main features (adding some key dates) for the following EU institutions are discussed:

- The European Commission (see 3.2.2).
- The Council of Ministers, or Council of the Europe Union, or the [EU] Council (and COREPER) (see 3.2.3).
- The European Council (see 3.2.4).
- The European Parliament (see 3.2.5).
- The Court of Justice (and Court of First Instance of the European Communities) (see 3.2.6).
- The Court of Auditors (see 3.2.7).

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3.2.2 The European Commission

The main features of the Commission are:

- It has the power and duty of initiating, overseeing, monitoring and enforcing EU legislation. It, therefore, has legislative, executive, administrative and judicial activities and responsibilities.³ It also drafts the budget, is the guardian of the treaties and is the “motor” of integration. It is unique among international bureaucracies in the extensiveness of its powers – much more than a “civil service” – and it is a very powerful EU institution.
- In a strict sense it is the “college” of Commissioners, but the term is also used to cover the European civil servants (“fonctionnaires”) who work for the institution.
- A President heads the Commission. This is currently Romano Prodi, whose term expires in November 2004. (See annex 3: table 3/2 for past presidents.)
- There are currently 23 Directorates-General (24 including the President’s Secretariat-General) within the European Commission, each responsible for one or more specific areas of policy-making.
- At the time of writing there are 20 Commissioners from EU15 (2 each from the 5 larger countries: Germany, France, UK, Italy & Spain; and 1 each from the 10 smaller countries: the Netherlands, Belgium, Luxembourg, Ireland, Denmark, Finland, Sweden, Portugal, Greece and Austria). These commissioners include the President and the 2 Vice-Presidents. Following the accession of the 10 new states in May 2004, there are also a further 10 Commissioners from these countries. See annex 3: tables 3/3 and 3/4 for details on the D-Gs and the Commissioners (including the new Commissioners). See also chapter 4.
- The structure of the Commission will, however, change next year. Under the 2001 Treaty of Nice, from 2005 the Commission will consist of one member per member state until membership of the EU reaches 27 (there is, therefore, a maximum of 26). After that, membership will be fixed at a number, and according to a system of national rotation, will be determined by unanimous vote at Council.
- The responsibilities of Commissioners do not correspond exactly with the DGs.
- The Commissioners are appointed for a 5-year period. The current period runs until the end of 2004.
- The Commissioners also cover the Joint Research Centre, the Humanitarian Aid Office (HAO) (previously called the European Community Humanitarian Office (ECHO), the EuropeAid Co-operation Office and the European Anti-Fraud Office (OLAF).
- External relations are covered by the Commissioner for External Relations (currently Chris Patten) and the Secretary-General of the EU Council and the High Representative for the Common Foreign and Security Policy (currently Javier Solana). External affairs are discussed in chapter 8.

Some key dates are:

- The European Commission of the European Economic Community (the EEC) was set up under the 1957 Treaty of Rome.
- The 1965 Merger Treaty, created a common Commission for all 3 European Communities: the ECSC, the EEC and Euratom. The European Commission is still sometimes known as the Commission of the European Communities. (See annex 3: table 3/5 for the Presidents of the High Authority of the ECSC and the Commission of Euratom.)

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- As far back as 1979 the Spierenburg Report pointed to failings with the Commission's internal organisation.⁴
- In March 1999 the whole Commission (under President Jacques Santer) resigned, following the European Parliament's refusal (in March 1998) to approve the accounts for 1996. (See chapter 2, section 2.6.4.)
- A new Commission, under Romano Prodi, was appointed in September 1999.
- 10 Commissioners from the 10 new states joined in May 2004.

3.2.3 The Council of Ministers

The main features of the Council of Ministers (or the Council of the European Union or the [EU] Council) are:

- The Council consists of representatives from each of the member states, and its meetings are attended by at least one Commissioner as well as by officials of its own secretariat. The membership is constantly changing. For example, agriculture ministers attend for meetings on agricultural issues, industry ministers for industrial issues and finance ministers for economic and financial affairs (Ecofin). (A subset of EcoFin is the "Euro-12" meeting of the finance ministers from the 12 eurozone countries.) The foreign ministers' meetings are known as meetings of the General Affairs Council (GAC).
- It has a rotating chairmanship or presidency on a 6-monthly basis, with ministers from each member state taking turns in the chair. The foreign minister of the member state is called the "president" of the Council of Ministers. During the course of each presidency, there is a summit meeting (or European Council – see below) of heads of government. See annex 3: table 3/6 for countries holding the presidency.
- It is the main legislative and decision-taking arm of the EU, on the basis of proposals that are brought forward by the Commission.⁵ It is responsible for adopting the EU budget and for the EU's external relations.
- The Council is served by 3 different types of bureaucrats:
 - The permanent national representatives who meet as COREPER ("Comité des représentants permanents", Committee of the Permanent Representatives). UKREP is the UK's permanent representatives.
 - The Council's own permanent secretariat.
 - The Commission.
- It has three voting methods, as prescribed in the treaties:
 - **Unanimity**: where member states retain a veto.
 - **Simple majority**.
 - **QMV**: in which each state is given a number of votes related to its size ("weighted" votes). This is the most widely used method of voting and, moreover, successive treaties have significantly extended QMV at the expense of unanimity. Enlargement changed the weightings for QMV, as agreed under the Treaty of Nice (the relative weights of the larger countries were increased). See annex 3: table 3/7 for the revised weightings for both the Council of Ministers and the European Parliament.
- A final note: the Council of Ministers must not be confused with the European Council (see 3.2.4 below) or the non-EU body the Council of Europe (see annex 1B).

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Some key dates are:

- The Council of Ministers of the European Economic Community (the EEC) was set up under the 1957 Treaty of Rome.
- The 1965 Merger Treaty created a common Council of Ministers for all three European Communities: the European Coal and Steel Community, the EEC and Euratom. (See annex 3: table 3/5 for the Presidents of the High Authority of the ECSC and of the Commission of Euratom.)
- In response to the increase in the number of issues to be decided by QMV (rather than unanimity) President de Gaulle ordered a French boycott of the Council of Ministers and withdrew the French permanent representatives from Brussels in July 1965. This “empty chair crisis” (chaise vide) continued until December 1965. The Luxembourg Compromise of January 1966 (effectively postponing QMV in certain areas) resolved the crisis.
- The Single European Act (1986) extended QMV (see annex 2A).
- The Maastricht Treaty (1992) also extended QMV (see annex 2A).
- The Treaty of Amsterdam (1997) also extended QMV (see annex 2A).
- The Treaty of Nice (2001) also extended QMV (see annex 2A).
- Enlargement changed the weightings for QMV (May 2004).

3.2.4 European Council

The main features of the European Council are:

- The “European Council” is the name given to the regular meetings (sometimes known as “summits”) of the heads of state or of government of the member states of the EU and the president of the European Commission.
- These “summits” are not a formal EC institution but have become central to the EU and involve guidance and strategic direction, and decision-taking. The decisions of the Council are usually expressed as Conclusions, Resolutions or Declarations, and have no status in law. But they create a framework for Community legislation.
- The meetings currently take place in the member state holding the presidency of the Council of Ministers (see above). They occur “at least twice a year”, though in practice they occur twice every 6 months, with the more important meetings tending to be at the end of a member state’s presidency in either June or December.
- Under the Treaty of Nice (2001), it was agreed that, from the accession of the 18th member state, met by the enlargement of 2004, all European Council meetings would be held in Brussels.
- The European Council is not to be confused with the Council of Ministers (see above) or the non-EU Council of Europe (see annex 1B).

Some key dates are:

- December 1974: it was agreed to have these regular summits (at least three times a year), starting in Dublin in March 1975.
- December 1985: it was agreed to have only two summits a year (though the practice has been to be two each 6 months). In the 1986 SEA, the frequency of the meetings was laid down as “at least twice a year” (including meetings at the end of member states’ presidencies) and the list of those entitled to attend was extended to include the foreign ministers and an additional Commissioner.

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3.2.5 The European Parliament

The main features of the European Parliament (EP) are:

- The EP is intended to bring a measure of democratic control and accountability other Community institutions. It is a directly elected body (since 1979). Members of the European Parliament (MEPs) are elected for 5 years and belong to broad political groups (see annex 3: table 3/8). Elections have occurred in 1979, 1984, 1989, 1994 and 1999. The next is June 2004.
- A member state's number of MEPs partly reflects population size. Enlargement, as agreed under the Treaty of Nice, changed the numbers. (See annex 3: table 3/7 for the weightings for both the Council of Ministers and the European Parliament.)
- The President is elected for 2 ½ years (currently). (See annex 3: table 3/9 for Presidents.)
- The EP has 17 standing committees. (See annex 3: table 3/10.)
- The EP's powers have increased over the years and are now:
 - **Supervisory:** including the right to put questions to the Commission, to discuss its Annual General Report, to discharge the annual budget and to adopt a motion of censure (which led to the resignation of the Commission in 1999).
 - **Budgetary:** no budget can be adopted without EP's agreement.
 - **Legislative:** the EP can scrutinise and amend all proposals for legislation under a variety of procedures:⁶
 - Assent procedure: was introduced by the SEA to give the EP the right of veto over certain important decisions taken by the Council of Ministers (decision by absolute majority).
 - Co-decision procedure: was introduced by the Maastricht Treaty and allows the EP to veto a legislative measure it cannot agree on with the Council of Ministers (decision by absolute majority).
 - Consultation procedure: usually reserved for the simplest form of one-stage consultation between the EP and the Council of Ministers.
 - Co-operation procedure: was introduced by the SEA and allows the EP to be consulted twice before a legislative measure is enacted. It was developed as the co-decision procedure (qv) in the Maastricht Treaty and, under the Treaty of Amsterdam has been largely superseded by the co-decision procedure.

Some key dates are:

- 1952: the setting up of the purely advisory Assembly of the ECSC (the EP's predecessor), under the Treaty of Paris (1951).
- 1958: the ECSC's competences were extended to the EEC and Euratom and the first plenary session of the "European Parliamentary Assembly" (or "Common Assembly") was in March 1958.
- 1979: the members of the European Parliament, as it was generally known, were directly elected for the first time. Since then, there have been elections every 5 years (in 1984, 1989, 1994 and 1999). The next is in 2004.
- The 1986 SEA formalised the use of the words "European Parliament" and introduced the assent and co-operation procedures.
- Maastricht Treaty (1992) widened the EP's powers; the co-decision procedure was introduced.
- Treaty of Amsterdam (1997) significantly widened the EP's powers; the co-operation procedure was effectively superseded by the co-decision

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procedure, which was extended to 27 new fields including employment and social policy.

- March 1999: the EP flexed its muscles and sacked the entire Commission (by a carried censure motion).
- Treaty of Nice (2001) extended the EP's powers and reallocated the number of seats in readiness for enlargement.
- May 2004: accession of 10 new countries.

3.2.6 The Court of Justice

The main features of the European Court of Justice (ECJ) or the Court of Justice⁷ are:

- It is the final arbiter in disputes arising from the Community Treaties or the legislation based upon them. It is responsible for judicial interpretation and enforcement of EU (Community) law (see discussion of EU law below).
- It is the highest court in all the member states and, therefore, has been the highest law court in the UK since 1973 when the UK joined the European Communities.
- The ECJ operates on the basis of 3 fundamental principles:
 - **Direct effect:** EU (Community) law creates rights for citizens that national courts must recognise and enforce.
 - **Direct applicability:** regulations are directly applicable in member states, without the need for national legislatures to pass implementing legislation.
 - **The primacy (supremacy) of EU (Community) law over national law:** domestic legal provisions cannot override EU (Community) law.⁸
- The Court is manned by a judge from each of the member states and by nine Advocates-General (who, in each case, write an Opinion that is frequently taken as the basis of the Court's Judgement on the issue before it). They are all appointed for a renewable term of 6 years.
- The Court's main areas of jurisdiction are as follows:
 - Failure on the part of a member state to fulfil its treaty obligation; such an action may be brought by the European Commission or by a member state.
 - Judicial review: the Court is empowered to "review the legality" of legal instruments adopted by the Council of Ministers or the Commission, and certain acts of the European Parliament.
 - "Failure to act" (by the Commission, the Council or the European Parliament, thus infringing a requirement laid down in the treaties).
 - Preliminary rulings: these may be requested by national courts in the event of a question of treaty interpretation (for example) being raised before a national court.

Some key dates are:

- Set up under the Treaty of Paris (1951) for the ECSC.
- Its powers were extended to the EEC and Euratom by the Treaties of Rome (1957), which set these two Communities up.
- The 1986 SEA authorised the Council of Ministers to attach to the ECJ, "a court with jurisdiction to hear and determine **at first instance**...certain classes of action or proceeding brought by natural or legal persons". The Court of First Instance (CFI), composed of a judge from each member state appointed for 6 years, became operational in 1989.

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- The Maastricht Treaty (1992), which created the EU, extended the ECJ's powers (see annex 2A).
- The Treaty of Amsterdam (1997) also extended the ECJ's powers, with regards to Justice and Home Affairs (Maastricht's third pillar). (See annex 2A.)
- There were minor changes under the Treaty of Nice (2001).

3.2.7 The Court of Auditors

The main features of the Court of Auditors are:

- The Court checks that all Community revenue has been received, all expenditure has been incurred lawfully, and checks whether financial management has been sound. It deals with "external" financial auditing of the institutions of the EU (which have their own "internal" controls).
- The Court's job is of great importance as fraud is widespread in the EU, for example with CAP payments.
- The title "Court" is something of a misnomer as it has no power to pass sentence, insist on repayment of misappropriated funds or impose any kind of sanction. The Court has persistently drawn attention to the Council's failure adequately to consider the Court's reports.
- It comprises of appointees from each member state.

Some key dates are:

- The "Treaty amending certain Financial Provisions of the Treaties establishing the European Communities (and the Merger Treaty)" (1975) set up the Court of Auditors.
- The Court of Auditors has been responsible for the external financial controls of the EU institutions since 1977. It replaced the Audit Board, which was set up under a Council decision of 1959.
- It was upgraded in the Maastricht Treaty.

3.3.1 Advisory committees: introduction

In this section the two main advisory and consultative committees attached to the EU are covered. They are:

- The Economic and Social Committee (ESC or EcoSoc) (3.3.2).
- The Committee of the Regions (3.3.3).

3.3.2 The Economic and Social Committee

The main features of the Economic and Social Committee are:

- It is a purely advisory body, but must be consulted by the Commission and the Council of Ministers over a wide range of economic and social issues including "workers' rights". There is no obligation on the Commission or the Council to take its advice.
- The members are divided into three groups (with a strong "social partnership" flavour):
 - Group I representing employers.
 - Group II representing "workers".
 - Group III representing various interests such as consumers, farmers, the self-employed, academics etc.
- Members are appointed by the Council of Ministers on the nomination of their governments. There are 317 in all (for EU25). See annex 3: table 3/11

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for the current numbers of members by member state. These numbers changed with enlargement.

- Detailed work is undertaken by specialist sections. See annex 3: table 3/12 for these sections.

Some key dates are:

- EcoSoc was established under the Treaty of Rome (1957).
- The Maastricht Treaty strengthened it, by linking it to the “new” Committee of the Regions. (This was surprising as there had been talk of abolishing it.)

3.3.3 The Committee of the Regions

The main features of the Committee of the Regions^{9,10,11} are:

- The Committee is asked to give its opinion on proposed EU legislation likely to have an impact for the regions. There is no obligation on the Commission or the Council to take its advice.
- It must be consulted on the following areas:
 - Education, vocational training and youth.
 - Culture.
 - Public health.
 - Trans-European Networks (TENs) for transport, telecommunications and energy.
 - Economic and social cohesion.
- The members are appointed and, as with EcoSoc, there are 317 (for EU25). The national membership quotas are the same as for EcoSoc and changed with enlargement. (See annex 3: table 3/11.)

Some key dates are:

- It was set up under the Maastricht Treaty (1992).
- Its first meeting was in March 1994.

The Committee of the Regions is part of the EU policy of “regionalism”, in which “countries” are replaced by regions and regions are seen as the natural constituents of the EU rather than countries. For example, documents issued by the North West English Regional Development Agency (RDA) refer to the “North West” as a region of the EU and not as an English region. Regionalism is also discussed in chapter 9.

3.4.1 Other EU institutions

These EU institutions are discussed here, as follows:

- The European Investment Bank (EIB) (and the European Investment Fund) (see 3.4.2).
- The European Central Bank (ECB) and the European System of Central Banks (ESCB) (see 3.4.3).
- The European Ombudsman (see 3.4.4).
- Decentralised EU agencies (see 3.4.5).

3.4.2 The European Investment Bank

The main features of the European Investment Bank (EIB) are:

- The EIB is both a Community institution and a bank. It provides (long-term) loans, mainly for capital investment in infrastructure, energy and industrial modernisation, particularly in the poorer regions of the member states.

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- Loans are also made to the ACP (African, Caribbean and Pacific) countries covered by the Lomé Convention and the Arab Mediterranean states (Maghreb and Mashreq). It also lends amounts, under the EU's Phare and TACIS programmes, to countries in Central and Eastern Europe and the former Soviet Union, as well as, on a smaller scale, to a number of Asian and Latin American countries and, since 1995, to South Africa.
- It raises the bulk of its capital on the international financial markets and has an AAA credit rating (as at 2002).
- The members of the EIB are the member states.
- Its Board of Governors consists of the finance ministers of the member states. It also has a part-time Board of Directors and a full-time Management Committee of the bank's president and 7 vice-presidents.

Some key dates are:

- The EIB was established in 1958, under the Rome Treaty.
- In 1991 the EIB contributed to the establishment (in April 1992) of the London-based European Bank for Reconstruction and Development (EBRD). The EBRD is not an EU institution.
- The European Investment Fund (EIF), involving both the EIB and privately owned banks in investments in Trans-European networks (TENs) and in the encouragement of SMEs, was agreed in December 1992 and set up in March 1994.

3.4.3 The European Central Bank

The main features of the European Central Bank (ECB) and the European System of Central Banks (ESCB) are:

- The ECB, together with the EU national central banks, comprises the European System of Central Banks (ESCB).
- The EU non-eurozone central banks (currently the UK, Denmark and Sweden) are members of the ESCB with special status (they do not, for example, take part in the decision-making regarding the single monetary policy for the eurozone and the implementation of such decisions).
- The basic tasks of the ESCB are:
 - To define and implement the monetary policy of the Community (with a 0-2% inflation target, currently, to ensure price stability).
 - To conduct foreign exchange operations.
 - To hold and manage the official foreign exchange reserves of the member states.
 - To promote the smooth operation of payment systems.
 - To contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial, system.
- The ECB is managed by:
 - The Governing Council. This is the ECB's main decision-making body. It is composed of the members of the Executive Board and the **eurozone** central bank governors. It meets on a fortnight basis to decide, for example, the eurozone's interest rates.
 - The Executive Board: the president, the vice-president, and 4 other members, appointed by the eurozone states after consultation with the European Parliament and the Governing Council. All are full-time employees with a non-renewable term of office of up to 8 years. The first

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president was Wim Duisenberg. He was succeeded by Jean-Claude Trichet in November 2003.

Some key dates are:

- The 1992 Maastricht Treaty established both a European System of Central Banks (ESCB) and a European Central Bank (ECB), to be set up as soon as the decision was taken to proceed to stage 3 of Economic and Monetary Union (EMU), commencing with the “irrevocable locking together of currencies” (see chapter 5.)
- The European Monetary Institute (EMI) was set up in January 1994 at the beginning of stage 2 of EMU (see chapter 5). It was the precursor of the ECB and the ESCB and is no longer operative.
- The ECB came into operation on 1 June 1998.
- The euro was launched on 1 January 1999 with 11 of the then 15 countries (Germany, France, Italy, the Netherlands, Belgium, Luxembourg, Ireland, Finland, Austria, Spain and Portugal).
- Greece joined the euro on 1 January 2000.
- Euro notes and coins were introduced on 1 January 2002.

3.4.4 The European Ombudsman

The main features of the European Ombudsman are:

- The Ombudsman (a 19th century Scandinavia invention) is empowered to receive complaints from any citizen of the EU concerning instances of maladministration in the activities of the EU institutions or bodies.
- He/she cannot penalise offenders; all he/she can do is to forward a critical report to the Parliament and to the institution against which the complaint was made.

Some key dates are:

- The Maastricht Treaty (1992) required the European Parliament to appoint an Ombudsman.
- 1995: the first Ombudsman was appointed.

3.4.5 Decentralised EU agencies

There are over a dozen specialised decentralised agencies in the EU in very wide-ranging policy areas. Their purposes are reasonably self-evident from their titles.¹²

They are:

- Community Plant Variety Office (Angers, France).
- European Agency for the Evaluation of Medicinal Products (London, UK).
- European Agency for Reconstruction (Thessaloniki, Greece).
- European Agency for Safety & Health at Work (Bilbao, Spain).
- European Centre for the Development of Vocational Training (Thessaloniki, Greece).
- European Environment Agency (Copenhagen, Denmark).
- European Foundation for the Improvement of Living & Working Conditions (Dublin, Ireland).
- European Monitoring Centre for Drugs and Drug Addiction (Lisbon, Portugal).
- European Monitoring Centre on Racism and Xenophobia (Vienna, Austria).

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- European Training Foundation (Turin, Italy).
- EUROPOL – European Police Office (The Hague, The Netherlands).
- Office for Harmonisation in the Internal Market (Trade Marks and Designs) (Alicante, Spain).
- Translation Centre for the Bodies of the EU (Luxembourg).

The European Patent Office (EPO) is based in Munich and is not an-EU institution.

3.5 EU law

No longer is European law an incoming tide flowing up the estuaries of England. It is now like a tidal wave bringing down our sea walls and flowing inland over our fields and houses.

Lord Denning, former Master of the Rolls, 1991

Parliament has little if any impact upon the process of European law making. Where successful changes are introduced from the UK, these are usually done by various interested sectors and bodies. This must have serious implications of the traditional view of parliament as a legislative body.

The report of the Ripon Commission into the legislative process, 1993

The primacy (or supremacy) of EU law has already been referred to (see 3.2.6 above). This section deals with some other aspects of EU law as under the 1992 Maastricht Treaty, which modified the 1957 Treaty of Rome.

The Maastricht Treaty, which led to the creation of the EU in 1993, specified three pillars:

- Pillar One: the European Community or “Community”
- Pillar Two: the Common Foreign and Security Policy (CFSP).
- Pillar Three: Justice and Home Affairs (JHA) (the Treaty of Amsterdam transferred Pillar Three’s civil aspects to Pillar One).

The five legal instruments, as specified in the Treaty of Rome,¹³ are applicable to the first pillar, the Community. (The instruments are Regulations, Directives, Decisions, Recommendations and Opinions – see below for discussion.) But they are not applicable to the second and third pillars, which are formulated as **inter-governmental responsibilities**. The EU, therefore, does not legislate in the second and third pillars and, instead of using the Treaty of Rome’s legal instruments, the Council of Ministers may adopt “common positions” and take “joint actions”. “EU law” is, therefore, effectively synonymous with “Community law”.^{14, 15}

EU law is of three basic types:

- **The treaties:** including annexes, protocols and amendments to the treaties.¹⁶ Treaties of accession are included. This is sometimes referred to as primary legislation.
- **Legislation:** mainly in the form of Regulations, Directives and Decisions, made by the institutions in accordance with powers granted to them by the treaties. This is sometimes referred to as secondary legislation (or derived legislation).
- **Case law:** as embodied in the rulings of the Court of Justice (“judicial interpretation”).

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Together these constitute the major part of the “*acquis communautaire*”,¹⁷ to which may be added international agreements to which the EU (or rather, strictly speaking, the European Community) is a party.

The EU’s “formal” legal instruments are as follows:

- **Regulations:** are of “general application” and are “binding in their entirety and directly applicable in all Member States”. There is no need for enabling national legislation. Regulations are the main instruments of CAP and the CFP.
- **Directives:** are binding, but have to be first enacted nationally before obtaining legal force. In other words, there has to be national enabling legislation. A directive is, therefore, an instruction by the Community to member states to legislate on a particular matter – and within a defined period of time. A directive gives a legislative outline, but allows each member state to decide the details of the legislation in its implementing law. The UK has a good record of compliance with Directives (see annex 3: tables 3/13 and 3/14). Directives are of 4 kinds:
 - Maximum: member states cannot introduce stricter legislation in the area covered by this kind of directive.
 - Minimum: the directive sets only minimum standards and allows member states to apply tougher rules if they wish.
 - Horizontal: apply to a range of products or services (eg EC Food Labelling Directive, 1979).
 - Vertical: apply to a narrow area only (eg EC Jam Directive).
- **Decisions:** are “binding in their entirety upon those to whom they are addressed”. A Decision is similar to a Regulation in that there is no need for national enabling legislation, but it is more narrowly focussed. Decisions are made by the Council or the Commission and are derived from the authority bestowed by the treaties or through Regulations or Directives already approved. It may be addressed to a government, an enterprise or an individual.

Both Regulations and Directives are initiated by the Commission and adopted by the Council of Ministers, in most cases after having received an opinion from the European Parliament and, when appropriate, from the Economic and Social Committee and the Committee of the Regions.¹⁸

In addition to the formal legal instruments, there is also “soft law”, which is an expression used to denote agreements and decisions, which possess no formal legal force. In the EU “soft law” includes codes of conduct, guidelines, Recommendations and Opinions, Declarations, Resolutions and inter-institutional agreements:^{19, 20}

- **Recommendations and Opinions:** “have no binding force”. Some authorities classify them as “legal instruments”, others do not.
- **Declarations:** the results of the discussions at European Council meetings are the “conclusions of the presidency”; latterly, they have been supplemented by Declarations embodying more detailed points of substance. These Declarations have no legal force, but can point to future legislative action.
- **Resolutions:** embody a firm political consensus, yet in a strict sense have no legal force.

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3.6.1 The EU: a single “European State”?

Federalism might make eurosceptics laugh but, with the creation of the euro, the halfway stage would be reached. Four key organisms would have a federal or quasi-federal status: the Central Bank, the Court of Justice, The Commission and the Parliament. Only one institution is missing: a federal government.

Jack Lang, Foreign Affairs spokesman, French National Assembly, 22 July 1997
(quoted in the *Guardian*)

Sovereignty is more than just a constitutional abstraction. It is the right of a people to order their affairs as they wish. To talk of pooling sovereignty is to forsake it.

Max Beloff, the *Times*, 1999

There is no doubt that the EU's powers are increasing and that member states' national sovereignty is diminishing. But is the EU **currently** a “State” or a single “European State”? The answer is no – not yet. The EU currently derives its power from the member states through the treaties and the member states' constitutions are not subject to the EU's constitution.

In addition, there are still areas where the British Government can make its own democratic policy decisions (not least of all because the UK has not joined the euro) and there are crucial areas of EU “competence” that are still determined by intergovernmentalism (for example, the Common Foreign and Security Policy). So the UK is not yet in a single “European State”. Having said that, it is clear that there **are** currently many state-like features of the EU (and its predecessors). Indeed there have been since the Treaty of Rome. The Rome Treaty referred to the “ever closer union of the peoples of Europe”, by which it meant political as well as economic union.

A “State” very broadly comprises the following:

- Political institutions:
 - An **executive** comprising Government ministers and a bureaucracy. The EU has a Council of Ministers and the Commission (which also **initiates** legislation).
 - A **legislature**. The EU has the European Parliament (which, despite having increased powers, still has limited powers).
 - A supreme **Court of Justice**. The EU has the Court of Justice.
 - A **Head of State**. Not yet.
- Powers:
 - **Primacy (or supremacy) of law**. The EU (strictly the EC) has primacy over national law – but the British Parliament currently retains its ultimate supremacy in that it could repeal or supersede the 1972 Accession Act.
 - **Competence** across a comprehensive range of policies, domestic and foreign. The EU is assuming power in nearly all policy areas, including the vital “big three”:
 - Economic and Monetary Union, with a single currency (the euro) and a European Central Bank: but some member states are still outside the euro.
 - Common Foreign and Security Policy: but this is still intergovernmental and many decisions in this area are still taken by the member states.

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- The area of “Justice and Home Affairs” (currently known as “freedom, security and justice”) including the judicial system and the protection of borders: but much of this is also still inter-governmental and many decisions in this area are still taken nationally.
- Symbols of statehood:
 - **Anthem.** The EU has the last movement of Beethoven’s 9th Symphony, with Schiller’s “Ode to Joy” as the text.
 - **Flag.** The EU has as its flag a circle of 12 5-pointed gold stars against a blue background. This, incidentally, a Christian symbol as it represents the Virgin Mary’s halo.²¹

There may not be a single “European State” yet, but the institutions are broadly in place for one and the EU (and its predecessors) has been accruing powers for the best part of 50 years.

3.6.2 Footnote: the EU’s “legal personality” and “constitution”

Article 281 of the Treaty of Rome (1957) said: “The **Community shall have legal personality**”; identical provisions may be found in the Treaties establishing the European Coal and Steel Community and the European Atomic Energy Community. This means that each of the Communities have [had] rights and obligations under international law, including most notably those contained in international agreements. With respect to national law, Article 282 (and identical provisions in the other Treaties) confers upon the European Community “the most extensive legal capacity accorded to legal persons” under the national laws of member states, including *inter alia* the right to acquire or dispose of property and to be a party to legal proceedings. Although the 1965 Merger Treaty gave the Communities common institutions, and although the Maastricht Treaty made them a component part of the EU, the Communities have retained their distinct legal personalities. The **EU itself, by contrast to the European Community, does not currently possess legal personality**,²² though this would change under the European Constitution, see chapter 9.

The EU currently has no formal **constitution** but its essential structure revolves round two sets of documents:

- The Treaty of Rome (1957),²³ as amended by the Single European Act (1986), the Maastricht Treaty (1992), the Treaty of Amsterdam (1997) and the Treaty of Nice (2001).
- The intergovernmental segments of the Maastricht Treaty, as amended by the Treaty of Amsterdam and the Treaty of Nice.

References to Chapter 3

1. Annex 3: table 3/1A, gives the locations of all the EU institutions. Table 3/1B gives the locations of the new agencies agreed in December 2003. Source: Christopher Booker, “No new treaty, but 10 mighty agencies”, *Sunday Telegraph*, 21 December 2003.
2. For further reading see the references under chapter 1, reference 1. And note that official sources of information include: (1) *Whitaker’s Almanack: 2004*, A&C Black, 2003, (2) National Statistics (ONS), *UK 2004: the official yearbook of the United Kingdom*, TSO, 2003, (3) *Dod’s European Companion 2003*, Vacher Dod, 2002.

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3. John Stewardson, *The Ratchet: a cool look at the European Union*, June press, 2000. Stewardson wrote “the greatest and most fatal flaw in the foundation of the Community was giving the European Commission the power to initiate legislation”.
4. For further reading on the Commission’s organisational inadequacies, fraud and other “irregularities”, see, for example, Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002, and Bernard Connolly, *The rotten heart of Europe*, Faber & Faber, 1995.
5. John Stewardson, *The Ratchet*, June press, 2000. Stewardson that the Council “is in theory the ‘democratic’ element in the Community. [There is] some Government oversight, but in reality some 80% of the decisions are agreed beforehand between the Commission and the Committee of Permanent Representatives of the Member States (COREPER)”. [Author’s note: the European Parliament is also a ‘democratic element’.]
6. See, for example, Alex Roney, *EC/EU fact book (4th edition)*, Kogan Page, 1995, for diagrams of the convoluted “consultation” and “co-operation” procedures. Alternatively see Alex Roney and Stanley Budd, *The European Union: a guide through the EC/EU maze (6th edition)*, Kogan Page, 1998.
7. John Stewardson, *The Ratchet*, June press, 2000. Stewardson wrote “the Court is not a Court as we in England understand it; it is more in the nature of an administrative agency enforcing the Treaties, or more particularly what the Court thinks the Treaties could and should mean. The situation is made worse by two critical factors: (1) there is no appeal system, so the ECJ is the ultimate arbiter and (2) the Court prevails over the national Courts in all matters. So a case in England can go right through the High Court, the Court of Appeal and the House of Lords (to be changed), and then be reversed by the ECJ with its unsatisfactory system and panel of judges”. He also wrote “contrary to English concepts of equity and natural justice, the ECJ gives its judgements with retrospective effect, which in some cases imposes vast financial obligations on member states’ Governments, which emphasizes the latter’s subordination & loss of sovereignty.”
8. Though, under the current treaties, Parliament does still retain **its ultimate supremacy** in that it could repeal or supersede the 1972 Accession Act.
9. John Stewardson: *The Ratchet*, June press, 2000. Stewardson wrote “the hidden objective is to break up the nations of the Community, nation by nation, and link each region directly to Brussels and so bypass and marginalize the national governments...the Commission’s blueprint is to establish regions bestriding existing national boundaries, so as to diminish national control and identity. Thus West Sussex, East Sussex and Kent are seen as one Euro-region with Nord-Pas-de-Calais, Haute Normandie and Picardie. Another example of a cross-border region is the Schleswig-Slesvig Euro-region on the Danish-German border...also, possibly, Northern Ireland’s Ulster and the Republic’s Donegal as one new cross-border Euro-region”. **In other words, the EU is planned to be an “EU of regions” and not an “EU of nation states”.**
10. The UK, for EU purposes, comprises Scotland, Wales, Northern Ireland and the 9 regions of England (including London, the other 8 being the North East, North West, Yorkshire and Humberside, West Midlands, East Midlands, East, South East and the South West). England does not

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exist as a country. The English regions currently have Regional Development Agencies (RDAs), set up under the Regional Development Agencies Act (1998) and are due to vote, by referendum, for Regional Assemblies. The English regions are described in the planning documents of the RDAs as “regions of the EU” and England, as such does, not feature.

11. See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002, writes as follows under “regionalism”: “the idea that European integration along supranational lines would provide an overarching framework for the re-emergence of the regions of Europe can be traced back at least as far as the immediate post-war years”.
12. See (1) *Dod’s European Companion 2003*, Vacher Dod, 2002, and (2) Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002.
13. European Economic Community (EEC) Treaty (1957).
14. Even though the phrases “EU law” and “Community Law” (or “EC law”) are effectively synonymous, writers increasingly prefer the phrase “EU law”. Stephen Weatherill and Paul Beaumont, *EU Law* (3rd edition), Penguin Books, 2000, for example, changed the title of their book from “EC law” (for the 1st and 2nd editions in 1993 and 1995) to “EU law” in 2000 because they “believed that the development of the EU had tended gradually to reduce the significance of the legal and political divide between the ‘three pillars’. A realistic understanding of institutional practice in the Union demanded that attention be paid to the developing patterns of integration and co-operation...however, the book remained primarily an analysis of the European Community rather than...of Euratom and the ECSC or of the 2nd and 3rd pillars.” On this count there were, prior to the demise of ECSC, 5 constituent “parts” of the EU. [The tenses have been changed in the quotation by the author in order to make the quote easier to read.]
15. We also omit the special law pertaining to Euratom and the ECSC (now defunct). Both of these communities have (had) the power to make law, as well as the European Community.
16. It should be noted that some elements of the Maastricht Treaty are outside the ECJ’s jurisdiction.
17. The “acquis communautaire” (the “acquired Community practice and powers” or “Community heritage” or “Community patrimony”) is the irreversible and irretrievable body of laws, policies and practices that have, at any given time, evolved in the EC/EU. See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002.
18. The decision-making processes can be very complex and convoluted. See, for example, Alex Roney, *EC/EU fact book* (4th edition), Kogan Page, 1995, for diagrams of the convoluted “consultation” and “co-operation” procedures. Alternatively see Alex Roney and Stanley Budd, *The European Union: a guide through the EC/EU maze* (6th edition), Kogan Page, 1998.
19. Taken from Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002, which see for further details.
20. Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998. Leach wrote “...there is a grey area of Opinions, Resolutions, Declarations and other such utterances, which, like Treaty preambles, have often been mistakenly dismissed as

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mere rhetoric by British politicians. In reality, they are not enforceable, they create a framework, paving the way for future legislation and guiding the courts on the underlying purpose of Community law. As such, they are a reminder of the difference between English law, which is based on an objective reading of the literal meaning of the text, and Community law, which serves a grand design.”

21. See Revelation 12/1, “And there appeared a great wonder in heaven; a woman clothed with the sun, and the moon under her feet, and upon her head a crown of twelve stars.” Blue the Virgin Mary’s colour.
22. See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin Books, 2002.
23. Please note that the Treaties setting up the ECSC (Treaty of Paris, 1951) and Euratom (1957) are mainly of historical interest.

CHAPTER FOUR

INTRODUCTION TO THE EU'S COMPETENCES

4.1 Introduction

The EU's list of "competences" ("powers") and other influence over member states' policies is very extensive and increasingly comprehensive. The EU's "reach" concerning policies is of crucial significance to business. This chapter and chapters 5 to 8 (following) aim to provide a brief overview of these powers, listed according to EU Commissioners' responsibilities or "policy brief". (See chapter 3 for more on the Commission¹). Chapters 5-8 cover the specific policy areas, in a quasi-historical manner, as listed in the following table.

It is quite clear that the EU already has a huge influence on the policy making in the UK. Treaty by treaty the EU has extended its competences. There is not one UK department of state that is not affected by the EU. (For further information on the departments, see annex 4: table 4/1.) Moreover, the EU's powers will be significantly expanded by the European Constitution (assuming it is ratified, see chapter 9.)

4.2 A plethora of regulations

According to Eurofacts,² the total number of EU regulations to which the British are subject may exceed 200,000. Baroness Symons (Minister of State, FCO and DTI) had been asked a question in the House of Lords (13 January 2003) about the number of regulations and her reply revealed the following:

- The total number of regulations enacted between 1973 and August 2002 "as far as the Government has been able to verify" is 101,811 (although the wording of her reply suggests that the Government is not entirely sure).
- In some years the number of regulations enacted has exceeded 4,000.
- Over the past 5 years the number of regulations has averaged around 2,700 and looks set to remain roughly at that level in the near future.
- The Government does not even know the total number of regulations enacted as a result of Britain's membership (ie 101,811 and those accepted at the time of accession).

Such is the volume of regulation, Baroness Symons explained that it would cost too much even to place in the Lords library the reference number, names and year for each of the regulations enacted. It would also involve "disproportionate cost" to identify the number of regulations enacted at the time of accession. Eurofacts concluded that the number of regulations British citizens are subject to as the result of EU membership is not known, though probably in excess of 200,000, as already stated.

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EU Commissioners' policy briefs cross-referenced with chapter numbers and UK Government departments

EU Commission: DGs* and Commissioners	See chapter	UK Government department(s) and related bodies
Budget DG and Financial Control DG (Michaela Schreyer, Markos Kyprianou)	Chapter 5: for the EU's budget	<ul style="list-style-type: none"> HMT: budget contributions to EU
Economic & Financial Affairs DG (Pedro Solbes Mira, Siim Kallas)	Chapter 5: for economic and monetary policy	<ul style="list-style-type: none"> HMT: fiscal policy BoE: monetary policy
Trade DG (Pascal Lamy, Danuta Hübner)	Chapter 6: for external trade policy	<ul style="list-style-type: none"> DTI
Internal market DG (Frits Bolkestein)	Chapter 6: for the internal market	<ul style="list-style-type: none"> DTI: internal market
Customs & Taxation DG (Frits Bolkestein)	Chapter 6: for taxation	<ul style="list-style-type: none"> HMT [and IR, C&E]: customs and taxation
Competition DG (Mario Monti)	Chapter 6: for competition policy	<ul style="list-style-type: none"> DTI [and Competition Commission]
Enterprise DG and Information Society DG (Erkki Liikanen, Jan Figel)	Chapter 6: for enterprise, the information society and research	<ul style="list-style-type: none"> DTI: company law, intellectual property, science policy, aid for industry etc
Research DG (Philippe Busquin)	Chapter 6: for employment and social policy	<ul style="list-style-type: none"> DTI: employment legislation DWP: social security and pensions
Employment & Social Affairs DG (Anna Diamantopoulou)	Chapter 6: for energy	<ul style="list-style-type: none"> DTI: including nuclear energy
Energy & Transport DG (Loyola de Palacio)	Chapter 6: for transport	<ul style="list-style-type: none"> DoT
Energy & Transport DG (Loyola de Palacio)	Chapter 6: for health and consumer protection	<ul style="list-style-type: none"> DoH: public health DTI: consumer protection
Health & consumer protection DG (David Byrne, Pavel Telicka)	Chapter 6: for education and culture	<ul style="list-style-type: none"> DfES: education DCMS: culture and sport
Education & culture DG (Viviane Reding, Dalia Grybauskaitė)	Chapter 7: for agriculture	<ul style="list-style-type: none"> DEFRA
Agriculture DG (Franz Fischler, Sandra Kalniete)	Chapter 7: for fisheries	<ul style="list-style-type: none"> DEFRA
Fisheries DG (Franz Fischler)	Chapter 7: for environment	<ul style="list-style-type: none"> DEFRA
Environment DG (Margot Wallström)	Chapter 7: for regional policy	<ul style="list-style-type: none"> ODPM
Regional policy DG (Michel Barnier, Peter Balazs)	Chapter 8: for justice and home affairs ("freedom, security and justice")	<ul style="list-style-type: none"> HO: policy on criminal justice; immigration, border controls and asylum; police co-operation DCA: judiciary, judicial co-operation, both criminal & civilian DFID
Justice & home affairs DG (Antonio Vitorino)	Chapter 8: for development and aid	<ul style="list-style-type: none"> FCO: foreign affairs and security and defence policy MoD: armed forces
Development DG (Poul Nielson, Joe Borg)	Chapter 8: for foreign and defence and security policy	
External relations DG (Chris Patten)**	Chapters 2 and 7: for sections on enlargement	

* DGs = Directorates-General.

** But the Secretary-General of the Council is the EU's "High Representative for the Common Foreign and Security Policy" (currently Javier Solana).

Sources include: *Dod's European Companion 2003*, Vacher Dod, 2002 and Raphael Minder: "Former Communist stooges? Lacking experience? Europe's new executives ready to defeat the sceptics", *Financial Times*, 29 April 2004 (for the 10 new Commissioners).

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A final point to make here is that the majority of British legislation now originates in Brussels. According to Nirj Deva,³ about 40% of the legislation that affected the UK was initiated and authored in Brussels and Strasbourg (until the change of Government in May 1997). After the change of Government in 1997, this proportion increased sharply and was hovering around the 55% mark (in 2001).⁴ If the UK joined the euro the proportion would rise to about 70%. If at some later stage judicial co-operation, Corpus Juris and other HO policies were to be submerged into EU co-operation, the proportion would increase to about 80%. Only education and health would effectively be left to the British Parliaments.

References to Chapter 4

1. *Dod's European Companion 2003*, Vacher Dod, 2002, is a useful guide to the Commission.
2. "So many regulations that there is not even library space for them", *Eurofacts*: 14 February 2003.
3. Nirj Deva, "Who really governs Britain?", *The European Journal*, July/August 2001. See also annex 4/footnote.
4. Some other estimates are higher. Lindsay Jenkins, *The last days of Britain: the final betrayal*, Orange State Press, 2001, for example, wrote that "in 1993 about 60% of all legislation going through the British Parliament came from Brussels, according to the Hansard Society".

CHAPTER FIVE

EU BUDGET AND ECONOMIC AND MONETARY POLICY

5.1 Introduction

This chapter covers two major policy areas:

- The EU budget (5.2).
- Economic and monetary policy (this is especially crucial for economic management and, hence, business). (5.3)

5.2 The EU budget

(i) The budget and revenues

The 1957 Treaty of Rome decreed that the EU must run a balanced budget.¹

On the revenue side direct contributions from member states, which financed the budget originally, were replaced by a system of “own resources” under the 1970 Decision on own resources. The term “own resources” was adopted to underline the fact that, under the terms of this Decision, certain revenues accrued to the Community as of right – they gave the Community financial independence from the member states.

The 1970 Decision established three sources of revenue (which were eventually introduced in 1980):

- Agricultural levies.
- Customs duties.
- Up to 1% of national revenue from VAT (raised to 1.4% in 1985).

The 1980s were noted the “resolution” of the “British Budget Problem” in 1984 and for various “budget crises”. (See chapter 2 for discussion of these issues.) One such “crisis” was obvious at the beginning of 1987 as the Community’s budget was becoming exhausted. Commission President Jacques Delors’ response was a programme designed to put the funds of the Community on a more assured basis, while reinforcing control over agriculture spending and releasing money for priority objectives, including R&D and the structural funds. The programme was otherwise known as the Delors package or Delors I (“Making a success of the Single Act”). It set guidelines for expanding the EC budget for the 5 years 1988-92.

The package was only partly agreed at a special European Council meeting in February 1988. (There had been considerable disagreement.) The meeting also accepted the introduction of a 4th “own resource” – a GNP-based contribution.

This (1988) Decision on revenue meant that there were then four sources of revenue. (The change was enacted in 1989.):

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- Agricultural levies on trade with non-member countries (together with duties on sugar and isoglucose produced in member states).
- Common External Tariff (CET) duties and duties on products covered by the ECSC.
- A portion (initially 1.4%) of each member state's VAT as applied to an assessment base "determined in a uniform manner according to Community rules".
- A contribution from each member state related to its GNP at a rate determined annually in the light of the overall budgetary situation.

The revenue based on GNP is now the largest source of funding, followed by VAT receipts, as the table below shows.² Customs duties are also an important source of revenue.

Budget revenue, 2001-2002 (€m*)

	2001	2002
Agricultural duties	1,133	1,122
Sugar and isoglucose levies	840	771
Customs duties	14,237	15,766
Own resources collection costs	-1,621	-1,766
VAT own resources	30,625	36,604
GNP-based own resources	34,460	42,319
Balance of VAT and GNP-based own resources from previous years	1,044	**
Budget balance from previous year	11,613	**
Other revenue	1,284	783
Total	93,615	95,598
% GNP:		
Maximum own resources which may be assigned to the budget	1.27	1.27
Own resources actually assigned to the budget	1.07	1.05

* Rounded to the nearest €m .

** Token entry.

Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002, quoting data from the European Commission.

For the first time, the 1988 Decision on own resources provided for a limit on own resources expressed as a % of the EU's total GNP (currently 1.27%).^{3,4}

Delors' second report on budget matters, Delors II ("From the Single Act to Maastricht and beyond"), was published in 1992. It was only partly agreed at the Edinburgh summit (1992), where the 7-year financial perspective drawn up (for 1993-1999) was less generous than that envisaged by Delors.

The Commission's reflections on the financial perspective over the 7-year period 2000-06 were published in 1997 as part of "Agenda 2000" document (in preparation for enlargement). The Commission concluded that it would be possible to "face the challenges posed by...reforms and... accessions" without raising the current "own resources" ceiling of 1.27% of GNP. In March 1999, the Agenda 2000 proposals were agreed. These proposals inevitably meant that the support for the new members would not be generous. Discussions are currently taking place concerning the next 7-year budget period for 2007-2013.⁵

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(ii) Expenditure

Turning specifically to the spending side of the budget it is noticeable that, even though the proportion going to agriculture and fisheries has fallen through the years, it is still a remarkably high 45%.⁶ Other notable features are:

- The vastly increased overall budget.
- The large increase in spending on structural funds.
- The large increase in spending on energy, research, industry, transport & the environment.

EU spending as a % of total (1973 and 2001)

	1973 (% of total)	2001 (% of total)
Agriculture and Fisheries	80.6	45.5
Structural funds	5.5	34.2*
Research, energy, industry & transport	1.6	6.3
Development co-operation	1.4	8.7
Miscellaneous	5.5	0.2
Administration	5.5	5.1
Total (bn)	4.5 ECUs	€96.2

Note:: 2001 data refer to appropriations.

* Of the 34.2%: 16.3% was for regional policy under the European Regional Development Fund; 3.3% was for the Cohesion Fund (for Greece, Portugal, Spain & Ireland, under the Maastricht Treaty) and 6.9% was for social policy through the European Social Fund (ESF).

Source: Dick Leonard, *Guide to the European Union* (8th edition), Economist, 2002, quoting data from the European Commission.

(iii) Net contributors and net beneficiaries

Concerning net contributors and net beneficiaries, Germany is the largest net contributor, with Britain the second largest. The biggest beneficiaries in GNP terms per capita are Greece, Ireland and Portugal. Spain has the highest gross receipts.

Payments and receipts by member state 2000

	Payments as % of total	Receipts as % of total	Balance (€m)	Balance as % of GNP
Austria	1.8	1.7	-543.5	-0.27
Belgium	8.0	5.2	-327.3	-0.13
Denmark	2.1	2.0	169.1	0.10
Finland	0.8	1.7	216.9	0.17
France	10.8	14.9	-1,415.3	-0.10
Germany	22.0	12.5	-9,273.2	-0.47
Greece	1.3	6.7	4,373.9	3.61
Ireland	1.3	3.2	1,674.6	1.83
Italy	9.7	13.1	713.4	0.06
Luxembourg	0.2	1.1	-65.1	-0.35
The Netherlands	11.4	2.7	-1,737.7	-0.44
Portugal	1.2	3.9	2,112.0	1.93
Spain	6.0	13.1	5,055.9	0.86
Sweden	2.6	1.5	-1,177.4	-0.50
UK	20.9	9.5	-3,774.7	-0.25

Source: Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002, quoting data from The EC, Allocation of EU Operating Expenditure by Member State. The UK figure is net of rebate.

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5.3.1 Economic and monetary policy: introduction

The author has written very extensively on the euro in general and possible British membership in particular.⁷ This section discusses the bare bones of the subject, under two headings:

- A brief history of the euro (some of this has already been covered in chapter 2) (5.3.2).
- The euro is a political project (5.3.3).
- British membership: “not for the foreseeable future” (5.3.4).

5.3.2 A brief history of the euro

The Werner Report of 1970 was an early blueprint of monetary union and proposed a 3-stage move to full EMU, lasting from 1971 to 1980. It was endorsed at a Heads of Government meeting in 1982. It inspired a number of ophidian initiatives including the “snake”, an attempt at a zone of currency stability, which was created in 1971 but collapsed in the same year following the collapse of the Bretton Woods system. A second attempt to create a zone of currency stability, the “snake in the tunnel”, also had effectively collapsed by 1976 (following the 1973 oil crisis). By the mid-1970s there was little to show for the ambitious Werner project.

In 1979 the European Monetary System (EMS) was set up with 2 components:

- The European Currency Unit (ECU), which replaced the European Unit of Account (EUA) in 1981 and assumed some embryonic characteristics of a real currency.
- The Exchange Rate Mechanism (ERM), a renewed attempt at a zone of currency stability, which the UK did not join until 1990.

In the late 1980s the Community returned to the idea of Economic and Monetary Union (EMU) and the Hanover summit (June 1988) commissioned a report on EMU. In April 1989 this report (the Delors report) was released. It made recommendations for a concrete 3-stage process, though without attaching any timetable:

- Stage 1: co-operation and coordination in economic and monetary fields.
- Stage 2: laying down the basic institutional and operational rules necessary for the realisation of EMU.
- Stage 3: the move towards irrevocably locked together exchange rates, leading to a single currency.

The Madrid summit (June 1989) agreed that stage 1 (including removing most exchange controls and measures to encourage convergence) should start on July 1990. It was also agreed that there should be an IGC on EMU, which would prepare for the other two stages, in particular, and the single currency, in general. This summit was a key summit.

The Maastricht Treaty (1992) set out a procedure and timetable for EMU as follows:

- Stage 2 (laying down the basic institutional and operational rules necessary for the realisation of EMU): to start in January 1994. This duly occurred, despite havoc in the ERM in 1992/1993, with the setting up of the European Monetary Institute (EMI).

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- Stage 3 (the move towards irrevocably locked together exchange rates, leading to a single currency): to start in January 1999, at the latest. This also duly occurred in 1999 with 11 countries (Germany, France, Italy, the Netherlands, Belgium, Luxembourg, Spain, Portugal, Austria, Finland and Ireland). Greece joined in January 2001. And the euro notes and coins were launched in January 2002. (See annex 5: table 5/2 for conversion rates.)

The following points about the euro are of significance:

- The Maastricht Treaty also laid down eligibility “criteria” (“Maastricht convergence criteria”) for membership that had to be “passed” (they were open to generous and flexible interpretation). They were:
 - Inflation, measured by CPI, must be within 1.5% of the EU’s 3 best performers over the period of a year.
 - Long-term interest rates must be within 2% of the EU’s 3 best performers over the period of a year.
 - Government debt, excessive debt must be avoided: the Government sector debt/GDP ratio no more than 60%.
 - Government borrowing, excessive deficits must be avoided: the Government deficit/GDP ratio no more than 3%.
 - Exchange rate stability: currencies have been kept within the narrow ERM bands, for at least 2 years.
- The name euro was chosen for the single currency in 1995 (Madrid summit).
- The EMI specified the regulatory and organizational framework for the European Central Bank (ECB) and the European System of Central Banks (the national central banks of the euro countries that will implement the ECB’s monetary policy) in January 1997. The ECB was officially inaugurated in June 1998, with Wim Duisenberg as President.⁸ On 1 January 1999 it became fully operational, setting the interest rates for the eurozone. The “one size fits all” interest rate appears to be fitting very few.⁹
- The Stability and Growth Pact (SGP) was agreed at the Dublin summit (December 1996) and adopted at Amsterdam (June 1997). The pact enjoins all parties to engage in prompt and vigorous implementation of the “excessive deficit procedure”. Excessive deficits are when (a) the public sector deficit is more than 3% of GDP in any one year and/or (b) total government debt is more than 60% of GDP. (There is some “flexibility” in their interpretation, however.) Member states with excessive deficits may face admonishment, sanctions or even fines. Several eurozone countries are currently running excessive deficits and in November 2003 the pact was effectively suspended.¹⁰
- EU countries that are not in the eurozone are regarded as “pre-ins”. These countries comprise the UK, Denmark and Sweden of EU15, as well as the 10 new countries. (Both Denmark and Sweden have rejected membership by referendum – in September 2000 and September 2003 respectively.) The total of EU countries now outside the € is 13 – a small majority.

5.3.3 The euro: a political project

The following quotes should dispel any doubts about the “euro” project being a political project, with loss of sovereignty.

The fusion (of economic functions) would compel nations to fuse their sovereignty into that of a single European State.

Jean Monnet, founder of the European Movement, 3 April 1952

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A European currency will lead to member nations transferring their sovereignty over financial and wage policy as well as monetary affairs. It is an illusion to think that states can hold on to their autonomy.

Hans Tietmeyer, President of the Bundesbank, 1991

A free trade zone – precisely what we have been trying to avoid for the last 25 years.

Yves-Thibault de Silguy, commissioner for economic and monetary affairs, on the consequences of a delay in EMU, 1997

The single currency is the greatest abandonment of sovereignty since the foundation of the European Community...It is a decision of an essentially political nature. We need this United Europe...we must never forget that the euro is an instrument for this project.

Filipe Gonzales, former Spanish PM, May 1998

The process of monetary union goes hand in hand, must go hand in hand, with political integration and ultimately political union. EMU is, and always was meant to be, a stepping stone on the way to a united Europe.

Wim Duisenberg, ex-president, ECB

The euro is a conquest of sovereignty. It gives us a margin of manoeuvre. It's a tool to help us master globalisation and help us resist irrational shifts in the market.

Dominique Strauss-Kahn, French finance minister, January 1999

One must never forget that monetary union, which the two of us were the first to propose more than a decade ago, is ultimately a political project...Monetary union is a federative project that needs to be accompanied & followed by other steps.

Giscard d'Estaing and Helmut Schmidt, *International Herald Tribune*, 14 October 1997

The introduction of the euro is probably the most important integrating step since the beginning of the unification process. It is certain that the times of individual national efforts regarding employment policies, social and tax policies are definitely over. This will require us to finally bury some erroneous ideas of national sovereignty.

Gerhard Schröder, Chancellor of Germany, The Hague, 19 January 1999

The introduction of the common currency was in no way just an economic decision. Monetary Union is demanding that we Europeans press ahead resolutely with political integration.

Gerhard Schröder, 30 August 1999

We must now face the difficult task of moving towards a single economy, a single political entity...For the first time since the fall of the Roman Empire we have the opportunity to unite Europe.

Romano Prodi, European Parliament, 13 October 1999

The euro: a political project – some British observations

The coining of money is in all states the act of sovereign power.

William Blackstone c 1765

The euro raises no constitutional issues at all.

Geoff Hoon, UK defence secretary, Radio 4, October 1999

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[Scrapping the pound] ...is fundamentally a political rather than an economic issue. It would involve ceding control over important aspects of public policy.

Sir Edward George, governor of the Bank of England, April 2000

5.3.4 The UK and the euro: “not for the foreseeable future”

The UK was involved with the Community’s attempts at currency stability in the 1970s with total and abject failure. The DM was a strong currency (one of the strongest around) and the pound was weak. Unabashed the UK joined the ERM (within 6% bands) in October 1990, only to be ejected in spectacular style on 16 September 1992. The UK economy, quite simply, could not live with post-unification German interest rates.

So far, the UK has, quite rightly, steered clear of direct involvement with the euro project. The British economy has not adequately converged with the eurozone to live happily with ECB interest rates. And, moreover, shows little sign of doing so. The UK should, therefore, not join the euro “for the foreseeable future”.

Government policy is (still) to join “when the conditions are right” and euro membership is, rightly, subject to a popular referendum. The chance that either of these will be satisfied in the near future look bleak indeed but the Government has pressed on with its costly “changeover” plans. The first major statement on this subject was in February 1999.¹¹

The Treasury published the “5 tests” in October 1997 and they are:¹²

- Cyclical: are business cycles and economic structures compatible so that we and others could live comfortably with Euro interest rates on a permanent basis?
- Flexibility: if problems emerge is there sufficient flexibility (labour and product markets) to deal with them?
- Investment: would joining EMU create better conditions for firms making long-term decisions about the UK?
- Financial services: what impact would entry into EMU have on the competitive position of the UK’s financial services industry, particularly the City’s wholesale markets?
- Employment and growth: in summary, will joining EMU promote higher growth, stability and a lasting increase in jobs?

The Chancellor gave a statement in June 2003 saying that 4 out of his “5 tests” had not been met.¹³ (The City test, apparently, had been met.) He also announced several policy changes, such as altering the inflation target for the Bank of England, that were as premature as they were unpopular. There were also aspirational noises made about developing the mortgage market so that it would be less dependent on short-term interest rates. He also indicated a further statement on British membership of the euro would be made in his 2004 budget speech. This duly happened. He announced he would report further on the progress of the five tests at the time of the 2005 budget. As the years go by, it looks less and less likely that the UK will be joining the euro, especially if the public remains hostile. Enlargement has, moreover, taken the pressure off those countries who do not wish to join.

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References to Chapter 5

1. For other technical aspects of the EU budget including the role of the Court of Auditors and other institutions, “compulsory expenditure”, the conciliation procedure, budgetary discipline and the discharge procedure see, for example, (1) Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002, (2) Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998.
2. National Statistics, *UK 2003*, TSO, 2002, reported that “increasingly, more revenue is being raised from contributions linked to GNP & less from VAT receipts & customs payments”.
3. “Report of the study group on the role of public finance in European integration” (Chairman, Sir Donald MacDougall, 1977) argued for centralised tax and transfer arrangements in Europe similar to those in other federations. It studied public finance in the context of the (then) EEC’s move towards greater integration, concluding that the Community should be spending 2-2.5% of member states’ total GDP in the pre-federal stage, 5-7% in a federal small public-sector stage, and up to 25% in a large public-sector stage.
4. The current limit on the budget is, therefore, 1.27% of GDP. Spending as a % of GDP was just 0.03% in 1960, 0.53% in 1973 and 1.04% by 1995. Source: Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002.
5. See, for example, The Commission, *Building our common future: policy challenges and Budgetary means of the Enlarged Union 2007-2013*, Communication from the Commission to the Council and the European Parliament, COM(2004),101 final.
6. For other data on spending see annex 5: table 5/1.
7. For example, Ruth Lea, *Euro briefing papers*, IoD, September 2002.
8. Jean-Claude Trichet replaced Wim Duisenberg in November 2003.
9. There is considerable evidence that, owing to the lack of adequate convergence, the “one size fits all” interest rate is fitting very few. See, for example, European Commission, *The EU economy 2001 review*, 2002. This concluded that, in 2001, three countries had “too high” interest rates (Germany, France, Austria); two countries had the right interest rates (Italy, Belgium) and seven countries had “too low” interest rates (Greece, Luxembourg, Spain, Portugal, Finland, the Netherlands, Ireland).
10. The major eurozone countries are all currently running deficits of greater than 3% of GDP. For discussion of the suspension of the SGP see, for example, “Anger as Germany and France wreck pact”, Anthony Browne, *Times*, 26 November 2003.
11. HM Treasury, *Outline National Changeover Plan: Summary*, HM Treasury, February 1999.
12. HM Treasury, *UK membership of the single currency: an assessment of the five economic tests*, HM Treasury, October 1997.
13. HM Treasury, *UK membership of the single currency: an assessment of the five economic tests*, CM 5776, June 2003.

CHAPTER SIX

TRADE, THE INTERNAL MARKET, SOCIAL POLICY AND RELATED ISSUES

6.1 Introduction

This chapter is about the single market, its ramifications and “Social Europe”. As in chapter 5, a quasi-historical approach is taken:

- The customs union and external trade policy (or Common Commercial Policy) (6.2).
- The internal or single market, the four freedoms and the Single European Act (6.3).
- Taxation (6.4).
- Competition policy (6.5).
- Industrial policy: enterprise, the information society and research (6.6).
- Employment and social policy, touching on pensions (6.7).
- Energy (6.8).
- Transport (6.9).
- Health and consumer protection (6.10).
- Education and culture and sport (6.11).

6.2.1 Customs union and external trade policy

By beginning the unification of the European territory in its first form, the Six are taking a decisive step in the economic history of the continent.” [But the customs union must lead onto economic union, which in turn would lead on to] “ a political Europe...[with] genuine federal institutions.

The Commission on 1 July 1968 on the completion of the customs union, quoted in Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002.

The Treaty of Rome establishing the European Economic Community (EEC) (1957) provided for the removal of all tariffs and quotas on goods inside the Community within 12 years, but it was achieved 18 months ahead of schedule by 1968. As internal tariffs¹ were removed a common external tariff (CET, also known as the Common Customs Tariff (CCT)) was introduced against the goods of other countries. The EEC was (and the EU is), therefore, strictly a Customs Union and not a Free Trade Area (where individual members retain different tariffs against 3rd countries.)² The current average CET is in the range of 1.5% to 3% and expected to decline further.

The Treaty of Rome also stipulated that the EEC should represent its members in matters of external trade in, for example, the World Trade Organisation (WTO, the successor to the General Agreement on Tariffs and Trade, GATT) and the North Atlantic Fisheries Organisation.

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As with all customs unions, there are problems of “trade diversion” (where trade is diverted towards members of the customs union at the expense of other trading partners) as well as “trade creation” (the genuine increase in trade arising from lower tariffs) and it is difficult to be assess accurately the impact of the removal of tariffs and quotas on goods on EEC trade. However, what is undeniable is that over the first 10 years of the EEC’s existence (1958-68) trade by the member states grew at an annual average of 28.4%.³

There were, however, still the problems of qualitative non-tariff barriers such as different product specifications, discriminatory public purchasing policies, restrictive pricing or distribution agreements, patent or copyright difficulties and major discrepancies in the tax structure, of the continuing barriers to trade in services and of the protectionist agricultural policy. (See chapter 7 for CAP.) But having said that, the achievement of the EEC’s customs union for goods was key and it was not until 1993, when the Single Market was established, was there such a significant step taken towards one of the key objectives of the Treaty of Rome.

Since 1968, the EC’s external trade policy “reach” has been extended by:⁴

- Successive enlargements: the UK, Denmark and Ireland (1973), Greece (1981), Spain and Portugal (1986), Austria, Finland and Sweden (1995) and the 10 new countries (2004). As was discussed in chapter 2, when the UK and Denmark left EFTA, they were not required to sever their trading links with the remaining EFTA members. The remaining members of EFTA negotiated industrial free trade agreements with the EC and formed a sort of “outer ring”, sharing the benefits of tariff-free trade, except for agricultural produce.
- The creation of the **European Economic Area** (EEA), through the EEA Treaty, which is a type of Associate Agreement. The Treaty was signed in 1992 and came into force in 1994. The EEA is a free trade area, though incorporating the obligations of the single market, which are burdensome and yet the non-EU members of the EEA have no influence over them. Switzerland had signed the EEA Treaty but its electorate voted it down in a referendum in 1992. The Swiss government has negotiated a series of bilateral trade agreements.
- The various “**Europe Agreements**”, which are also types of Association Agreements. These were arranged with Poland (1991), Czechoslovakia (1991, later amended because of the splitting up of Czechoslovakia into the Czech Republic and Slovakia) and Hungary (1991). By 1994 there were also Agreements with Romania, Bulgaria, Albania, Estonia, Latvia and Lithuania. Most of these countries have now joined the EU. Less comprehensive agreements have been agreed with some ex-USSR states and other CEE countries.
- The EU has concluded trade agreements with 12 Mediterranean countries (excluding Algeria and Libya).
- The Lomé Convention was signed in Lomé (Togo) in 1975 and was a comprehensive trade-and-aid agreement between the EU and 46 countries in Africa, the Caribbean and the Pacific (ACP). The Convention was succeeded in June 2000 by the Cotonou (Benin) Agreement between the EU and 78 ACP countries. This Agreement is also a type of Associate Agreement.
- The EU also has trade agreements with countries such as India, Bangladesh, Pakistan and Sri Lanka.⁵
- In the mid 1990s, the EU also began negotiating Mutual Recognition Agreements (MRAs) with its main trading partners (the USA, Canada, Australia, New Zealand and Japan).

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6.2.2 Footnote on GATT and the WTO

Another term for the EU's external trade policy is the Common Commercial Policy (CCP) and there is little doubt that the CCP has played a significant part in the global reduction in trade barriers since the Second World War. In the late 1940s, developed countries' tariffs on manufactured goods averaged about 40%. By 2000 the WTO estimated that they were about 4% (excluding textiles and clothing).^{6,7} There is, however, still much to be done on services and, especially, on agriculture where CAP remains as a protectionist policy.

The falling trade barriers have been behind much of the rapid growth in trade after the war and, though partly due to the CCP, much of the credit must go to the WTO and its predecessor the General Agreement on Tariffs and Trade (GATT), which began in 1948 and was replaced by the WTO in 1995. The GATT "rounds", which resulted in the general lowering of tariffs, are shown in the table below. The current, the Doha, world trade round is, at the time of writing, somewhat moribund.

GATT rounds

1947	Geneva
1949	Annecy
1951	Torquay
1955-56	Geneva
1959-62	Geneva ("Dillon")
1963-67	Geneva ("Kennedy")
1973-79	Geneva ("Tokyo")
1986-94	Geneva ("Uruguay")

Tariffs of manufactured goods have, therefore, clearly fallen dramatically over the past 50 years and, reflecting this, the idea that a country should belong to a regional trading bloc in order to trade successfully looks increasingly old-fashioned and irrelevant. This is all the more the case when the regional trading block in question (the EU) is in relative decline. Indeed some French analysts have suggested that the EU may be moving onto "history's exit ramp".⁸

6.3.1 The internal market: introduction

The term the "internal market" is used to distinguish economic activity within the member states of the EU from their external trade (which is the "external market"), with particular emphasis on intra-Community trade. The internal market is effectively used synonymously with the single market and sometimes with the Common Market – but the latter has wider connotations (and was itself effectively used synonymously with the European Economic Community).

The Treaty of Rome (1957) set out four freedoms that should characterise the internal market and lay the foundations for the ever-closer union among the peoples of Europe. They were:

- The free movement of goods.
- The freedom to provide services.
- The free movement of persons (including the freedom of establishment, the right to practise a trade or profession).
- The free movement of capital.

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As already noted, the Treaty of Rome provided for the removal of all tariffs and quotas on goods inside the Community within 12 years and the **customs union** was achieved 18 months ahead of schedule by 1 July 1968. But many non-tariff barriers remained and there was much work to be done on services. There also remained barriers to the free movement of persons and capital. In other words the **internal market** (or single market) was far from being achieved. There have since, however, been many developments towards achieving an internal market, with its four freedoms, over the last 30-35 years.

The more important developments are:⁹

- Concerning goods: the ECJ's judgement in the "**Cassis de Dijon**" case¹⁰ (1979) specified a new basis for the freedom of movement of goods – "**mutual recognition**". This principle essentially means that goods in free and legal circulation in one member state cannot be excluded from others. The principle also applies to, for example, services and professional qualifications.
- Also about goods (though not exclusively): the Single European Act (SEA, 1986), which led to the Single Market Programme (see 6.3.2).
- Further measures to achieve the "freedom of movement of services" (see 6.3.3).
- Further measures to achieve the "freedom of movement of persons", including the Schengen Agreement (See 6.3.3.)
- Measures to achieve the "freedom of movement of capital" (see 6.3.3).

6.3.2 The SEA and the Single Market Programme

Europe stands at the crossroads. We either go ahead – with resolution and determination – or we drop back into mediocrity. We can now either resolve to complete the integration of the economies of Europe; or, through a lack of political will to face the immense problems involved, we can simply allow Europe to develop into no more than a free trade area.

Lord Cockfield, conclusion to his White Paper (1995).

In the early 1980s the Common Market had effectively ground to a halt – there was a heavy backlog of draft Directives and Regulations. In 1985 the Commission was instructed to draw up a remedial timetable. The result was the Cockfield White Paper and it was produced for the June 1985 Milan summit. It identified some 300 measures and set the end of 1992 as the target date for completing the single market – or Single Market Programme, known in the UK as the "1992 Programme".

The White Paper divided the obstacles to free trade into three groups:

- The removal of **physical** barriers, including the abolition of frontier controls by 1992. Measures that would relax and simplify existing controls, beginning with the introduction in 1988 of the Single Administrative Document (SAD), were set out, paving the way for the complete removal at the end of period of all restrictions on goods and individual travellers.
- The removal of **technical** barriers created by different national regulations and standards, including different product standards.¹¹ The Commission proposed that its (then) laborious programme to harmonise national standards for thousands of different manufacturing processes should be replaced by a system of mutual recognition of national standards, pending the adoption of European standards. Other proposals included:

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- The liberalisation of public procurement.
- The establishment of a common market for services such as transport, banking, insurance and information marketing.
- The free movement of capital throughout the Community.
- The removal of legal restraints on the formation of EC-wide companies.
- The adoption of a Community trademark system.
- The removal of **fiscal** barriers, which was concerned with the “approximation” of VAT and excise-duty rates (see 6.4).

The Cockfield proposals were an important input to the Single European Act (SEA), which was signed in February 1986 and came into force in July 1987. By December 1992 some 260 out of the original list of 282 (consolidated from 300) legislative measures had been agreed, although a number of these had not yet been transposed into law and many had not yet entered into force.

By the Lisbon summit (March 2000) it was, however, clear that there was much unfinished business left from the supposed completion of the internal market in 1992, with the Commission launching a staggering 1,500 lawsuits against EU governments for failing to respect single-market rules.

It is also quite clear that the claims for the single market stimulating economic growth have not, so far, been fulfilled. The Cecchini Report ¹² claimed that the internal market would add around 5% to the GDP of the European Community’s member states, reduce prices by 6%, raise growth by 4-7% and create several million extra jobs (“in the space of a few years”). It would “put Europe on an upward trajectory into the next century”, assuming the pursuance of expansionary policies (which did not happen). This ambition was not achieved – indeed a period of relatively poor growth followed, throughout the 1990s and into the 21st century.

Despite all, the British Government, however, remains resolutely upbeat about the single market. National Statistics ¹³, for example, wrote that “by the end of May 2002, 98.5% of single market measures had been incorporated into UK law” and “in the Government’s view”, benefits of the single market include:

- A wider market for UK goods, comprising around 380m consumers, and making up around 40% of world trade.
- Lower prices, brought about by greater competition and liberalisation.
- Better consumer protection.
- The sale of goods throughout the EU without expensive re-testing in every country, as a result of harmonisation and mutual recognition of standards.
- A significant reduction in export bureaucracy – in effect the Single Market is a domestic market for European business.
- The right of UK “citizens” to work, study or retire in all other member states – around 750,000 Britons live in other EU countries”.

On balance the Single Market Programme has advanced the cause for the free movement of goods and services – especially goods – though it is clear that there are still many problems and obstacles. The OECD, for example, wrote in 1999:¹⁴

Implementing and enforcing the single market in all sectors...so far remains largely elusive. A Commission report estimated that significant barriers to market access remained in sectors accounting for about half of EU GDP.

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6.3.3 The internal market: further developments

(i) Freedom of movement of services

The Treaty of Rome identified four types of services: industrial, commercial, professional and craft industries. Special considerations applied to transport and banking and insurance.

There is little doubt that the internal market in services¹⁵ is by far the least developed of the four freedoms despite EU activities in, for example, such areas as the financial services, telecoms and transport. There are still many services (including legal services) where, arguably, there is no internal market. And even where there are EU Directives and other initiatives, the true cross border “freedom of movement of services” has yet to be achieved because there is inadequate harmonisation.

Whether this is a “good” or a “bad” thing should, however, be debated. With the cross border “harmonisation” deemed necessary to achieve a single market come the Directives and regulations that may hinder a thriving service industry (for example the “City”) rather than improve trading conditions. The City has expressed concerns about EU proposals being too prescriptive, too slow in their implementation, too detailed, too out of touch with the business and simply failing to keep up with international developments. It could well be that an internal market, with the predilection of its creators for generating regulation, could have more costs than benefits. “Progress” towards internal markets, as accompanied by greater harmonisation and more regulation, does, therefore, have to be questioned. This is all the more true because of the potential impact of extra regulation on the 10 new member states.

One service area that has been subject to much interest from the Commission is financial services. The Cockfield White Paper (1985) identified the opening up of the financial services market, mainly banking, mortgage lending and insurance, as an essential element of the Single Market Programme. It was not until the late 1980s, however, that much progress was made in this area, with Directives on credit institutions, funds, solvency ratios and the provision of financial services (the Second Banking Directive of 1989). To date, there has been less harmonisation in the insurance sector.¹⁶

At the Lisbon summit (March 2000), one of principal decisions was to endorse the Financial Services Action Plan (FSAP), launched by the Commission in 1999. This included some 42 measures, from binding regulations to voluntary codes of conduct, and covered the entire financial services field from securities and banking to insurance, and from financial institutions to retail customers. The main thrust of this grand project is to harmonise rules. Lisbon set a timetable for the FSAP to be implemented by 2005. The Lamfalussy report on regulatory reform for securities (February 2001) recommended the setting up of the European Securities Committee (ESC) and a Committee of European Securities Regulators (CESR). The function of the ESC is to advise the Commission on issues relating to securities policy and the functions of the CESR include advice to the Commission on the technical details of securities legislation.¹⁷

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Concerning other services, the Lisbon “dotcom” summit (March 2000) discussed the dismantling of local telephone monopolies in order to introduce competition in the telecoms market. (The lack of competition in the telecoms industry had already been reviewed under competition policy in 1997.) The summit also called for EU-wide legislation establishing a legal framework for e-commerce, copyright, e-money and the distance selling of financial services. Transport (and the Common Transport Policy) is discussed below. In energy, the liberalisation of gas and electricity markets have not been achieved.¹⁸

(ii) Freedom of movement of persons

By the mid-1980s it was obvious that the drive to complete the single market should include the removal of frontier controls between the member states, and that the Treaty of Rome requirement for the free movement of persons would have to be given legislative form. The so-called Palma Document identified the priorities of action and it was discussed at the 1989 Madrid summit. In 1990 the Council of Ministers adopted three linked Directives on rights of residence for students, retired people and nationals of member states not covered by other provisions.

The Schengen Agreement, an accord to abolish border controls, was first signed by five willing member states in 1985, Belgium, France, Germany, Luxembourg, the Netherlands, and fleshed out in 1990 into a detailed Convention. By the time the Schengen Convention entered into force in 1995 Spain and Portugal had joined the original five. Austria, Greece and Italy began to apply the Convention from 1997 and Denmark, Finland and Sweden had also joined. (Norway and Iceland are linked to the latter three in a passport union.) 13 of the then 15 EU countries, therefore, had signed up to Schengen by 1997.^{19,20} The UK and Ireland, which has a passport pact with the UK, had not. But, in general, internal border controls are no longer a restriction to the freedom of movement of persons within the EU.

Turning to the more general point on labour mobility, it remains very low throughout the EU, compared with, say, the US. It is impeded by, for example, language difficulties, difficulties in transferring pension rights and problems with mutual recognition of professional qualifications. Moreover, with 10 new countries joining and concern about high unemployment, many of the EU15 countries have taken up a right to delay extending full working rights to the citizens of the new member states for up to 7 years. Two exceptions are the UK and Ireland.²¹ The third freedom, freedom of persons, has only been partly achieved.

(iii) Freedom of movement of capital

Gradual progress in abolishing capital restrictions was made in the 1960s and 1970s, leading up to the adoption in 1988 of a general Directive requiring capital movements to be entirely freed by July 1990 (Spain, Portugal, Greece and Ireland were allowed to apply restrictions for a little longer). The Maastricht Treaty placed capital movements legislation within the framework of Economic and Monetary Union (EMU).

But there are difficulties for this fourth freedom as well. Cross border takeovers remain extremely difficult outside the UK and Ireland because of the prevalence of defensive shareholding structures in many member states and the ease with which managements in target companies can impede hostile bids without having to seek shareholders' consent.²²

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6.3.4 The internal market: overall assessment

This assessment looks at three specific issues²³:

- Has the internal market been completed?
- Are there downsides, for example extra regulatory burdens, as well as upsides, easier access to the rest of the EU, to developing the internal market?
- What is the evidence from business about their views of the internal market? Just how business-friendly, on balance, do businesspeople find it?

(i) Has the internal market been completed?

Clearly not. There is an imperfect internal market in goods and an underdeveloped internal market in services. There is, for example, no effective single market for telecoms, financial services, aviation and energy (including gas and electricity) and other utilities. There is also little harmonisation in professional services such as law. There are also limitations with both freedom of movement of persons, cross border labour mobility is low, and freedom of movement of capital, cross border takeovers are very difficult.

Sometimes pro-euro people argue “the euro is necessary to complete the single market.” This assertion begs a very large question. Even with the euro and assuming “other things are equal”, the single market would still not be complete. Indeed it would be far from complete.

(ii) Downsides of the internal market

Concerns that greater harmonisation deemed necessary to create an internal market can bring costs, by having extra regulations, as well as benefits, by having a larger market, have already been expressed. In other words, internal markets come “at a price”.

The Cassis de Dijon judgement (1979) and the more general “mutual recognition” principle have already been referred to. Under the mutual recognition principle, the idea was that if member states were to accept goods and services from other member states as freely as domestic goods and services, then the need for excessive harmonisation would fall away. As the need for excessive harmonisation fell away, so would much of the apparatus and bureaucracy of integration. The Cassis de Dijon judgement, more specifically, established that a product lawfully made and sold in one EC country could not be prohibited, except on public health grounds, from sale in another. Both of the mutual recognition principle and the Cassis de Dijon judgement make perfect sense. But they have simply failed to stem the flow of harmonising legislation that has been churned out in the name of the “internal market” since the 1980s.²⁴

Moreover, there is discomfiting evidence to show that the Commission uses treaty articles designed for the internal market (hence decided by QMV) in order to advance other aims. This abuse currently centres on the use of Article 95 (of the present Treaty), the “most notorious” of all the “rubber articles”. This Article allows the Commission to bring forward measures to harmonise laws and regulations to establish the internal market. But as just about anything can be traded or can cross frontiers, the internal market is a very elastic concept. Thus the Commission has used Article 95 to promote Directives on such diverse subjects as money laundering, art market levies, summer-time arrangements, metrication, combating terrorism, anti-personnel landmines, civil protection and

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balance of payments support.²⁵ So not only does the “internal market” bring regulations that are arguably relevant to achieving an internal market – but it also brings regulations that are not.

Finally, and an area all too infrequently discussed in the literature on the internal market, is the impact on British **company law** of the EU’s involvement in Company Law harmonisation and related matters.^{26, 27}

(iii) Is the internal market business-friendly?

In 2003 the IoD conducted a survey of its members and the results suggested that the internal market “could do better, if not a lot better”. In fact the survey suggested that trading in the EU was, on balance, unattractive and, moreover, more costly than it was before the Single Market Programme. These are quite extraordinary results. And they suggest that the regulatory burden of extra EU Directives and regulations has outweighed the benefits of a “single market”. In other words, for the majority of the IoD’s members the costs of the Single Market Programme have outweighed the benefits. And the conclusion that could be drawn from this survey is that the internal market is not anything like as business-friendly as it should be.

The specific conclusions of the survey were²⁸:

- Many members complained that the internal market didn’t work well for their businesses. The balance of those that felt it worked well minus those that felt it worked badly was –38.1%. This was quite shocking. See annex 6: table 6/1A.
- A balance of members felt that trading in the EU currently was more expensive, rather than less expensive, than it was before the introduction of the Single Market Programme in 1992. The balance of those that felt costs had gone down minus those that felt that costs had gone up was –18.6%. This was also quite shocking. See annex 6: table 6/1B.
- Many more members said that the paperwork had increased rather than decreased (a balance of 36.4%). See annex 6: table 6/1C.
- One of the greatest problems to creating a genuine internal market was the failure to implement the mutual recognition principle. See annex 6: table 6/1D.
- 50% of members said that the EU policy makers should “tackle regulation” as a priority. See annex 6: table 6/1E.

It is interesting to note that even in pro-EU surveys UK businesses manage to look distinctly under-whelmed by the benefits of the internal market. In a survey of 5,900 businesses in all 15 EU member states for “Single Market News” British businesses were lukewarm. Single Market News had to concede that “the UK [was] the least enthusiastic.”²⁹ This fact is evident from the following table.

A balance of 9% of those UK businesses that thought the effects were positive minus those that thought the effects were negative should be heeded. This is not a vote of confidence by British business for the internal market as it now works, with its ever-increasing regulatory burden. Over-regulation is very real threat to business and economic prosperity. There is a desperate need for the EU to reform its attitudes to business regulations. If it does not, then the EU economy will really be on “history’s exit ramp”.³⁰

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Businesses who believe that the overall impact of the internal market has been rather or very positive (or rather or very negative) (%)

Member state	Positive	Negative	Balance
Ireland	69	9	60
Greece	69	7	62
Italy	68	4	64
Portugal	64	6	58
Luxembourg	59	14	45
Spain	53	4	49
Sweden	53	4	49
Belgium	52	12	40
Netherlands	52	9	43
Denmark	49	4	45
Austria	48	13	35
Finland	47	5	42
Germany	42	14	28
France	35	14	21
UK	26	17	9

Source: "The Internal Market Scoreboard", *Single Market News*, November 2002.

6.4.1 Taxation: introduction

We must harmonise taxes...harmonisation of corporate taxes is the next item on the agenda.

Yves-Thibault de Silguy, as EU Commissioner for Economic Affairs, December 1998

The times of individual national efforts regarding employment policies, social and tax policies are definitely over.

Gerhard Schröder, German Chancellor, January 1999

If you create a tax haven for a few people, you condemn the rest to a tax hell.

Commissioner Mario Monti speaking to the City of London on withholding tax,
12 May 1999

As with social harmonisation (see 6.7), tax harmonisation is all about "level playing fields", getting rid of fiscal "dumping" and removing "unfair competition".³¹ A cynic would say the EU was more concerned about removing any competition, such is the profoundly anti-competitive nature of much of the policy-thinking coming out of the EU. Harmonisation, referred to in the Treaty of Rome as "approximation", is the legal process of standardisation implicit in the creation of the single market and it applies not just to taxation and social policy but also, for example, to product specifications and the criminal law.

Fiscal harmonisation was very much a feature of the Cockfield Report (1985), which so influenced the Single European Act – along with physical harmonisation and technical harmonisation. There is little doubt that tax harmonisation is progressing and increasingly through the backdoor of ECJ judgements. These are mainly on corporate taxation though not exclusively.

The EU's tax decisions under the following headings:

- Indirect taxes, where harmonisation is most advanced (6.4.2).
- Business taxes, and the influence of the ECJ (6.4.3).
- Savings taxes (6.4.4).

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6.4.2 Indirect taxes

Harmonisation of indirect taxes goes back to the 1960s and is advanced. In 1967 the Six agreed to two Directives that required all member states to adopt a system of VAT. And in 1985 the Cockfield Report advocated greater standardisation of indirect taxes in order to further the completion of the single market and these proposals were, with significant amendments, accepted in 1991.

In 1987 a proposal was made for a “standard” rate and a “reduced” rate of VAT and in 1989 a second proposal was made for a minimum “standard” rate of VAT of 15%. Eventually, in 1992, this was agreed along with a maximum “standard” rate of 25%. Member states may apply “reduced” rates (of 5%) to a specific list of goods and services and existing zero-rates, a particular feature of the British system, are currently allowed though they may not be extended. VAT revenue is an important part of the EU’s “own resources”. (See chapter 5.)

Minimum rates for excise duties agreed in June 1991, though there are still significant differences in fuel duties, tobacco duties and alcohol duties between the member states, hence “booze cruises”. A resale royalty for artists, the “droit de suite”, on sales of modern art is due to be introduced, though not imminently.

6.4.3 Business taxes

Effectively, the European Court of Justice has become a UK tax court.

David Southern, a tax barrister, *Taxation*, 16 October 1997.

We are left in as much ignorance as anyone else about the way in which the Code of Conduct Group is going about its business. We think that the lack of transparency in the handling of this matter shows both the Council of Ministers and the Government in a very poor light. It leaves the Code of Conduct open to being described as an obnoxious method of inflicting secret taxation...

House of Lords, 15th Report on the European Communities, “Taxes in the EU: Can co-ordination and competition exist?” – 20 July 1999.

However often the Government repeats that the Code is not legally binding...agreeing to it has obviously created a moral if not a legal obligation on the Government to “roll back” tax measures which are ultimately deemed to be “harmful”, and not to introduce new measures of the same kind.

House of Lords, 15th Report on the European Communities, “Taxes in the EU: Can co-ordination and competition exist?” – 20 July 1999.

Moves towards tax harmonisation have now gone beyond indirect taxes into the areas of company taxes and savings taxes. In 1997 the Commission drew up plans for a voluntary Code of Conduct on Company Taxation, signed by the UK, ostensibly aimed at countries with “significantly lower than average” business tax rates. (Business taxes up to this point had been regarded as a matter for national governments only.) The chief targets were countries with special tax regimes to attract inward investment comprising Ireland, Spain, Belgium and the Netherlands. Such special regimes are widely regarded to be guilty of “distorting the single market”, “unfair and harmful tax competition”, “upsetting level playing fields” or “fiscal dumping”.

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In 2003, the Council of Ministers agreed a package to tackle “harmful tax competition” – some 6 years after the Commission first proposed it. A group established by EU Finance Ministers to identify measures contrary to the “code of conduct”, chaired by UK Paymaster-General Dawn Primarolo, identified over 200 “harmful” measures within EU member states (not including dependent territories such as the Isle of Man, or the applicant countries). Of these 200 measures, 9 were in the UK. France had 48. These measures are now in the process of being repealed – though special treatment has been given to the Netherlands and Belgium, which can retain some of their measures until 2010. The impact of this on the UK is, apparently, slight – the targeted measures such as tax breaks for film producers and Enterprise zones being of very limited application. However the impact on Gibraltar, Jersey and Guernsey may be much more significant.

While the Commission has struggled to push tax harmonisation in direct taxes, the European Court has been busily pushing its own harmonisation agenda via case law.^{32, 33} Many fundamental parts of the UK tax system have been challenged, forcing the Government to decide whether to end tax breaks for UK nationals or extend them to all EU companies. Predictably, rather than extend tax relief, the response has been to force more and more bureaucracy onto UK business in order to satisfy the ECJ.

There has been little movement on energy taxes. Harmonised energy taxes were first suggested by Mario Monti, the internal market Commissioner, in 1993 and have been debated since 1997, mainly as an environmental measure that would help meet the EU’s obligations under the Kyoto Protocols.³⁴

6.4.4 Savings taxes

When the UK government signed the Code of Conduct on Company Taxation in December 1997, it also signed the Common Guidelines on Tax on Savings.

By 1997 the majority of member states were in favour of introducing a harmonised withholding tax on interest paid to individuals in EU member states from other EU member states. In May 1998 the Commission approved a draft Directive on the Taxation of Savings, proposing a minimum rate of 20%. The UK expressed its grave concerns – not least of all for the impact on the Eurobond market, which is largely based in the City of London.

Fortunately the proposed harmonised withholding tax on interest paid throughout the EU has been “shelved”. It has been accepted that member states have an option. They can either opt for exchanging cross border information on interest paid or opt for a withholding tax. The UK has opted for exchanging cross border information. However the red tape associated with information exchange may well add significantly to the compliance burdens of business in the UK relative to those not affected by the Directive.

6.5 Competition policy

(i) Introduction

Competition policy (which also covers state aids and merger controls) is one of the areas in which the Commission is at its most powerful, and the decisions that the Commission is required to take are sometimes very sensitive politically.³⁵

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The Treaty of Rome (1957) contained several Articles on competition policy, such as the significance given to it by the EEC's founding fathers. They saw little point in creating a customs union if free competition between firms from different member states could be thwarted by cartels and restrictive agreements (examples of non-tariff barriers). (CAP, of course, comprehensively contravenes the EU's own competition policy.) Thus Articles 85 and 86 were inserted in the Treaty:

- Article 85: outlawed deals between companies to fix prices, share out markets, limit production, technical development and investment, and other restrictive practices. The Commission has banned the following types of agreements:
 - Market-sharing agreements.
 - Price-fixing agreements.
 - Exclusive purchase agreements.
 - Agreements on industrial & commercial property rights.
 - Exclusive or selective distribution agreements.
- Article 86: banned “abuses of dominant position” by firms or groups of firms.

(ii) State aids

Articles 92-94 of the Treaty of Rome forbade government subsidies that distorted or threatened to distort competition. Some types of aid are exempt from control, including:

- Special help at times of natural disasters.
- Aid to depressed regions.
- Aid to promote new economic activities.

Though sometimes frustrated by the Treaty of Rome's exemptions, the Commission has had its full share of successes, with several of its best-known cases involving French companies.

(iii) Mergers

As long ago as 1973 the Community sought agreement on a regulation that would give it powers to vet cross-border mergers in advance, while leaving member states to police mergers within their own territories. The proposal was revived in 1987, agreed in 1989 and finally came into effect in 1990. It gave the Commission jurisdiction over large-scale company mergers and takeovers affecting more than one member state and exceeding certain domestic, EU and global turnover thresholds. The Commission can ban mergers if it concludes that they would create or strengthen a dominant market position that would significantly impede effective competition, within the EU or a substantial part of it; alternatively, it may negotiate undertakings to correct the adverse effect.³⁶ The Commission is increasingly and controversially asserting extra-territorial jurisdiction.

(iv) Takeover bids

The Commission has proposed a new Directive establishing a code for company takeovers in Europe. In July 2001 the European Parliament was split on the proposal and, under parliamentary rules, the measure was deemed to have failed. But the Commission has still been looking for ways to push the plans forward, even though there is currently opposition from some member states, especially Germany, blocking further progress.

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6.6 Industrial policy: enterprise, the information society and research

There are currently three DGs dealing with, to use a somewhat dated phrase, “industrial policy”. They are:

- The Enterprise DG: this DG has the laudable objectives of, for example, improving the EU’s competitiveness, fostering enterprise (including SMEs) and encouraging innovation. The only problem is that this DG is basically swimming against the tide of extra costs and regulation as promoted by, for example, the Employment and Social Affairs DG and the Environment DG.
- The Information Society DG: this DG also has laudable aims. The promotion of IT was a key theme at the Lisbon summit (March 2000).
- The Research DG and supporting organisations. The EU has a considerable history of promoting research in a somewhat vain attempt to compete with the US and Japan in technological developments.³⁷

The industrial policy of the EU has two main prongs. Firstly, there were policies to help older, declining industries such as textiles, shipbuilding and steel restructure themselves in such a way as to minimise the inevitable pain and disruption. No more will be said about these policies. Secondly, there are policies to assist in the development and spread of new technologies that provide the foundation for future economic growth.

Although the Community had for years been heavily involved in fundamental and applied research in the **nuclear industry** (starting with Euratom), its involvement in industrial research began only in the 1980s with the growing realisation that the EC was falling behind Japan and the US – and even South Korea, Singapore and Taiwan. It was encouraged by the success of European co-operation in such ventures as Ariane and Airbus (in the aerospace sector) and JET (in the thermo-nuclear fusion sector).

The first European strategic programme for **information technology** (ESPRIT I) was a 5-year programme (1984-88) designed to help Europe respond to the challenge of foreign competition in IT. It was followed by the second Esprit programme (ESPRIT II) which covered the years 1989-1993. Subsequently ESPRIT became part of the EU’s 4th and 5th Framework Programmes for research.

In addition to the Esprit programmes, the Commission has supported a series of “Framework Programmes” for more **general research**. The “5th Framework Programme” ran from 1998-2002. The EU’s 6th Framework Programme for Research and Technical Development (RTD) (FP6) for 2002-06 was published in June 2002. There were 7 key areas: genomics and biotechnology for health, information society technologies, nanotechnologies and nanosciences, aeronautics and space, food safety, sustainable development, and economic and social sciences.³⁸

The Lisbon summit (March 2000) identified R&D as essential to make the EU “the most competitive and dynamic knowledge-based economy in the world”. As part of the agenda, the Council of Ministers backed a Commission plan to create a European Research Area (ERA), where think-tanks and university departments from member states work together regularly and, effectively, maximising the EU’s capacity for innovation. The plan focussed on the internet. At the Feira summit (June 2000) EU leaders backed the e-Europe 2002 Action Plan as part of the Lisbon strategy.

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6.7.1 Employment and social policy: introduction

The proverbial level playing field that was part of M Delors' flat earth economics.

Dr Pedro Schwartz, Spanish economist, October 1996.

The EU's employment and social policies are very extensive. They are part of the backbone of the EU and underpin the heavily regulated and high cost "social market" economic model (or the "European Social Model" or "Social Europe"), which can be seen as an upmarket and "modern" form of socialism (excluding the state ownership of the means of production).³⁹ Social Europe is increasingly uncompetitive and, if economic growth and high employment are the criteria for success, this model must be considered discredited. There is at the heart of the EU's social policy a deep distrust of markets.

Two of the themes that are behind much of the EU's social policy are:

- Social harmonisation and the creation of level playing fields. In other words to stop social "dumping" and "unfair competition" (see taxation above for the fiscal equivalents).
- Job protection: but by making the dismissal of employees so expensive and difficult, they discourage job creation work.

This section runs through the main developments in a quasi-historical manner.^{40,41} Social developments are discussed under the following headings:

- The 1950s and 1960s (6.7.2).
- The 1970s (6.7.3).
- The 1980s (6.7.4).
- The 1990s (6.7.5).
- The 2000s (6.7.6).
- Finally, a short note on pensions (6.7.7).

6.7.2 The 1950s and 1960s

Under Article 117 of the Treaty of Rome (1957) the member states agreed on the need to promote improved living and working conditions. Article 118 gave the Commission the task of promoting close co-operation between member states in the social field on the following issues:

- Rights of migrant workers.
- Mutual recognition of professional qualifications.
- Improvement of working conditions and safety.
- Workers' rights in companies.

Concerning workers' rights in companies there have been the following subsequent main developments:

- European Company Statute: the original draft was in 1975 and the revised ECS was in 1989. The EU social affairs ministers formally adopted it in 2001. The "European Company" would give companies operating in more than one state the option of setting up as a single company under EU law, operating with one set of rules and a unified management and reporting system. The proposals under the draft Statute would compel management to conduct talks with a special negotiating body comprising employee representatives.

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- The 5th Directive on the structure of limited companies (1972).
- The Vredeling Directive on information and consultation. The proposals were approved by the Commission in 1980 – but have been overtaken by events. See the Compulsory Information and Consultation at Work Directive under the Social Chapter, 1990s.

The European Social Fund (ESF) was set up, under the Treaty of Rome, “to improve employment opportunities for workers in the EEC and to contribute, thereby, to raising the standard of living”.

6.7.3 The 1970s

The main developments were:

- Social policy begins to develop “teeth”. Please employment and social policy is effectively considered to be one and the same.
- The Social Action Programme (SAP) was set up in 1974 and had the following major objectives: (1) attainment of full and better employment, (2) improvement and upward harmonisation of living and working conditions, (3) increased involvement of management and labour in the EC and of workers in the life of their firms, (4) implementation of a common vocational training policy.
- Several key Directives including (1) the Equal Pay Directive and (2) the Transfers of Undertakings Directive (to protect the continuity of the worker’s employment and conditions of employment) (TUPE) were passed. See also annex 6: table 6/2.

6.7.4 The 1980s

The 1980s saw further significant developments:

- In 1985 Commission President Jacques Delors held the first meeting at Val Duchesse (Belgium) concerning the promotion of “social dialogue” between workers and employers. The main participants were the European Trade Union Confederation (ETUC), the Union of Industries of the European Communities (UNICE, the European Employers’ Federation) and the European Centre for Public Enterprises – they were known as the “social partners”. “Social partners” used to be known in the UK as the two sides of industry.
- The Single European Act (SEA), by extending QMV, made it much easier to pass legislation thus providing a boost to social legislation. The SEA permitted qualified majority voting for health and safety directives (Article 118a). The SEA extended the Community’s competence in the area of economic and social cohesion. See annex 2A for details of the SEA.
- In 1989, at the Madrid summit, the [European] Social Charter was adopted by 11 of the then 12 EC member states (excluding the UK). It covered the following 12 policy areas: (1) freedom of movement, (2) fair wages, (3) improvement of living and working conditions (working hours), (4) social protection, (5) freedom of association and collective bargaining, (6) vocational training, (7) equal opportunities, (8) worker consultation (information, consultation and participation by workers), (9) health, protection and safety in the workplace, (10) protection of children, (11) elderly persons, (12) disabled persons.
- There was a 5-year Social [Charter] Action Programme (SAP) to implement the Charter throughout the EC (1990-95).
- For the Directives passed during the 1980s see annex 6: table 6/2.

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6.7.5 The 1990s

I cannot think of a single more effective way to create poverty and unemployment in southern Europe.

Antonio Martino, former Italian foreign secretary, on the Social Chapter, March 1997

The main social developments in the 1990s were:

- The Protocol on Social Policy and Agreement on Social Policy, the “Social Chapter”, was appended to the Maastricht Treaty. The UK did not agree to the Protocol (the UK opt-out). See annex 2A for details on the Treaty.
- At the Amsterdam summit (June 1997) the UK signed the Social Chapter, which allowed the Social Protocol to be incorporated, under the Treaty of Amsterdam, into the Treaty of Rome. There was, therefore, then a “single framework for social policy” for all the EU Member States following the Amsterdam Treaty. There was also an extension to social policy, an extension of anti-discrimination rights, and a new chapter on employment. See annex 2A for details on the Treaty.
- Since the UK signed up to the Social Chapter the activities of the social agenda seem to have accelerated, leading to more Directives and, indeed, amendments to Directives. See annex 6: table 6/2 for a list of these Directives.

6.7.6 The 2000s

[The EU is to]... become the most competitive and dynamic knowledge-based economy, capable of sustainable economic growth with more and better jobs and greater social cohesion [by 2010].

The Social Policy Agenda's (SPA) main objective (Lisbon summit, 2000)

The main development of the 2000s so far has been the Social Policy Agenda (SPA), or European Social Policy Agenda. This was originally discussed at Lisbon (March 2000) and agreed at the Nice Summit (December 2000). It aspired to more job protection, a better work-life balance and more gender equality. But it also aspired to Europe's 21st century economies being dynamic and entrepreneurial. The inconsistencies and the apparent refusal to account for the economic rules of markets are glaring. The SPA also set ambitious targets for activity rates:

- 70% employment rate for labour force as a whole
- 60% for women
- 50% for older workers.

The SPA formed part of the integrated European approach towards achieving economic and social renewal (“reform”) as outlined in Lisbon. It was full of semi-meaningless phrases such as like “building on the past, preparing for the future”. The objectives were listed under 5 main headings: full employment and quality of work, quality of social policy, promoting quality in industrial relations, preparing for enlargement and promoting international co-operation. (See annex 6: table 6/3 for details.) IT figured prominently in the search for renewal and reform.

As the quote shows there was the extraordinary aspiration that the EU should become the most competitive economy in the world by 2010. Well, so far, the necessary “reform” seems to be noticeably lacking. A Commission report issued at the beginning of 2003 made this very clear. See annex 6: table 6/4 for details. The Charter of Fundamental Rights, agreed at Nice, is another social development of the 2000s. It is included in the draft European Constitution (see chapter 9).

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6.7.7 Footnote: pensions

[British tax payers] could find themselves subsidising the large unfunded pension liabilities of other Member States.

The House of Commons Social Security Select Committee, 23 October 1996.

There is little doubt that, as the EU “ages”, the unfunded pension liabilities of many EU member states (including Germany, France and Italy but not the UK) will become a huge burden on future generations of tax payers.^{42, 43} There is currently no arrangement for member states to “bail each other out” – indeed in the Maastricht Treaty there was a specific “no bail out” clause. But the fear has to be that as political integration relentlessly “progresses”, supported by “solidarity” commitments, there will be increasing pressures for “bails outs” to happen. If/when it does, then the UK could be in a most unfortunate position as net contributor.

6.8 Energy

Although the EU has, over the years, agreed to some piecemeal initiatives, the EU does not currently have a formal common energy policy or formal energy competence.

There have, however, been various initiatives over the years. The main ones are:

- The coal industry was subject to much detailed supervision under the ECSC (the ECSC Treaty expired in 2002) and civil nuclear energy (especially with regard to R&D) has been under Euratom.
- In the wake of the 1973 oil shock, the Council of Ministers adopted a programme drawn up by the Commission called “Towards a new Energy Policy Strategy” (in 1974). This programme, adapted in 1980 and 1986, has formed the framework for most subsequent discussions on energy policy. The overriding policy was the importance of reducing dependence on imported oil supplies and the desirability of diversifying the sources of supply.
- Trans-European Networks (TENs) in transport, telecommunications, training and energy were announced by the Commission in 1990. They are intended to complement the single market. In 1994 the European Council decided on a priority list of 10 energy TENs (and 14 transport TENs).
- In 1994 a European Energy Charter was signed by the EU, most (twelve of the former USSR states and 37 other European and other states with the aim of guaranteeing oil and gas supplies from the East in exchange for transfers of western technology and capital. The Charter had originally been agreed in 1991. The Treaty, which recognises the rights of signatory states over their energy resources, entered into force in April 1998.
- In December 1995 a White Paper entitled “An energy policy for the EU”, defined the 3 pillars of energy policy as: overall competitiveness, security of energy supply and environmental protection. The first fruits of the White Paper were Directives aiming to secure the liberalisation and transparency of the markets for electricity and gas supply but with France consistently blocking moves to let foreign companies compete in national markets, the energy liberalisation plans have been held up. In Barcelona (March 2002), France came under tremendous pressure to open its energy market.
- In November 2001 the Commission issued a Green Paper “Towards a European strategy for the security of energy supply”, aimed at stimulating debate on the issue of security of supply against the background of

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increasing EU energy dependence. Among other things it proposed stronger demand management (using taxes and efficiency measures), promotion of renewable energy sources as ways to address the challenges of climate change and over-dependence on fossil fuels, and dialogue with, and promotion of, economic reform in supplier countries. It also underlined the benefits of a liberalised EU energy market and the importance for the single energy market of adequate infrastructure.⁴⁴

- In June 2003 the European Parliament backed the proposal for energy market liberalisation by 2007.

6.9 Transport

The Treaty of Rome envisaged a Common Transport Policy. But progress has been fairly slow and there is not a comprehensive transport policy.

The main “dates” are:

- In 1982 the European Parliament brought proceedings against the Council of Ministers in the Court of Justice for failing to carry out its obligations under the Treaty of Rome. The action was partially successful and progress accelerated after this event.
- Trans-European Networks (TENs) in transport, telecommunications, training and energy were announced by the Commission in 1990. They are intended to complement the single market. In 1994 the European Council decided on a priority list of 14 transport TENs (and 10 energy TENs).⁴⁵
- In 1991 a report entitled “Transport 2000 and beyond” was adopted setting objectives for an integrated continent-wide transport system, involving EU assistance in linking national networks and in improving links with CEE.
- In 1993 the Commission established a series of broad policy targets.
- In 1995 the Commission adopted an action programme for 1995-2000, laying down the guidelines for a common approach to transport. A further action programme for 2000-04 put more emphasis on the environmental dimension.

For the most part the Commission has adopted a sector-by-sector approach on transport. Dick Leonard’s “Guide to the European Union”⁴⁶ provides details on:

- Roads and related issues.
- Railways: including the Commission’s 1996 White Paper entitled “A strategy for revitalising the Community’s railways”, which contained far-reaching proposals on railway finances, the introduction of market forces into rail, public service provision and the integration of national rail systems.
- Inland waterways and shipping.
- Airways: this is the sector where the EU has had the least impact and where its competition rules remain largely a “dead letter”. The Commission issued plans in 1999 for a “single European sky” – but they have been consistently delayed.

6.10 Health and consumer protection

Consumer policy has, arguably, been the Cinderella of the EU policy-making. The original Treaty of Rome made no provision for consumer policy, but the Single European Act referred to the need for “high level of protection” for consumers in the single market. The Maastricht Treaty provided a legal basis for the protection of “the health, safety and economic interests of consumers” and the provision of “adequate information to consumers”.

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Some key events are:

- In spite of the legal frailty in the Treaty of Rome an outline programme for consumer policy was adopted in 1972 and the Consumers' Consultative Committee was set up in 1973. The first Consumer Action Programme was adopted in 1975.
- Ministers responsible for consumer affairs met for the first time in 1983. Their current work is in 3 fields:
 - The health and safety of consumers:
 - Foodstuffs.
 - Dangerous substances.
 - Pharmaceuticals.
 - Other products, for example, cosmetics and textiles.
 - Protecting consumers' economic interests.
 - Consumer information and education.
- In 1990 the Consumers' Consultative Committee became the Consumers' Consultative Council (CCC) and at about the same time the Consumer Policy service was set up in the European Commission. The CCC was reconstituted as the Consumer Committee in 1995, and is consulted from the outset on any Commission work in areas that touch on consumer interests, and may also give opinions on its own initiative.
- The BSE crisis prompted the European Council to discuss food safety in December 1997. A White Paper on food safety was published in 2000. An agreement was reached in 2002 for a European Food Safety Authority (EFSA).
- The current Consumer Action Programme is the 5th such plan.

The Treaty of Rome, the Maastricht Treaty and the Treaty of Amsterdam all expressed an interest in **public health** and, indeed, it is argued that some degree of coordination between national authorities responsible for public health is necessary in relation to the free movement of persons and goods. The framework for the public health field was set out in 1994. The highest priority was to be given to cancer research, drug dependence, AIDS and other communicable diseases, the collection of comparable data on health issues and measures in respect of health promotion, education and training. An action programme covering the period 2001-06 was adopted in 2002.

6.11 Education and culture

Education has always been regarded as an area where national traditions and methods should be respected. There was little reference to education in the Treaty of Rome, except for the need for the mutual recognition of diplomas and vocational training. And, indeed, apart from Directives aimed at mutual recognition of professional qualifications (essentially a freedom of movement right, see internal market above) EU policy on education has taken the form of voluntary programmes.

Nevertheless there have been developments over the years and the key developments have been/are:

- In February 1976 the Council adopted a 6-point Community programme for education that covered the following:
 - Improved cultural and vocational training for migrant workers and their children.

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- Better mutual understanding of the different European educational systems.
- The collection of basic documentary information and statistics.
- Co-operation in HE.
- The improvement of foreign-language teaching.
- The equality of opportunity of access to all forms of education throughout the Community.
- Even though direct action by the EU itself has been limited there have been several important (voluntary) projects including:
 - Eurydice (an information service network);
 - Erasmus (the European Community Action Scheme for the Mobility of University Students);
 - Comett (designed to stimulate and strengthen co-operation between universities and industry);
 - Lingua (designed to promote the teaching of foreign languages);
 - Eurotechnet (which concerns vocational training for new technologies);
 - The European University Institute (EUI);
 - The European Centre for the Development of Vocational Training (CEDEFOP);
 - The European Schools (which offer an international syllabus).

Cultural policy is primarily the responsibility of the non-EU Council of Europe. The EU's budget for cultural affairs is small and the EU's effort is concentrated on:

- Free trade in cultural goods.
- The improvement of conditions for artists.
- Widening the audience for culture.
- The conservation of the Community's architectural heritage.

Concerning **sport**, the EU is increasingly involved in sport and the Bosman ruling on football transfers is one of the most widely known rulings by the Court of Justice.

References to Chapter 6

1. A tariff (or import levy) is a duty that is levied on imports.
2. A Customs Union is "a form of trade integration between a number of countries, in which members eliminate all trade barriers (tariff and non-tariff barriers etc) amongst themselves on goods and services, and establish a uniform set of barriers against trade with the rest of the world, in particular a Common External Tariff (CET)". A Free Trade Area (FTA) is "a form of trade integration between a number of countries, in which members eliminate all trade barriers (tariff and non-tariff barriers etc) amongst themselves on goods and services, but each continues to operate its own particular barriers against trade with the rest of the world".
3. See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002.
4. See Dick Leonard, *Guide to the European Union* (8th edition), Economist, 2002, for details.
5. These involve GSP (Generalised System of Preferences) schemes, which give developing countries duty-free access for finished and semi-finished goods.

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- See Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002, for details.
6. Ronald Stewart-Brown, “The World Trade Organisation”, *Global Britain Briefing Note*, 19 November 1999.
 7. The Multi-fibre Arrangement (MFA) is a tariff and quota arrangement between the EU, the USA and developing countries to protect the declining textiles industries of the advanced nations against low-cost imports.
 8. One of France’s prestigious think-tanks (Paris-based Institut Francais des Relations Internationales, Ifri) has concluded that, unless the EU changes its policies, it will totally fail to rival the US and will soon enter a downward spiral of relative economic decline. Its report *World Trade in the 21st century* concluded that “the enlargement of the EU won’t suffice to guarantee parity with the US. The EU will weigh less heavily on the process of globalisation and a slow but inexorable movement onto ‘**history’s exit ramp**’ is foreseeable.”
 9. For example, see (1) Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002, and (2) Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.
 10. Cassis de Dijon is a blackcurrant-based liqueur manufactured in France. The West German spirits monopoly (Bundesmonopolverwaltung für Branntwien) sought to ban its importation – they lost the case.
 11. Please note that the plan for metrication was originally agreed in 1979 by the Council of Ministers.
 12. Paolo Cecchini, *The European Challenge, 1992: The benefits of the Single Market*, Wildwood House, 1988.
 13. National Statistics, *UK 2003*, TSO, 2002. The following quote from this publication gives an idea of the bureaucratic complexities surrounding the Single Market: “The Commission set out its Internal Market Strategy in 1999 and conducts an annual review. The 2002 review, endorsed by the Internal Market, Consumer and Tourism Council, focuses on those target actions which have the most significant contribution to make. Initiatives for simplifying national and Community rules include SLIM (Simpler Legislation for the Internal Market) and the European Business Test Panel, which allows for consultation of business during the drafting stage of new legislation”.
 14. OECD, *EMU facts, challenges and policies*, OECD, 1999. See also *The Financial Times*, “Europe sees progress falter in face of red tape and protectionism”, 14 January 2003, which said “that 10 years after the creation of the single market was hailed as the culmination of an inspiring adventure, the idea of free trade and movement is still a dream”. The article also said “today we are only halfway to a single market; on many issues we still have 15 national markets.” The article identified the main hurdles as service providers, professional qualifications, legal requirements, financial regulations and unequal prices.
 15. Freedom to provide services should be distinguished from “freedom of establishment”. Freedom of services refers to the performance of services anywhere within the EU, without the provider of the service having his/her place of business established in the country where the service is performed.
 16. See Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.
 17. See Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

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18. Geoffrey Fitchew, *Economic and Monetary Union and the European Union*, EU Convention papers, New Europe Research Trust, 2004.
19. The Schengen Agreement was originally purely an intergovernmental instrument and not part of Community law. This changed with the Treaty of Amsterdam (1997), when the achievements in the policy areas thus far covered by the Schengen Agreement (the “Schengen acquis”) was annexed to the Treaty as a protocol “integrating the Schengen acquis into the framework of the EU”. The UK and Ireland had opt-outs (with Denmark having a partial opt-out).
20. It is worth noting at this point that as the relaxation or removal of controls at internal frontiers has progressed there have been moves to strengthen controls at the external borders (with very mixed results), and hence common agreement on immigration, visas, the right to asylum and other matters with a bearing on the treatment of nationals of non-member countries.
21. “London can expect major influx of EU immigrants”, *Eurofacts*, 19 December 2003.
22. Geoffrey Fitchew, *Economic and Monetary Union and the European Union*, EU Convention papers, New Europe Research Trust, 2004.
23. Another issue is the tardiness of introducing legislation. See the European Commission, *Internal Market Scoreboard*, Internal Market DG, May 2003. The Internal Market Scoreboard makes a very relevant point about this tardiness of introducing legislation. It states “it is very telling that in today’s fast-moving world, it has taken the Union on average 7 years to adopt and implement legislation in the area of financial services and more than 4 years in general.
24. See Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998.
25. David Heathcoat-Amory, *The European Constitution and what it means for Britain*, CPS, 2003, wrote that 73 such regulations and directives have been identified.
26. There are other developments currently under discussion which have enormous potential to impact on British business. They include (1) the proposed Transparency Directive, which proposes quarterly accounting; (2) Commission interest in Corporate Social Responsibility (CSR); (3) the Commission’s “Action Plan” on company law and corporate governance (*Modernising Company Law and Enhancing Corporate Governance in the EU – A Plan to Move Forward*, May 2003). These developments should be regarded with great concern.
27. See Nicholas Moussis, *Guide to European Policies (9th edition)*, European Study Service, 2003.
28. James Walsh, *Internal market: IoD member questionnaire*, IoD, August 2003. Problems with regulations and the single market cropped up in a previous IoD survey (1996), in which one member commented that the single market was “little but a good excuse for spawning a thousand regulations”.
29. “Many companies see a positive impact on their businesses”, *Single Market News (10th anniversary special, 1993-2003)*, 2003. Incidentally, this article made great play of the fact that the single market contained over 370m people and it was “soon to increase to 452m after enlargement”. But it did not make any attempt to seriously assess the potential increase in trading opportunities after enlargement.

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30. Ifri, *World Trade in the 21st century*, 2003. This report concluded that “the enlargement of the EU won’t suffice to guarantee parity with the US. The EU will weigh less heavily on the process of globalisation and a slow but inexorable movement onto ‘history’s exit ramp’ is foreseeable.”
31. Ruth Lea, *A competitive Britain in a competitive Europe: IoD Manifesto for Business for the 1999 European Elections*, IoD 1999, discussed fiscal and social harmonisations.
32. “Damned if we don’t?: How EU law is challenging and changing the UK tax system”, *Ernst and Young Tax Services*, March 2003. This report said “the Commission has harmonised its tax harmonisation agenda and the ECJ’s decisions are having a significant and growing impact on the corporate tax system of every member state”. See also (2) Alistair Craig, *EU law and British tax*, CPS, 2003. Craig concluded that the ECJ had been able to use its single market powers to strike down various aspects of national corporation tax laws.
33. Simmons and Simmons, *The ECJ and national tax sovereignty*, EU tax update, April 2004. They wrote “whilst the European Commission continues to discuss, and member states resist, tax harmonisation, the ECJ continues to challenge national tax sovereignty.”
34. Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.
35. Dennis Swan, *The economics of the Common market (8th edition)*, Penguin, 1995, is very good on cartels and state aids.
36. National Statistics, *Britain 2003: the official yearbook of the United Kingdom*, TSO, 2002.
37. See (1) Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002 and (2) Nicholas Moussis, *Guide to European Policies (9th edition)*, European Study Service, 2003.
38. National Statistics, *Britain 2003: the official yearbook of the United Kingdom*, TSO, 2002.
39. A note on the Social Partnership model versus the “enterprise” model. The European Social Partnership model involves “Social Partners” (including employer federations and trade unions) who have formal rights to decide how businesses should be run at all levels whether national, regional or company. In the “enterprise” model employers, favoured by the last Conservative Government, are free to build up direct individual relationships with their employees.
40. See (1) Ruth Lea, *The Work-Life Balance...and all that*, IoD, 2001, and (2) Ruth Lea, *Red tape in the workplace*, IoD, 2003, for further information.
41. For a list of the main Directives see annex 6: table 6/2.
42. See, for example, Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998.
43. Ruth Lea, *Euro briefing papers*, IoD, September 2002.
44. National Statistics, *UK 2003*, TSO, 2002.
45. Please note some progress is now being made in TENs telecommunications. See Timothy Bainbridge, *The Penguin Companion to the European Union*” (3rd edition), Penguin books, 2002.
46. Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

CHAPTER SEVEN

AGRICULTURE AND FISHERIES, ENVIRONMENT AND REGIONAL POLICY

7.1 Introduction

This chapter covers four very highly developed areas of EU policies:

- The Common Agricultural Policy (CAP) (7.2).
- The Common Fisheries Policy (CFP) (7.3).
- Environmental policy (7.4).
- Regional policy (7.5).

EU policies for all these areas have a major impact of the policies of the member states – indeed CAP and the CFP dominate any policies member states wish to make about agriculture and fisheries respectively. The situation is little different with environmental policy.

7.2.1 The Common Agricultural Policy (CAP): introduction

This wasteful and failed policy is discussed under two headings:

- A brief description (7.2.2).
- An assessment of its failings (7.2.3).

7.2.2 CAP: a brief description

The EU's agricultural policy was first defined in Article 39 of the Treaty of Rome. The broad aims were:

- To increase agricultural productivity.
- To ensure a fair standard of living for the agricultural population (which, in effect, meant to raise farmers' incomes above the free market levels).
- To stabilise markets.
- To guarantee reasonable prices.
- To ensure reasonable prices in supplies to consumers.

With the pressures on CAP to reform in the 1990s, other objectives were added:¹

- To maintain the maximum number of farmers on the land and preserve rural communities.
- To preserve the countryside and the environment.
- To avoid the build-up of food mountains.
- To maintain good international trading relations.
- To fulfil the 1994 GATT agreement.
- To “decouple” farm income support from production.

The CAP was launched in 1962 and was the first common policy implemented. It is highly protectionist and has three main elements:

- Free internal trade: where there is a single market for farm goods – ie free movement throughout the EU at common prices.

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- Community preference: with a common tariff system of import levies (and now tariffs) and export refunds (subsidies) on trade with non-EU countries.
- Common financial responsibility: with the costs paid from a common fund to which all members contribute. It is implemented through the European Agricultural Guidance and Guarantee Fund (EAGGF or FEOGA).² See annex 7: tables 7/1 and 7/2.

There are two particularly controversial elements to CAP, which have caused much conflict in trade talks: ³

- The guaranteed price system (with guaranteed prices frequently above world prices) – this price system is the core of CAP.
- Export subsidies.

CAP's history is full of “crises”, primarily because of the vagaries of the guaranteed price system, and “reforms”, mainly because most reforms have been fudged. They include:

- By the early 1980s wine lakes, butter mountains and large surpluses of non-butter dairy produce, cereals and sugar were accumulating.
- In 1988 there was a package of measures, including the notorious “set aside”, intended to control spending and avert an ongoing budget “crisis”. (CAP is notoriously prone to fraudulent claims.)
- The budget came under fresh pressure in 1990-91.
- The MacSharry “reforms”, including the shifting from price guarantees to income support, narrowly averted the failure of the GATT's Uruguay Round, which was eventually finalised in December 1993.
- The Agenda 2000 report, compiled as part of the preparations for enlargement, was adopted in May 1997. Agenda 2000 also put greater emphasis on “green-tinged” rural development at the expense of farm product price support.
- The Berlin summit (March 1999) agreed Agenda 2000 with “adaptations” and the CAP budget for the period 2000-06, which covered the recent enlargement. The deal for the new member states was not generous. See annex 7: table 7/3. The Berlin summit also agreed the SAPARD (Special Assistance Programme for Agriculture and Rural Development) to assist CEECs for membership of the EU.
- Further reforms have since been agreed, shifting financial support from production to income as part of EU's contribution to the Doha WTO trade round. Farmers are to be less “producers of food” and more “custodians of the countryside”.

7.2.3 CAP: “a catalogue of failure”

[The CAP] for which we shall have to pay so much and receive so little.

Sir Con O'Neill, the diplomat who led Britain's negotiations to join the EEC, in
Britain's Entry into the European Community, 1972

The huge cost of the policy [CAP] to taxpayers and consumers far outweigh any benefit to them...such large transfers into agriculture represent a major misallocation of resources and thus damage the economy as a whole...the policy is extremely complex in detail, hence difficult and costly to administer and giving scope for fraud.

“The Government's view of the CAP”, memorandum by MAFF to the House of Lords
European Communities Committee, 1995

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The CAP cost British consumers £6.7bn in 1998 and taxpayers footed a further £3.4bn to fund the scheme. The total was equivalent to £3.30 per person per week in Britain, or £250 for every man, woman and child split roughly between higher taxes & higher food prices.

Elliot Morley, Junior Agriculture Minister, Hansard, 25 November 1999

The author concluded in her study of CAP that it was a comprehensive “catalogue of failure” for Britain’s farmers, in particular, and for the UK, in general.⁴ Specifically the author compiled a table that listed CAP’s objectives and compared these with outcomes. This table is replicated (and updated) below.

CAP: a catalogue of failure

Objective	Outcome
To increase agricultural productivity.	Yes – at a cost to the environment.
To ensure a fair standard of living for the agricultural population.	No – farmers’ incomes have declined precipitously in the UK.
To stabilise markets.	No – the markets have not been stable.
To guarantee reasonable prices.	No – not for the British farmer.
To ensure reasonable prices in supplies to consumers.	No – CAP’s high food prices policy has penalised the consumer and, moreover, the burden is regressive. The British taxpayer has been left with the bill for the UK’s net contribution to the CAP budget.
To maintain the maximum number of farmers on the land and preserve rural communities.	No – rural communities have not been preserved by CAP.
To preserve the countryside and the environment.	No – CAP has failed to preserve the environment. (The “reformed” CAP policies may be less damaging.) CAP must be about the only major policy that has been roundly criticised by environmentalists and market economists alike!
To avoid the build-up of food mountains.	Much better than it was in the 1980s – but they should never have happened in the first place.
To maintain good international trading relations.	No – CAP has been at the heart of some of the most acrimonious trade disputes – especially during the Uruguay Round. CAP damages developing countries’ trade in agricultural products.
To fulfil the 1994 GATT agreement.	Hardly – the “blue box” subsidies (which were “decoupled” from production but were nevertheless regarded as trade distorting), for example, were “fudged”.

Source: Ruth Lea, *CAP: a catalogue of failure: the need for radical reform*, IoD, November 2000, updated.

7.3.1 The Common Fisheries Policy (CFP): introduction

We and the other applicant countries have made clear that we do not consider the common fisheries policy, decided upon at the time our negotiations began, to be appropriate to the needs and circumstances of an enlarged Community, particularly in respect of access to fishing grounds.

“The UK and the European Communities,” White Paper (Cmnd 4715, July 1971)

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In the North Sea discards of haddock may exceed what is retained from a single trawl; the global estimate for 1985 was 460 million discarded individuals, whereas landings amounted to 500 million. In the Bay of Biscay/Celtic Sea discards of hake were estimated at 130 million individuals, for a landing figure of 110 million.

European Commission, "Mid-term review of CFP", 1991

From midnight on 31st December 1999 I have been subject to constant satellite surveillance. Every two hours my position on the planet has been transmitted to the Government. I must meet all the installation and cost of transmission. What have I done to warrant this electronic tagging? ...My crime? I am a fisherman, a so-called 'enemy of the environment'! In 30 years at sea I have never caught a whale, destroyed a dolphin, killed a seal or dumped nuclear waste, but I have been forced by the EU to dump hundreds of tonnes of edible fish in the name of "euro-conservation" CFP style.

George Stephen of Aberdeenshire, April 2000

If the Common Agricultural Policy (CAP) is a wasteful and expensive mess, then the Common Fisheries Policy (CFP) is an outrageous and indefensible disgrace. The CAP is indeed a wasteful and expensive mess. And the CFP is indeed an outrageous and indefensible disgrace. It has resulted in the quite scandalous wreckage of the UK's fishing industry and the story deserves a fairly full telling. This section gives a decade-by-decade account of the development of CFP. ^{5,6}

7.3.2 CFP: the 1970s

In 1970, when the UK, Norway, Ireland and Denmark (all with substantial fishing waters) were negotiating entry into the European Communities, the Six hastily developed the CFP. (Negotiations were actually already going on within the Six.) The key feature of the CFP was that all Member States would have "equal access" to EEC fishing grounds, which would become a "common resource". This was a problem for all the applicant countries because they were fish rich – but especially for the UK and Norway (which subsequently did not join because it could not accept the CFP). The UK government, however, finally agreed to the CFP in 1971 with the relatively minor concessions ("derogations") that the limit for national "exclusive" coastal fishing rights would be 0 to 6 miles, and the limit for "partial" rights would be 6 to 12 miles.⁷ These concessions were originally for 10 years only, expiring on 31 December 1982, but were extended to 31 December 2002. (This original "transitional phase" was, therefore, due to expire at the end of 1982.)

In 1976 the UK Parliament passed the Fisheries Limits Act, extending Britain's fisheries limit from 12 to 200 miles (which, on some estimates, enclose about 80% of western Europe's fish). This Act accorded with international law (the international Convention of the Law of the Sea) but, because of the terms of Britain's accession Treaty, the extra fishing grounds were handed over to the EEC to be shared with every other member state.

7.3.3 CFP: the 1980s

Until 1982 there were few further developments, but all changed in 1983 when a system of total allowable catches (TACs) and quotas on a species-by-species basis (with minimum permissible mesh sizes) was introduced. Any fish that were caught that didn't fit the species quota were discarded (thrown back into the sea) even though they were probably dead and could otherwise have been marketed. This

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policy of dumping millions if not billions of discards, nothing but rotting pollutants, has been at the heart of the ecological disaster that has happened in the UK's fishing waters over the last 20 years – along with general over-fishing and the lax compliance standards of the large Spanish fleet.

Ostensibly the quota system was about fish conservation and management, but it has clearly been counterproductive and in reality it was driven by a politically integrationist agenda intended to achieve “equal access” to all EU member states to “Community waters”. This inevitably meant that those with large fish stocks would be sharing them with countries that had fewer fish stocks. The UK came out of the 1983 share-out particularly badly. Even though the UK had, possibly, 80% of the stocks her allocation was a mere 37% by volume and possibly as low as 12% by value.

The 1983 system was designed to operate for two 10-year periods until 2002, during which time the Commission intended to delay Spain's and Portugal's full rights to the “Community waters”. This would give the Commission time to reduce the fishing fleets of the other EEC countries by various nefarious means before Spain was fully part of the CFP. The Spanish fleet was a particular problem because, even though it was a very large fleet (much bigger than Britain's), Spain had few “marine resources”. The Spanish, however, partly circumvented the restrictions placed upon them by registering their boats (“flag boats”) and buying licences, with fishing quotas attached, in other countries (especially in the UK). This “quota hopping” activity had become so serious a problem for the British by the late 1980s that they passed the 1988 Merchant Shipping Act, trying to make it illegal. Suffice to say, the European Court of Justice (ECJ) overruled the British law in 1991.⁸ By the mid-to-late 1990s more than 25% of UK quotas were in foreign hands.

7.3.4 CFP: the 1990s

The sad story continues into the 1990s. In 1992, in the name of “conserving fish stocks” all national fleets were instructed to reduce their “fishing effort”; Britain was asked to cut its quotas by 19%. Decommissioning of some British boats inevitably followed.⁹ Then in 1994 Spain threatened to veto the membership of Austria, Finland, Sweden and Norway (which voted no again) if it did not have full access to “EU or Union waters”, as they were now known, by 1996. Concessions were made.

By 1996 it was increasingly clear that the northern countries (especially the UK) were having their national fleets drastically reduced in order to create room for the full access of the loosely regulated and vast Spanish fleet. The “conservation” arguments were, in part, a smokescreen. And, sure enough, in 1996 the UK was told to cut its fleet by 40% (on top of 1992's 19%) – for the sake of “conservation”.

7.3.5 CFP: the 2000s and the future

31 December 2002 marked the end of the “transitional phase” for Spain and the Spanish fleet now has full access to “Union waters”. Another development is that the old-style CFP, with its defective quota system, is being replaced by a “non-political Commission management committee” that will dictate, through an individual licensing system, precisely how each fisherman will be allowed to fish. It is the most rigid centralised system that could have been devised and one likely to exterminate small family enterprises. The future for British fishing and Britain's fishing communities is bleak indeed.

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7.4.1 Environment: introduction

EU environment policy-making is a very active area and an area that is having a major impact on British legislation. About 80% of all new UK legislation on environmental issues comes from the EU. Whilst protecting the environment has clear advantages, there is little doubt that the EU's activities can be costly and burdensome to implement and, as such, can undermine European business competitiveness. There has to be a balance between economic competitiveness, on the one hand, and environmentalism, on the other. The suspicion has to be that it has been tipped too far away from the former towards the latter.

7.4.2 A brief history

There was no specific legal provision in the Treaty of Rome (the EEC Treaty) for a common EEC policy on the environment. But from 1973 onwards the Council of Ministers adopted a series of 5-year "Environment Action Programmes" that gradually broadened out from immediate responses to serious pollution problems to an overall preventive strategy for safeguarding the environment and natural resources. In 1985 the Council drew up a work programme for obtaining information on the state of the environment and natural resources.

The Single European Act (SEA, 1986) set out a threefold aim for action on the environment:

- To preserve, protect and improve the quality of the environment.
- To contribute towards protecting human health.
- To ensure a prudent and rational utilisation of natural resources.

On the issue of environmental **protection** one historic ruling worth highlighting is the ECJ's judgement in the Danish beer can case, which originated in 1986. The ECJ ruled that a Danish law to the effect that beer and soft drinks could only be marketed in reusable containers was justified in terms of the protection of the environment. This was to be regarded as taking precedence over the obligation of member states not to enact measures restricting imports from other member states.

In the 1990s there was a broadening of the scope of environmental policy with the emphasis on "sustainable development", linked to the increased interest in global warming, and the acceptance that environmental policy should be inextricably linked to overall economic policy-making. The European Environment Agency was established under a 1990 Regulation. This Agency is responsible for the collection and dissemination of data on the state of the environment. The Maastricht Treaty (1992) incorporated a new section on the environment, substantially extending EU competence in the area.

Environment policy is rooted in the aforementioned "Environment Action Programmes". The 5th programme concerning "the environment and sustainable development" was agreed in December 1992. It had 5 target areas: industry, energy, transport, agriculture and tourism. The most recent, the 10-year 6th Environment Action Programme, was agreed in March 2002.

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All these programmes are underpinned by a series of principles including:

- Preventive action. This was reinforced by the introduction of Environmental Impact Assessments for all projects above a certain cost (under a 1985 Directive).
- Rectification at source wherever possible.
- Polluter responsibility (the “polluter pays principle”).

The EU is a party to many international conventions on areas particularly at risk, such as the Mediterranean (Barcelona Convention, 1976) and the Antarctic (Canberra Convention, 1980). It was represented at the UN conferences on Environment and Development (Rio de Janeiro, June 1992) and on Climate Change (Kyoto, December 1997). At the Rio Earth Summit, the EC took a leading role in proposing a worldwide approach to the reduction of carbon dioxide emissions. At Kyoto, the EU committed itself to reducing total greenhouse gas emissions by 8% by 2010, compared with 1990 levels.

7.4.3 Legislation

Much, though not all, of EU legislation has sprung from the “requirements” of the internal market. But whatever its genesis, EU legislation on environment policy is now very wide-ranging.¹⁰

The main areas where EU measures have so far been adopted include:

- Water pollution: a number of Directives have been approved dealing with the protection of water, surface and underground, fresh and salt, both bathing water and drinking water.
- Atmospheric pollution: a number of Directives on such topics as the discharge of sulphur dioxide, the use of chlorofluorocarbons (CFCs) in aerosol cans, the control of pollution from certain industrial premises, pollutants from motor vehicles, general greenhouse gases and sulphur dioxide.
- Noise: Directives have been adopted fixing maximum noise levels for cars, lorries, motorcycles, tractors, sub-sonic aircraft, lawnmowers and building-site machinery.
- Chemical products.
- The transportation of dangerous substances.
- Waste disposal: since 1975 Community rules have been in force concerning the collection, disposal, recycling and processing of waste.
- Nature protection: the EU is a member of the 1979 Berne Convention on the conservation of wildlife.

Some of the most significant pieces of environmental legislation that affect business include:

- The EU Directive on Packaging Waste (1994). This was implemented in the UK as the Producer Responsibility Obligations (Packaging Waste) Regulations (1997).^{11, 12} These regulations are notorious for their complexity and are “unfair” in the sense that, whilst industrial waste is tightly regulated, household waste is not. They were the first of the EU’s “producer responsibility” initiatives, which legally oblige industry to pay for the disposal of their products and/or packaging by recycling rather than by landfill and/or incineration.

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- The EC Regulation (2000) on Substances that Deplete the Ozone Layer (Disposal of Refrigeration Equipment). This deals with the disposal of fridges. The Regulation came into enforce in 2002.
- End of Life Vehicles (ELV) Directive (2000). This calls for improvements in the amount of material to be reused, recycled or recovered from vehicles. The consequent Regulations enforcing the Directive are being introduced in the UK in stages. The use of certain heavy metals in new vehicles has been restricted since July 2003. Recycling/recovery targets have to be achieved by 2006. And from 2007 producers are obliged to provide free take back for vehicles (which have been put on the market from July 2002), if such vehicles have a negative value when scrapped.
- The Directive on “waste electrical and electronic equipment” (Waste Electrical and Electronic Equipment Directive, WEEED).¹³ WEEED aims to limit the amount of equipment ending up at the final disposal stage as landfill and/or incineration. It proposes to make producers (including retailers) of designated equipment responsible for taking it back, free of charge to consumers, and recycling it. This responsibility would be retroactive. Whatever the desirability of reducing waste, businesses will have to cope with higher costs. The producer responsibility aspects of WEEED are due to come into force in August 2005. Recycling targets have to be met by 2006. Equipment likely to be covered by WEEED:
 - Large household appliances: electrical and electronic tools (with the exception of large-scale stationary industrial tools).
 - Small household appliances: toys, leisure and sports equipment.
 - IT and telecommunications equipment: medical devices (with the exception of all implanted and infected products).
 - Consumer equipment: monitoring and control instruments.
 - Lighting equipment: automatic dispensers.

In addition, there are two developments that are of potential relevance to British business and add to their costs:

- The Environmental Liability Directive. This would require companies that damage the environment pay for cleaning up.¹⁴
- “REACH” (Registration, Evaluation and Authorisation of Chemicals).¹⁵ The Commission has estimated the cost of the new proposed system at an astonishing £11.5-20.5bn up to 2020 for the EU. The proposed system would be policed by a new EU chemicals agency. At present chemicals introduced before 1981 are not subject to the requirements for registration and testing that apply to more recent products. But with the proposed system:
 - All substances manufactured in volumes of one tonne per year or greater would have to be registered. Basic information about the chemical’s properties and a brief assessment of its likely impacts on health and the environment would have to be recorded.
 - Substances produced in volumes of 100 tonnes per year or more would have to be evaluated. This means that the registration data would be examined by the competent authority of the member state.
 - The most hazardous substances could only be used with a specific authorisation.

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7.4.4 Some final remarks

As already suggested, even though there is much to recommend the protection of the environment, there are concerns for business about the direction of EU environment policies. Firstly, there is the matter of the correct balance between the costs on business and the damage to competitiveness, on the one hand, and the need for a “cleaner” environment, on the other. If the costs become too great to produce chemicals in the EU, their manufacture will shift overseas – arguably to countries where the environmental controls could be very slack and the damage to the environment would be that much worse. Another example is where the EU agrees to Kyoto and cuts down on the emissions of greenhouse gases but other countries do not. EU business could well be put at a severe competitive disadvantage.

Secondly, specifically on the issue of global warming, “much of the scientific evidence is bogus or debatable. Doubts have, for example, been raised in serious quarters over the existence of global warming, the phenomenon widely believed to threaten the existence of the planet and therefore justify massive preventive expenditure”.¹⁶ The EU is a committed supporter of the “precautionary principle” (see definition in annex 1B) and this can mean more unnecessary over-regulation based on dubious evidence. The precautionary principle is already a feature of much international law on the environment.

7.5.1 Regional policy: introduction

Regional policy is a very active part of the EU’s policy-making.¹⁷ It is discussed under the following headings:

- A brief history of regional policy and its aims (7.5.2).
- The structural funds, including the European Regional Development Funds (ERDF) (7.5.3).
- The impact of enlargement (7.5.4).

7.5.2 A brief history and aims

The impetus for developing a regional policy came from the first enlargement in 1973, when one of the British commissioners (George Thomson) was given the specific responsibility of overseeing EC policy towards the regions. He found that there was great disparity between the regions both within countries and within the Community as a whole. With the accession of Greece, Spain and Portugal the disparities became greater still.

The less privileged regions may be divided into 2 groups:

- Underdeveloped rural areas, whose economy mostly depends on agriculture. These areas include most of Greece and Portugal, southern Spain, the Italian Mezzogiorno, Ireland, Northern Ireland, Corsica and the French overseas departments.
- Areas whose prosperity was founded on industries now in decline. Most are in Belgium, France and the UK and East Germany.

The overriding aims of the EU’s regional policy are:

- To ensure that regional problems are taken into consideration in other EC policies.
- To attempt to coordinate the regional policies of the member states.
- To provide a broad range of financial support for the development of the Community’s poorer regions.

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7.5.3 The structural funds

Structural funds are the collective name for the funds set up to assist underdeveloped, declining or economically stagnant regions of the EU.¹⁸ They are:

- The European Regional Development Fund (ERDF): which is the central element of regional policy and was set up in 1975. The ERDF finances infrastructure projects and schemes to promote development and diversification of industry. The ERDF supports regional competitiveness, training, economic development and innovation. By 2001, the money allocated to the ERDF was €15.7bn (16.3% of the total EU budget).
- The European Social Fund (ESF): which supports human resource and equal opportunities schemes and training measures for the unemployed and young people. It was created under the original Treaty of Rome.
- The guidance section of the European Guidance and Guarantee Fund (FEOGA): which supports agricultural restructuring and some rural development activities.
- The Financial Instrument for the Fisheries Guidance: (FIFG) which promotes the modernisation of the fishing industry.
- The Cohesion Fund: which was created by the Maastricht Treaty (1992) with the aim of accelerating economic convergence in the run-up to EMU (see chapter 5). The only recipients are Ireland, Spain, Portugal and Greece.¹⁹

From small beginnings, the structural funds have grown to nearly 35% of the total budget (see chapter 5).

When the first reform of the structural funds came into effect in 1989, 5 basic “objectives” were identified, as shown in the table below.²⁰

Structural funds: Objectives (1989)

Objective	Criteria
Objective 1	Assisting underdeveloped regions.
Objective 2	Assisting regions affected by the decline of traditional industries.
Objective 3	Combating long-term unemployment (defined as more than 12 months) & the integration of young people (under 25s) into the labour markets.
Objective 4	Helping workers adapt to technological change.
Objective 5	(5a) Structural reform of agriculture. (5b) Helping rural areas.

Source: Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.

During the discussions over Agenda 2000 the Objectives were simplified to just 3, as shown in the following table.

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Structural funds: Objectives (1999)

Objective	Criteria
Objective 1	Assisting underdeveloped regions; eligible Objective 1 regions are: <ul style="list-style-type: none"> • Regions where GDP per capita is at or below 75% of the Community average. The most important criterion. • The thinly populated regions of Finland and Sweden (fewer than 8 people per sq km). • The outermost regions (French overseas departments, Canary Islands, Azores & Madeira).
Objective 2	Helping areas facing structural difficulties.
Objective 3	Education, training and employment in areas not covered by Objective 1.

Source: Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002, modified.

The bulk of spending is concentrated in Objective 1 regions, as shown in the table below.²¹

National shares of commitments made by the structural funds, 2001 (€m)

	Objectives			Total	%	Ranking
	1	2	3			
Austria	39.1	222.4	78.5	340.0	0.9	11
Belgium	22.1	159.4	250.6	432.1	1.2	=9
Denmark	-	30.0	54.2	84.2	0.2	14
Finland	136.0	75.0	59.9	270.9	0.7	13
France	654.2	1,925.4	674.8	3,254.4	9.0	5
Germany	4,075.0	921.8	680.9	5,677.7	15.7	2
Greece	3,113.4	-	-	3,113.4	8.6	=6
Ireland	652.0	-	-	652.0	1.8	8
Italy	3,363.6	412.0	556.5	4,332.1	12.0	3
Luxembourg	-	6.0	5.6	11.6	0.03	15
Netherlands	22.1	159.4	250.6	432.1	1.2	=9
Portugal	3,124.4	-	-	3,124.4	8.6	=6
Spain	9,553.5	804.0	505.8	10,863.3	29.9	1
Sweden	106.6	73.2	107.0	286.8	0.8	12
UK	1,107.7	1,554.0	678.9	3,340.6	9.2	4
Total	26,203.1	6,260.2	3,762.3	36,225.6	100.0	

Note: Totals do not add up exactly since they include small amounts not distributed to member states.

Source: Dick Leonard, *Guide to the European Union* (8th edition), Economist, 2002, quoting the European Commission.

The UK will receive over £10bn (£10.7bn) from the Structural Fund(s) in 2000-06, with the highest level of assistance available to areas with "Objective 1" status.²² The UK's Objective 1 areas are currently:

- Cornwall and the Isles of Scilly.
- Merseyside.
- South Yorkshire
- West Wales and the Valleys.

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The European Regional Development Fund (ERDF)

In the first 10 years of the operation of the ERDF, from 1975 to 1985, Ireland gained the most in terms of receipts per capita, then Greece (even though it only joined in 1981) and then Italy.

In 1985 the rules governing the ERDF were changed in order to make them more flexible and more directed towards the least-favoured regions. Instead of fixed national quotas, as had been the case to date, each country was allocated a % range. These ranges were revised in 1986 to allow for Spain and Portugal (which made a significant difference to the ranges) and in 1995 for Austria, Sweden and Finland (which did not). The ranges agreed after the accession of Spain and Portugal are shown in the table below. They show that, by country, the largest beneficiary is Italy followed by Spain, the UK, Portugal and Greece. France was also a sizeable recipient and Ireland (per capita).

ERDF allocations: ranges by country (%)

	Lower limit	Upper limit
Belgium	0.61 (10)	0.82 (10)
Denmark	0.34 (11)	0.46 (11)
France	7.47 (6)	9.96 (6)
Germany	2.55 (8)	3.40 (8)
Greece	8.35 (5)	10.64 (5)
Ireland	3.81 (7)	4.61 (7)
Italy	21.59 (1)	28.79 (1)
Luxembourg	0.04 (12)	0.06 (12)
Netherlands	0.68 (9)	0.91 (9)
Portugal	10.65 (4)	14.20 (4)
Spain	17.95 (2)	23.93 (2)
UK	14.48 (3)	19.31 (3)

Source: Dick Leonard, *Guide to the European Union* (8th edition), Economist, 2002, quoting the European Commission.

7.5.4 The impact of enlargement

The 10 new countries that joined the EU in May 2004 are, for the most part, quite poor. The 2 countries that are due to join in 2007 (Romania and Bulgaria) are very poor. The following table shows this very clearly.

Beyond the period for the current budget (2000-06), it is expected that the structural funds will be redirected from the relatively prosperous countries of the EU to the new member states. In particular, Merseyside, South Yorkshire and West Wales and the Valleys can expect to lose their "Objective 1" funding as structural funds are redirected to poorer areas in the new member states.

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**The applicant states in order of prosperity (GDP as a % of the EU average,
adjusted for purchasing power parities)**

	Population (millions) (2000)	GDP per head (% of EU average) (1999)	Contribution of agriculture to gross value added (%)
Countries that joined in 2004:			
Cyprus	0.75	82	4.2
Slovenia	1.99	71	3.6
Czech Republic	10.28	60	3.9
Malta	0.39	52	2.5
Hungary	10.04	51	4.8
Slovakia	5.40	48	4.5
Poland	38.65	39	4.0
Estonia	1.44	37	6.7
Lithuania	3.70	29	8.4
Latvia	2.42	28	4.5

Countries due to join in 2007:

Romania	22.45	27	14.8
Bulgaria	8.19	23	17.3

Other:

Turkey	64.82	29	15.0
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Source: Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002, quoting Eurostat data.

References to Chapter 7

1. Ruth Lea, *CAP: a catalogue of failure: the need for radical reform*, IoD, November 2000.
2. The European Agricultural Guidance and Guarantee Fund (EAGGF or FEOGA) was set up in 1972. It has two sections: (1) the guidance section, which pays for modernisation and improvement (about 10% of expenditure); (2) the guarantee section, which supports, wherever necessary, the prices of the main European agricultural products ensure the maintenance of farmers' incomes. (In many products, but not all, there are guaranteed prices.)
3. For more on the sad saga of CAP see (1) Ruth Lea, *CAP: a catalogue of failure: the need for radical reform*, IoD, November 2000, and (2) Michael Atkin, *Snouts in the trough*, Woodhead, 1993.
4. Ruth Lea, *CAP: a catalogue of failure: the need for radical reform*, IoD, November 2000.
5. This is taken from Ruth Lea, *The Common Fisheries Policy and the wreckage of an industry*, IoD Policy Comment, December 2002.
6. Other useful sources on the CFP include: (1) Mike Holden, *The Common Fisheries Policy*, Fishing News Books, 1994, (2) Christopher Booker and Richard North, *The Castle of Lies* (5th impression), Duckworth, January 1997.
7. According to National Statistics, *Britain 2003: the official yearbook of the United Kingdom*, TSO, 2002, "under the CFP, UK vessels have exclusive rights to

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- fish within 6 miles of the UK coast. Certain other member states have historic rights in UK waters between 6 and 12 miles. Between 12 and 200 miles, EU vessels may fish wherever they have access rights. A thorough review of the CFP occurred in 2002”.
8. This was the “Factortame” case in which Factortame, a Spanish-owned company registered in the UK to enable its owner to exploit British fishing quotas, challenged the 1988 Merchant Shipping Act. The ECJ ruled in favour of Factortame, overruling the Merchant Shipping Act.
 9. Though, at the same time, the British taxpayer (via the mechanism of the EU budget) was contributing to the building of brand-new Spanish trawlers (the “modernisation” programme).
 10. Geraint Day, *Watch out for the WEEED*, IoD Environment Comment, October 2001. Day wrote “there are about 280 legal acts relating to environmental matters in EU law”.
 11. See (1) Ruth Lea, *A competitive Britain in a competitive Europe*, IoD, 1999, and (2) Natasha Howard, “Strangled by green tape”, *Director Magazine*, September 1998.
 12. Geraint Day, *Waste not, want not?: environmental regulations*, IoD Environment Comment, April 2000.
 13. Geraint Day, *Watch out for the WEEED*, IoD Environment Comment, October 2001. Day wrote that WEEED “is being considered in parallel with a Proposed EC Directive on the Restriction of the Use of Certain Hazardous Substances (RoHS), in Electrical and Electronic Equipment”. RoHS is now a Directive that is to be enforced by July 2006.
 14. James Walsh, *Reg Alert*, IoD, July 2003.
 15. James Walsh, *Reg Alert*, IoD, July 2003.
 16. This quote is from Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998. Leach also commented “yet another theme will be the clean-up of the pollution caused by industry of the former communist countries of CEE. A rectification programme is a precondition for accession to the EU, but few outsiders understand the scale of the devastation that has been perpetuated in these countries over the last 50 years”.
 17. “Regionalism” is discussed in chapter 9.
 18. The regions have also benefited from a range of other EU sources, including the grants and loans to coal and steel areas from ECSC funds; loans from the EIB and other EU funds; and soft loans under the EMS for projects in Ireland and Italy. See Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.
 19. See annex 7: table 7/4 for data on the Cohesion Fund.
 20. An Objective 6 category was added during enlargement negotiations with Austria, Finland, Norway and Sweden to allow for assistance to be given to Arctic regions.
 21. See annex 7: table 7/5 for population data.
 22. National Statistics, *Britain 2003: the official yearbook of the United Kingdom*, TSO, 2002. National Statistics reported “there is a special programme in Northern Ireland and a transitional funding programme in the Highlands and Islands of Scotland. Both areas have Objective 1 status”.

CHAPTER EIGHT

JUSTICE, AID AND FOREIGN AND SECURITY POLICY

8.1 Introduction

This chapter covers the following policy areas:

- The area of freedom, security and justice (8.2).
- Development and aid (8.3).
- Foreign, defence and security policy (8.4).

8.2.1 Freedom, Security and Justice: introduction

This developing area is considered under two headings¹:

- A brief history (8.2.2).
- A checklist of developments under the separate headings of Freedom, Security and Justice (8.2.3).

8.2.2 Brief history

Until the Delors era, the Community steered clear of justice and home affairs issues (now known as the area of “freedom, security and justice”), accepting they were essentially the prerogative of the member states. Developments up to the Maastricht Treaty were essentially informal affairs.

In 1957 the Treaty of Rome set the free movement of persons as one of its objectives (see chapter 6). And from 1975 onwards, intergovernmental co-operation slowly began to develop outside the Community’s legal framework for dealing with immigration, the right of asylum and police and judicial co-operation. The Trevi Group (of justice ministers) initially met to discuss terrorism and internal security, but it extended its scope in 1985 to cover illegal immigration and organised crime. The Single European Act (1986) created a single market based on the four freedoms of goods and services and persons and capital (again see chapter 6). But in order to achieve “freedom of movement of persons” border controls had to be scrapped. Still outside the Community framework there was the Schengen Agreement (1985) and the Schengen Convention (1990). (Again see chapter 6.)

The Maastricht Treaty (1992) changed this state of affairs with the creation of the inter-governmental Justice and Home Affairs (JHA) as the third pillar of the EU. (The Community was the first pillar and the Common Foreign and Security Policy was the second.) The creation of JHA reflected the feeling that, as internal frontiers disappeared, external borders would have to be strengthened. There were the following areas of EU “common interest” designated by the Maastricht Treaty:

- Asylum policy.
- The crossing of external borders.
- Immigration.
- Conditions of entry and movement by third-country nationals.

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- Conditions of residence including family reunion and access to employment for third-country nationals.
- Combating unauthorised immigration and residence by third-country nationals.
- Combating drug addiction.
- Combating international fraud.
- Judicial co-operation in civil matters.
- Judicial co-operation in criminal matters.
- Customs co-operation.
- Police co-operation on information exchange within the European Police Office (Europol).

The Treaty of Amsterdam (1997) renamed Justice and Home Affairs “the area of freedom, security and justice” and defined the area more extensively than the Maastricht Treaty did. It boosted the areas of common interest and inserted a new title in the treaty: “visas, asylum, immigration and other policies related to the free movement of persons”.²

The Treaty of Amsterdam also made the following changes:

- Civil law matters, asylum and immigration became Community matters (the first pillar), with police and judicial co-operation in criminal matters remaining in the third pillar.
- It added the prevention and combating of racism and xenophobia to the third pillar.
- It brought the Schengen Agreement into the framework of the EU. The UK, Ireland (and Denmark which had a partial opt-out) indicated in various protocols that they did not wish to participate fully in all the measures relating to the area of freedom, security and justice.

The idea of “area of freedom, security and justice” may be traced back to the 1977 proposal for an “espace judiciaire européen” (“European legal area” or “European judicial area”), which was put forward by Giscard d’Estaing. The component elements of the area of freedom, security and justice were set out in an Action Plan in 1998 (“Vienna Action Plan”). In October 1999 the European Council had a special meeting in Tampere to discuss how the area of freedom, security and justice could be established. (This was a crucial meeting.) The areas of freedom, security and justice were defined as follows:

- “Freedom” encompassed the freedom of persons, human rights, measures taken against discrimination, visas and the freedom of movement of persons and questions with a bearing on asylum and immigration.
- “Security” covered measures taken against organised crime and terrorism, fraud and drug-trafficking.
- “Justice” is concerned with equal access to justice, judicial co-operation, the cross-border enforcement of judgements in civil matters, the definition of particular categories of offence and the sentences such offences carry, and mutual assistance in criminal matters.

A detailed “scoreboard” is published by the Commission giving details of these measures.

Since Amsterdam, some developments include:

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- The Vienna summit (July 1998) also endorsed improved co-operation between national judicial and police authorities, a more effective Europol and an overall strategy on migration, asylum and the reception of refugees.
- The Tampere summit (October 1999)³ also discussed “open and secure borders”, ensuring that the EU remained compliant with the Geneva Refugee Convention and other relevant human rights instruments. The summit agreed to the setting up of a “Eurojust” unit with powers to combat cross-border organised crime.
- The Treaty of Nice (2001) saw QMV being introduced for asylum issues, civil law, the free movement of legal third-country nationals, frontier controls, illegal immigration and repatriation.

All in all, the EU claims that its participation in the issues of the area of freedom, security and justice try to guarantee the free movement of EU citizens and non-EU nationals, while promising public security by combating terrorism and all forms of organised crime.

8.2.3 Freedom, Security and Justice: a checklist

Just in case there are any doubts in the reader’s minds about the reach of the EU in the area of freedom, security and justice, the following checklists will dispel those doubts.

(i) *Freedom*

- Freedom of persons and absence of border controls: the 1985 Schengen Agreement, the 1990 Schengen Convention (which came into force in 1995) and the integration of the Schengen acquis into the framework of the EU through the Treaty of Amsterdam (1997) are all relevant.
- Asylum: the Dublin Asylum Convention was signed in 1990, but only came into force in 1997. It provides for applications of asylum to be examined by whichever member state first receives the asylum-seeker, not always easy to establish in the case of illegal entrants without papers, unless there are good reasons why the case should be handled by another member state. It is designed to forestall the possibility of asylum-seekers trying one member state after another, or several member states simultaneously, in order to gain entry into the EU. The Convention has the aim of establishing a Common European Asylum System – this is picked up in the draft Constitutional Treaty.
- Human rights: the EU’s Charter of Fundamental Rights is a most extensive list of “human rights”. It was agreed in principle in the Nice Treaty, already influencing the decisions of the ECJ and is part of the draft Constitutional Treaty. See 9.3 for more.
- Anti-discrimination rights in the workplace: see chapter 6.⁴

(ii) *Security*

States place themselves in an impossible position, for by insisting on the legal inviolability of borders they only handicap their law enforcement agencies.

Jürgen Storbeck, Director of **Europol** to the British Police Federation, 21 Sept. 1999

The following points on “security” are key:⁵

- EU-wide police co-operation: this is generally developing significantly and the following lists some more formal developments.

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- **Europol** (the European Police Office): the decision to set up Europol to facilitate co-operation between police forces of member states in order to combat serious international crime, was embodied in the Maastricht treaty (1992). The Europol Convention was finally agreed in 1995 and came into force in 1998. Europol is situated in the Hague in the Netherlands. The Treaty of Amsterdam invoked the detection and prevention of organised crime for strengthening Europol.⁵
- **European Police College** (CEPOL): Europol has been followed by the creation of other police co-operation bodies, such as the European Police College. It was decided to set up CEPOL at Tampere (October 1999). CEPOL's function is to train senior police officers.
- The **European Arrest Warrant** (EAW): this policy was agreed in principle at the Laeken summit (2001), with a deadline for implementation of January 2004. The EAW is intended to speed up extradition within the EU and will supersede the current extradition procedures for offences carrying a custodial sentence for at least one year and for fugitives already sentenced to custody or detention for 4 months or more. For 32 serious offences – those carrying a sentence of at least 3 years – it will no longer be necessary to prove that the offence is recognised as such in the legal systems of both the country in which the EAW has been issued and the country in which the person charged with the offence has been apprehended (“double criminality”).⁶ Partly for this reason, the EAW is proving to be highly contentious and controversial.

(iii) Justice

The width of the proposals is such that they do not merely have a direct bearing on the sovereignty of the UK. They, in fact, result in surrendering the sovereignty of the State in relation to a range of criminal offences.

The Faculty of Advocates (Scottish barristers), evidence to the House of Lords
Select Committee on Corpus Juris

In constituting itself part of a single legal area the UK would be transferring powers, such as the issue of arrest warrants, to an external authority. Those powers were attributes of statehood. They should not be transferred without the political decision having been taken, through constitutional means, that the UK no longer wished to be regard itself as a sovereign state.

The London Criminal Courts Solicitors' Association, on Corpus Juris

[Corpus Juris is] ...an important model for the realisation of a common judicial space...against all and any criminal activity.

Don Jose-Maria Gil-Robles, president of the European Parliament (1997-99)

- **The European Judicial Network**: was set up in 1998 as a “joint action”. It is a “network of judicial contact points...between the member states”.
- **Eurojust** (the European Judicial Co-operation Unit): this was set up after a decision taken at Tampere (October 1999). The Treaty of Nice (2001) provided the legal base for Eurojust. Its role is “facilitating the proper coordination of national prosecution authorities and...supporting criminal investigations in organised crime cases...as well as...cooperating closely with the European Judicial Network.”

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- **Corpus Juris** (“body of law”): one of the most controversial developments in the “justice” area is the “Corpus Juris”. It was originally an independent report drawn up by a group of 8 academics at the behest of the Commission. The report was published, commercially, 1997 and is composed of 35 Articles. The Corpus Juris is intended to help the fight against fraud affecting the EU’s financial interests by providing a uniform code of law defining fraudulent or corrupt practices and setting out the common ground rules for legal action throughout the EU. The Treaty of Amsterdam paved its way by introducing the concept of “legal harmonisation”. Within its field the Corpus Juris, if adopted, would take precedence over national law, and would be the first instance of an autonomous body of EC criminal law. Partly for this reason the Corpus Juris has caused concern among some civil liberties experts and other opposed to the idea of an “espace judiciaire européen” (“European legal area” or “European judicial area”).
- **European Public Prosecutor’s (EPP) Office**: the Corpus Juris plan envisaged the setting up of a powerful European Public Prosecutor’s Office to which each member state’s own prosecution service would ultimately be answerable.^{7,8} The concern has been especially great in the UK where there is different system of law from the Continent.^{9,10,11}
- **Judicial co-operation**: as there is increased police co-operation in criminal matters, so there is also increased judicial co-operation in criminal matters.¹²

8.3 Development and aid

Part 4 of the Treaty of Rome (1957) provided for the association with the Community of the former colonial territories of Belgium, France, Italy and the Netherlands. Subsequently former British, Spanish and Portuguese territories became eligible. Initially this provision applied mainly to former French territories in Africa but the scope has progressively widened and there are now 78 former colonial territories involved. (This number includes South Africa, which was admitted on a qualified basis in 1977.) The former territories were originally known collectively as the Associated African States and Madagascar (AASM), but they have been known since the mid 1970s as the African, Caribbean and Pacific (ACP) states.

The first two Conventions between the EEC and the former territories were signed at Yaoundé (Cameroon) in 1963 and 1969 and they set a pattern for four subsequent ones, signed at Lomé (Togo) in 1975, 1979, 1984 and 1989. These Conventions were primarily concerned with trade and aid.

The EU-ACP Conventions have aimed to break new ground in 4 ways. They have:

- Given stability to co-operation links by creating a legal framework, based on a contract negotiated for a fixed period of years between two groupings, each comprising a large number of independent states.
- Established a single contract between regional blocs, excluding economic and ideological discrimination and taking account of the special problems of countries which are severely underdeveloped and those of enclaves and islands.
- Created common institutions allowing a permanent dialogue and largely responsible for the implementation of the development programmes: a joint assembly of MEPs and ACP representatives, an ACP-EU Council of Ministers and a Committee of Ambassadors.
- Instituted a global approach covering all aspects of co-operation: financial aid, trade concessions, stabilisation of export earnings, agricultural and industrial assistance.

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Altogether some 99.5% of types of goods exported to the EU by the ACP countries are admitted free of custom duties, the main exceptions being farm produce in direct competition with EU produced items protected by CAP. And ACP textile exports are also sharply restricted by the operation of the Multi-Fibre Arrangement (MFA). These exceptions and restrictions are of crucial concern to many developing countries.

The following table shows the breakdown of Lomé development expenditure and gives an idea of the range of aid funding. Not all the aid is development aid – some is for emergency humanitarian reasons.

Lomé IV: development expenditure, 2001

Sector	€m
National and regional indicative programme	869.4
Structural adjustment	215.5
Sysmin (about mining)	0.3
Emergency aid	17.8
Aid for refugees	41.3
Risk capital	367.0
Interest rate subsidies	8.3
Other and new initiatives	21.4
Total	1540.8

Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002, quoting the European Commission.

In June 2000, the 20-year EU-ACP Agreement was signed in Cotonou (Benin). This Agreement replaced the Lomé Convention, and focused on poverty alleviation, aid and stronger political, economic and trade co-operation. The European Development Fund (EDF) is the means whereby financial aid is granted to the ACP countries under the Cotonou Agreement.

Other aid programmes and agreements include ¹³:

- Phare Programme of Aid for Economic Restructuring for Poland and Hungary was set up in 1989. (PHARE stands for “Pologne, Hongrie, Assistance à la Réstructuration”.)
- TACIS (Technical Assistance for the Commonwealth of Independent States, CIS) was launched in 1991 for assistance to the former states of the USSR (and Mongolia).
- There are development aid programmes with non-associated Asian countries (such as India, Pakistan, Bangladesh) and Latin American countries.
- Similar development aid is provided to Mediterranean countries in the Maghreb (Algeria, Morocco and Tunisia) and Mashreq (Egypt, Jordan, Lebanon and Syria) and to Israel.

The EU’s “EuropeAid” service was set up in January 2001 and is responsible for managing the entire project cycle in all geographical areas, except the candidate countries. All in all, the EU (together with its member states) is the world’s largest donor of aid.

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8.4 Common Foreign and Security Policy

A united Europe without a common defence is, in the long run, not feasible.

Former Chancellor Kohl of Germany

Once we have a single currency we will immediately have a single foreign policy.

Michel Rocard, former French premier, September 1966

The Treaty of Amsterdam...is the continuation of the political project set in motion in the 1950s. It reinforces the Treaty of Maastricht in many aspects but its main features can be seen in the CFSP.

Elmar Brok, Chairman of the EU Parliament's Committee on Foreign Affairs, Human Rights, Common Security, and defence policy in testimony to the US Congress, November 1999

When I was talking about the European army, I was not joking...If you don't want to call it a European army...You can call it "Margaret", you can call it "Mary-Anne", you can find any name, but it is a joint effort for peace-keeping missions – the first time you have a joint, not bilateral, effort at European level.

President Prodi to the *Independent* newspaper, 4 February 2000

The Treaty of Rome (1957) made no mention of foreign policy and progress towards coordinating the foreign policy of member states had, until the Maastricht Treaty, been slow and largely informal. Progress had, however, been made continuously since 1969.

Foreign policy co-operation (which has long been known as "political co-operation") really dates from the Hague summit of 1969, when the Davignon Committee was initiated. The Davignon Report made several recommendations for "political co-operation" and was broadly accepted by the Council. With a number of adaptations over the years the Davignon Report provided the framework for "political co-operation" during the 1970s and 1980s.

There was an attempt to breathe new life into the moribund Western European Union in 1984. And the Single European Act (1986) formally committed the member states to "endeavour jointly to formulate and implement a European foreign policy". But for much of the time EU heads of government took foreign affairs initiatives and positions, which were ignored.

The collapse of communism was a new impetus to a common foreign policy. And the Maastricht Treaty (1992) provided a new framework for foreign policy. It created a second pillar of the Common Foreign and Security Policy (CFSP), the decisions of which were to be taken inter-governmentally and by unanimity.¹⁴ The Treaty stated that the CFSP should include all questions relating to the security of the EU, including the eventual framing of a common defence policy, which might in some time lead to a common defence. Decisions on defence would in the meantime be implemented on request by the WEU.¹⁵ The WEU would effectively be the "defence arm" of the EU.

Meanwhile in 1991 President François Mitterrand and Chancellor Helmut Kohl informed the President-in-Office of the European Council that they proposed to form a Franco-German brigade in which the other armed forces of the WEU

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could participate. Belgium, Luxembourg and Spain subsequently agreed to contribute troops and by 1995, when “Eurocorps” became operational, there were 50,000 committed troops.^{16, 17} The role envisaged for Eurocorps was that of peacekeeping and crisis management.

The Treaty of Amsterdam (1997) consolidated and extended the Maastricht Treaty on the CFSP. The Treaty’s changes included:¹⁸

- The appointment of a High Representative for the CFSP. He would act as secretary-general of the Council of Ministers and would have a new Policy Planning and Early Warning Unit. Javier Solana was appointed to this post in June 1999 and he was also appointed to the post of Secretary-General of the WEU in November 1999, underlining the closeness between the EU and the WEU.
- A new “troika”, consisting of the president of the Council of Ministers, the High Representative and the President of the Commission (or nominee).
- Unanimity would be retained but the concept “constructive abstention” was agreed, where a member can abstain without blocking an otherwise unanimous decision.

At the Helsinki summit in December 1999 it was decided that:

- The European Security and Defence Policy (ESDP), which was part of the CFSP, should be renamed the **Common European Security and Defence Policy (CESDP)** (This was to be in the draft European Constitution as the Common Security and Defence Policy (CSDP).)
- The EU should effectively take over the responsibilities of the WEU.
- The EU needed its own military force to back up the CFSP. The aim was to assemble a **European Rapid Reaction Force (ERRF)** of 60,000 troops with naval and air support as appropriate. The core of the ERRF was Eurocorps.¹⁹

The missions that the ERRF would fulfil would be the so-called Petersberg (sic) tasks.²⁰ They would be:

- Humanitarian and rescue tasks.
- Peacekeeping tasks.
- Tasks of combat forces in the full range of **military and civilian crisis management**, including peacemaking.

Such missions are normally carried out by NATO.²¹

A new institutional basis was established for controlling the ERRF, the Political and Security Committee (PSC). The new force was “partially operational” by December 2001.²² The member states held two “capabilities conferences”, in 2000 and 2001, at which pledges were made of troops and equipment for the force. The British contribution to the ERRF is substantial.²³

In late 2003 the UK, France and Germany agreed that the EU should have its own military planning capability independent of NATO. This was clearly a major step. The irony is that the EU failed to develop a satisfactory CFSP during the Cold War, when the USSR provided an obvious and common enemy, but seems determined to develop one now.²⁴

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References to Chapter 8

1. See Lindsay Jenkins, *The last days of Britain*, Orange State Press, 2001, for a very full account of the EU developments in the areas of security and justice from a eurosceptic stance.
2. The Amsterdam Treaty established a legal requirement for closer co-operation between member states' police and judicial authorities to combat and prevent racism, xenophobia, terrorism, organised crime, trafficking of persons and offences against children, drug trafficking, corruption and fraud.
3. "Mutual assistance in criminal matters" between the authorities (the police, the judiciary and also Customs and Excise) was the subject of a Convention adopted in May 2000, following the **Tampere summit** (October 1999). See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002.
4. Ruth Lea, *Red tape in the workplace*, IoD, May 2003.
5. See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002. Bainbridge also discusses the External Frontiers Convention, which remains unratified. This Convention deals with the treatment of nationals of non-member states at the external frontiers of the EU.
6. See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002.
7. According to Lindsay Jenkins, *The last days of Britain*, Orange State Press, 2001, the EPP's Office was included the draft Treaty of Nice – but dropped in the final treaty.
8. The draft Constitution (Article III-175) states that "...the Council of Ministers may establish a EPP's Office from Eurojust."
9. Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998. Leach wrote that the "Corpus Juris is a project designed to create an "espace judiciaire européen" in a specific field of criminal justice, with a public prosecutor, or investigating judge, having powers of arrest, committal to trial & the overruling of national prosecuting bodies. **Trial by jury** (established in England by Magna Carta in 1215) **could be threatened and habeas corpus** (the prerogative writ used to command a person who is detaining another in custody to produce that person before the court, passed in 1679) **weakened**".
10. John Stewardson, *The Ratchet: a cool look at the European Union*, June press, 2000. Stewardson discussed Corpus Juris in some detail. He wrote that "it is intended to set up a system with a European Public Prosecutor (EPP) with wide powers and overriding jurisdiction in and over all member states. This would introduce the inquisitional system of justice whereby the investigating prosecutor is a judge. The EPP would have a delegate in each state, and a Euro-warrant for arrest would be valid across the whole of the EU. The system would include "coercive measures" including detention for up to 6-9 months pending investigation. **This system would subordinate national law throughout the EU and would destroy the English safeguards of habeas corpus and trial by jury**, which have been bulwarks of our legal system for centuries, and would be an important step towards a complete, federal European system of criminal law based on Roman law and Napoleonic law".

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11. See annex 8: box 8/1 for a discussion of the differences between English Common law and European codified law and also differences in procedures in the criminal courts.
12. The draft European Constitution also talks about **judicial co-operation in civil matters**. See chapter 9.
13. For details see Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.
14. See Lindsay Jenkins, *The last days of Britain*, Orange State Press, 2001, for a very full account of the EU developments in the CFSP from a eurosceptic stance.
15. The Western European Union (WEU) is an organisation effectively founded by the Treaty of Brussels in 1948 with a secretariat in Paris. It was called the Brussels Treaty Organisation between 1948 and 1954. It is not an EC/EU institution. The WEU provides a forum for discussion and co-operation on matters of defence and security. Under the Maastricht Treaty the WEU became the “defence component of the EU” and it was agreed to move its HQ to Brussels. The current members of the WEU are Belgium, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain and the UK (10 in all). Observers are Austria, Denmark, Finland, Ireland and Sweden (5 in all). Associate members are Czech Republic, Hungary, Iceland, Norway, Poland, and Turkey (6 in all). Associate partners are Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia (7 in all). Austria, Finland, Ireland and Sweden are neutral countries.
16. Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998. Leach wrote that “Eurocorps builds upon the experience gained from the Franco-German brigade but is still some way from a European Army envisaged a key component of the European Defence Community [effectively killed off by the French Assembly in 1954].
17. EUROFOR, an international Rapid Reaction Force (comprising French, Italian, Portuguese and Spanish troops) was established in November 1996 as part of the WEU. There was also EUROMARFOR for naval operations.
18. National Statistics, *UK 2003*, TSO, 2002. This included the comment that “the Treaty of Amsterdam preserved principle of unanimity, but states that decisions implementing common strategies, which are themselves by unanimity, will be by QMV. A member state may prevent a vote being taken by QMV for “important and stated reasons of national policy”. In addition, QMV does not apply to decisions having military or defence implications”.
19. At the Franco-German summit in Toulouse in May 1999 the French and the Germans that the Eurocorps might become a European Rapid reaction Corps. Further agreement occurred at the Cologne (EU) summit in June 1999 (Germany had the Presidency) and at the Helsinki summit in December 1999.
20. They are known as Petersberg (sic) tasks because they were enumerated at a WEU conference at Petersberg (Germany) in June 1992.
21. Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998. Leach wrote “the relationship between the WEU and NATO is ambivalent. NATO’s success in deterring Soviet aggression for half a century stands in contrast to WEU’s inactivity. Nor could European forces mount any sustained action without the help of US surveillance and logistics...yet Europe longs to prove that it is a genuine

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world power, with a CFSP to match its weight and a military arm in support”.

22. At Laeken (December 2001) the European Council adopted a declaration on the operational capability of the CESDP, noting that “the development of military capabilities does not imply the creation of a European Army.”
23. National Statistics, *UK 2003*, TSO, 2002. This included the comment that “at the maximum scale of the operation, the UK could contribute up to 12,500 ground troops, 18 warships [half the Royal Navy] and 72 combat aircraft”.
24. But Europe still relies on the US and NATO for strategic defence and its defence capability compared with the US’s is, to put it kindly, “of a different order”. Meanwhile France remains determined to retain an independent nuclear capability. Meanwhile the UK clearly remains wedded to NATO and the Anglo-American alliance. The British position was all too clear during the second Gulf War (spring 2003) when the French and the Germans (backed by the Belgians) vigorously opposed the British support for the US – but note that the UK was not the only EU country backing the US.

CHAPTER NINE

FUTURE DEVELOPMENTS INCLUDING THE DRAFT EUROPEAN CONSTITUTION

9.1 Introduction

Most of this chapter is taken up by discussion of the **Draft Treaty Establishing a Constitution for Europe**, which will be referred to in this chapter as the “European Constitution” or just the “Constitution”:

- Section 9.2 introduces the Constitution.
- The main provisions are discussed in section 9.3.¹
- Section 9.4 looks at the Government’s White Paper on the Constitution (September 2003).
- Section 9.5 draws some conclusions about the European Constitution and discusses aspects of the UK referendum.

In the other two sections of this chapter two further issues are discussed:

- Another issue that has enormous potential to change the UK in forthcoming years is that of “regionalisation” – see section 9.6.
- In section 9.7, some observations are made about the EU’s economic future and the relevance for the UK.

9.2.1 Introduction to the draft Constitution

The Union stands at the crossroads, a defining moment in its existence. The unification of Europe is near. At long last, Europe is on its way to becoming one big family.

Laeken Declaration setting up the Convention on the Future of Europe
(December 2001)

Reflecting the will of the peoples and the States of Europe to build a common future, this Constitution establishes a Union, on which the Member States confer competences to attain objectives they have in common.

Text of the Constitution (Article I-1, July 2003)

Creating a single European state bound by one Constitution is the decisive task of our time.

German Foreign Minister Joschka Fischer

This is a legal revolution without precedent.

Spanish Foreign Minister Ana Palacio

The recent, unprecedented, enlargement is discussed elsewhere in this guide. The Treaty of Nice was concerned with the necessary “bureaucratic” changes such as changes to the weighting patterns in the Council of Ministers and the European Parliament but it was still widely accepted that the current institutional **mechanisms** would be too cumbersome after enlargement. At the Laeken Summit (December 2001), therefore, it was decided to set up a

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Convention for the Future of Europe, which was charged with charting a course for the enlarged EU. The Convention had 108 members with Valéry Giscard d'Estaing as chairman and Giuliano Amato and Jean-Luc Dehaene as vice-chairmen. The UK's Government representative was Peter Hain and the two British Parliamentary representatives were David Heathcoat-Amory and Gisela Stuart. It started work in February 2002 and was judged to have fulfilled its mandate by the Thessaloniki European Council in June 2003.

The Convention could have taken the "widening but not deepening" approach to the enlarged EU. In other words, it could have reduced central powers, returned (repatriated) powers to the member states and given some true substance to the concept of "subsidiarity". Instead the Convention took the opposite route: that of greater central powers, a seeping of powers away from the member states and the effective gutting of subsidiarity.² This approach was highly integrationist and the Convention produced a highly integrationist draft Constitution. Added to which the Convention proposed that more of the Council's decision-making procedures should be by QMV and not by unanimity. There is absolutely no doubt that the draft Constitution takes powers away from the member states to the central EU institutions. Moreover, the Constitution has major constitutional implications concerning the relationship between the member states and the Union.

But it should surprise no-one that this is the route that the Convention decided to take. The briefest of readings of the EU's history shows that nearly all the main drivers of the EU have wanted integration, they have wanted a single European State. And any British politician who claims (and there have been lamentably many) that the EU is "going our way" towards a looser "Europe of Nation States" is either being "economical with the truth" or fails to understand the nature of the EU.

The Convention's first stab at a draft "Constitution for Europe" was published in late October 2002. This was followed by further drafts.³ The final draft was split into four parts (see below). Valéry Giscard d'Estaing presented Parts I and II to EU leaders at Thessaloniki in June 2003 and the final versions of Parts III and IV were presented to the Italian Presidency in July 2003.⁴ (The Italians held the Presidency of the Council for the second half of 2003.)

In October 2003 the Inter-Governmental Conference (IGC) began to discuss and negotiate the final terms for the Constitution. But at the Brussels Summit in December 2003 talks broke down over voting rights, involving the Spanish and Polish Governments. Following a change of Government in Spain in March, the Constitution is "back on track" and will almost certainly be discussed at the June 2004 Dublin Summit (during the Irish Presidency) with a view to agreement. If the Constitution is signed in June 2004, then all 25 EU member states will seek to ratify the Treaty prior to enforcement.

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9.2.2 The draft Constitution: Articles

The draft Constitution comprises:⁵

- 4 Parts:
 - Part I: On the Constitutional Structure.
 - Part II: The Charter of Fundamental Rights (discussed under section 9.3 below).
 - Part III: Policies and functioning of the Union (mainly discussed under 9.3).
 - Part IV: General and final provisions.
- 2 Annexes, 5 Protocols and 2 Declarations.

9.2.3 Footnote: comparison with Philadelphia

Parallels have been made between the European Convention and the one held in Philadelphia in 1787 that drew up the American constitution. But there are very few genuine similarities.

18th century America was a very different place from 21st century Europe. The US's Founding Fathers had to find a strong form of central authority to replace the British Crown (only recently defeated), whilst the EU comprises states many of which have a long and distinguished history of independence. The tiny population of 18th century America (less than 4 million) nearly all spoke one language and shared a common political culture. Today's EU speaks many languages and its member states have different political cultures – with an especially critical rift between the UK, as maritime and global state, on the one hand, and continental European countries including France and Germany, on the other.

In the words of David Heathcoat-Amory:⁸

There is no European people, no single electorate or coherent public opinion. In short there is no European demos on which as to found a supranational democracy or federation. Nor can such a demos be created by artificial means such as European anthems, flags and information campaigns. As de Tocqueville observed, these things lie in the manners and customs of the people and are a product of history and experience.

So there are few, if any, close comparisons between the European Convention and the one held in Philadelphia in 1787 but one comparison must be made. Philadelphia was about “nation-building” – so is the draft Treaty. The draft Treaty is about building a European nation or a European country – a single European State – as Giscard d'Estaing makes very clear in his “Philadelphia moments”.⁹

9.3.1 The draft Constitution's main provisions: introduction

As is clear from the key Articles listed above the Constitution, if enforced, would extend and profoundly change the nature of the EU. The Constitutional Treaty is like no previous EU treaty for three main reasons:

- Firstly, its constitutional implications are profound. (9.3.2.)
- Secondly, there are proposals for major institutional changes. (9.3.3.)
- Thirdly, the treaty represents an unprecedented transfer of powers from the member states to the EU. (9.3.4 and 9.3.5.)

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The draft Constitutional Treaty: Key Articles

Part I: Key Articles

I-3 The Union's objectives	The Union shall work for the sustainable development of Europe based on balanced growth, a social market economy , highly competitive and aiming at full employment and social progress and with a high level of protection and improvement of the quality of the environment.
I-6 Legal personality	"The EU shall have legal personality". This is a precondition for the creation of a single European State .
I-10 Union law	States that Union law will have primacy over the law of the member states.
I-11 Categories of competence	Establishes Union dominance not only where competence is "exclusive", but also where shared.
I-13 Areas of shared competence	The term "shared" is misleading because member states can only exercise their competence where the Union has decided not to.
I-14 Coordination of economic and policies	This is irrespective of euro membership.
I-15 Common foreign and security policy	"The Union's competence...shall cover all areas of foreign policy...and security...which might lead to a common defence."
I-17 Flexibility clause	Under certain circumstances, the Union can go ahead with policies "to attain one of the objectives set by the Constitution" even if the Constitution has not provided the necessary powers.
I-18 The Union's Institutions	"The EU shall be served by a single institutional framework..." Confirms the EU institutions as components of the EU legal constitutional structure, forming the backbone of the single European State.
I-22 The Council of Ministers	Makes QMV the normal procedure, vetoes will only be retained where explicitly provide for.
I-24 Passerelle or escalator clause	Enables the Union to replace unanimity requirements by QMV.
I-25 European Commission	Confirms the role of the appointed Commission as the executive arm of the EU single European State.
I-26 The President of the European Commission	To be elected by the European Parliament.
I-27 The Union Minister of Foreign Affairs	Confirms the position of a single foreign minister.
I-32 The legal acts of the Union	The EU can create laws where it has competence that can apply directly to member states, without requiring legislation in national parliaments.
I-45 The principle of representative democracy	"Citizens are directly represented at the Union level in the EP. Member states are represented in the European Council and in the Council of Ministers by their governments."
I-59 Voluntary withdrawal from the Union ⁶	Any member can withdraw, but the process of withdrawal is expected to take 2 years.

Part III: Key Articles

III-158 to III-178	Confirms that the area of Freedom, Security and Justice comes fully under the authority of the Union. The whole area becomes justiciable by the Court of Justice, including the provisions on Eurojust and Europol.
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Part IV: Key Articles

IV-1 Symbols of the Union	Specifies the flag, the anthem, the motto ("Unity in diversity"), the currency (the €) and "Europe day" (9 May).
IV-2 Repeals earlier Treaties	
IV-7 Ratification procedures	"If, 2 years after the signature of the treaty amending the Treaty establishing the Constitution, four fifths of the member states have ratified it and one or more member states have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council".
Protocol on National Parliaments	Has the intention of involving national parliaments in the legislative procedure. ⁷
Protocol on...subsidiarity	Provision 5: effectively makes the "enhanced role for national parliaments" a meaningless concession.

Sources: British Management Data Foundation (BMDF), *An analysis of the draft treaty establishing a Constitution for Europe*, October 2003 and Norman Blackwell, *What if we say no to the EU Constitution?*, CPS, 2004.

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9.3.2 Constitutional implications of the Constitution

Chapter 3 (section 3.6) concluded that the EU was not yet a single “European State” in several important respects:

- The Community (EC) has legal personality, but the EU has not.
- The EU has no formal constitution as such but its essential structure revolved round two sets of documents:
 - The Treaty of Rome (1957), as amended by the Single European Act (1986), the Maastricht Treaty (1992), the Treaty of Amsterdam (1997) and the Treaty of Nice (2001).
 - The intergovernmental segments of the Maastricht Treaty, as amended by the Treaty of Amsterdam and the Treaty of Nice.
- EC law has supremacy over national law, as tested in the Court of Justice, but not the “EU”.
- The EU is not a single “European State” in the sense that the powers of the EU currently derive from the member states as set out in the treaties and not from some higher constitutional authority.

The Constitution, if enforced, would radically change the situation:

- The Constitution would give the EU full **legal personality** for the first time. In other words, the proposed Constitution would create a new Union, separate from member states and with its own legal personality and status, allowing it to sign international agreements and play a full part on the world stage, like a state. At present only the Community has such a capacity by treaty law.
- The European Constitution would provide for a **full written constitution**. Moreover, the EU would derive its powers from this own constitution and not be derived from the member states under the treaties. In other words, its powers would not be treaty-based.¹⁰
- EU law would have complete supremacy over national law.
- The European Constitution, as already stated, would put all the necessary legal requirements in place for the creation of a single “**European State**”. And the member states and their constitutions would be subordinate to the EU and the European Constitution.^{11,12,13} Member states would cease being fully independent and sovereign countries.
- Finally, Maastricht’s three pillars would be consigned to history and the EU would become a unitary structure.

9.3.3 Institutional changes

The Constitution not only would significantly increase the EU’s powers but it would also increase the powers of all the main individual Union institutions, with the possible exception of the Council of Ministers. The main proposals for institutional changes are:^{14, 15, 16}

- The President of the **Commission** will be elected by the European Parliament and be the EU’s “Head of State”. The Foreign Minister would be the Vice-President of the Commission.
- In the **Council of Ministers**, Qualified Majority Voting (QMV) will increasingly be the “normal” procedure in decision-making, with the number of national vetoes declining.^{17,18,19}
- The **European Council** will become part of the EU’s institutional framework, with an elected President, who would become the “Head of State” of the EU. A Foreign Minister would be appointed.
- The **European Parliament** and the **Court of Justice** will both gain power.

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9.3.4 Extensions of powers

The law-making powers of all the EU institutions would be substantially increased under the Constitution. There would be no repatriation of policies and the subsidiarity principle would have been gutted. The proposed powers (or “competences”) would represent, therefore, a huge extension of the Union’s power. This is all the more true because the Constitution has been deliberately engineered as an “enabling” constitution and the powers of the member states are not always strictly specified. **As the Constitution does not set limits to Union power, its powers would be effectively limitless and the member states’ powers would be those “permitted” by the Union.**^{20,21}

Another concern is that there would inevitably be *competence creep* (*integration creep, incrementalism*) towards ever more closely harmonised policies, which would be aided by use of the “flexibility” clause and of the “qualified majority” (“escalator”) clause.²² The extensions of power are discussed below under the following headings: (i) exclusive competences, (ii) shared competences and (iii) other major changes.

(i) *Exclusive competences*

There would be an extension of the EU’s “exclusive competences” (exclusive powers).

- The Constitution shall have exclusive competence in the following areas:
 - Competition rules necessary for the functioning of the internal market.
 - Customs Union.
 - Common Commercial Policy.
 - Monetary policy for the Eurozone.
 - The conservation of marine biological resources under the CFP.
- The ability to negotiate and sign all international agreements and treaties (eg in transport, communications, public health, energy, commercial policy and criminal justice).

(ii) *Shared competences*

There would be a new category of “shared competence”, where member states could exercise their “competence” **only if, and to the extent that, the Union had not exercised its competence**. In other words, if the Union chose to legislate in an area, member states would be unable to do so. This would probably lead to substantially increased powers in these areas for the Union at the expense of the member states. The phrase “shared competences” is, therefore, misleading. The development should be one of great concern – not least of all to business, as several of these “shared competences” relate to issues of key interest to business, including energy, social policy, transport, environment policy and consumer protection.

The “shared competences” are:

- The internal market.
- The area of freedom, security and justice.
- Agriculture and fisheries, excluding the conservation of marine biological resources.
- Transport and Trans-European Networks (TENs).
- Energy (a new competence).
- Social policy.
- Economic, social and territorial cohesion.
- Environment.
- Consumer protection.
- Common safety concerns in public health matters.

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(iii) Other powers

These include the following areas, which are of supreme significance for the country and for business (and will be discussed in more detail below):

- The **coordination of EU economic and employment policies**, whether in or out of the euro.
- The incorporation of the EU Charter of Fundamental Rights.
- Concerning the area of “**freedom, security and justice**” certain issues (including civil law matters and asylum and immigration) had already been transferred from Maastricht’s third pillar to the Community (Treaty of Amsterdam). But criminal matters, for example, remain inter-governmental. All this area would become an EU competence under the Constitution. There would inevitably be increased pressure for convergence and harmonisation of policies in this area.
- **Common Foreign and Security Policy (CFSP)** would cease being inter-governmental and would become an EU competence. There would also inevitably be increased pressure for convergence and harmonisation of foreign and security policy.

9.3.5 Competences: a checklist

In this sub-section, the main changes to the Union’s major powers by policy area as proposed in the draft Constitution are listed. The emphasis is on business issues.^{23.}

^{24,25} It is almost inevitable that, with these new competences, British business would be faced with even more regulations. And this could only undermine the economy’s competitiveness further. Below is a list of the implications for the economy and other key areas of British life of the constitution.

(i) Economic policies and related

- The Union (replacing the Community) would have exclusive competence for monetary policy, for member states that have adopted the euro.
- There would be a new competence to **promote and coordinate the economic and employment policies** of the member states. This would certainly cover the overall level of taxation, interest rates and public expenditure, as well as pensions policy and employment taxes. Social policies are also included. I have major concerns about this competence. For example, the EU has an ageing and shrinking population and this has major implications for pensions. If economic coordination accelerates, as is likely, these problems will increasingly be subject to common action, under the requirements of solidarity and burden-sharing in the European Constitution. And this could mean the UK could end up supporting pensioners in other EU states that have a worse demographic situation and large unfunded pension liabilities. (See chapter 6 for a note on pensions.) It is this sort of development that could lead to the British Government requesting withdrawal from the Union.

(ii) External trade

- The Union (replacing the Community) would have exclusive competence for the **common commercial policy**.
- The Union would have exclusive competence (replacing the Community) for the **customs union**.

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(iii) Internal market, taxation, competition and research

- The Union would “share competence” for the **internal market**. Internal market issues are decided by QMV.
- If agreed by unanimity, measures on **company taxation** relating to administrative co-operation or combating tax fraud and tax evasion could be adopted by QMV. This could well be the “thin end of the wedge” for converting company tax decisions by unanimity to QMV. (All taxes are currently decided by unanimity.)
- The Union currently has exclusive competence for the **competition rules** necessary for the functioning of the internal market.
- The Union would draw up a **space policy** to promote scientific and technical progress.

(iv) Social policies and related

- The Union would “share competence” for social policy.
- The incorporation of the **EU Charter of Fundamental Rights**. The “Charter” is very widely, and vaguely, drawn and contains an extensive list of social and economic rights. It entrenches the 1951 Geneva Convention. When the rights become subject to the jurisdiction of the European Court of Justice (ECJ), there would be a new mechanism for the consolidating power at Union level. The Charter would, for example, inevitably influence the ECJ’s adjudications on employment law. It would initially only apply to the Union and its agencies and would apply to member states only when they are implementing Union law, but, given EU competence creep and the integrationist forces at work within the EU, this isn’t really much of a guarantee.²⁶
- The EU would also accede to the European Convention on Human Rights (ECHR, the foundation of the UK Human Rights Act (1998)). But as the Charter and ECHR are not consistent then there will inevitably be conflicts.²⁷
- The **Charter** has major implications for employment law (eg it includes the right to strike and the right to “fair and just working conditions”).²⁸ See annex 9 for more on the Charter.
- The potential strengthening of the unions (under Article I-47 on social partners) could add to managements’ problems.
- Social policy is currently subject to QMV except for issues (1) social security and the social protection of workers, (2) protection of workers where their employment contract is terminated, (3) representation and collective defence of the interests of workers and employers and (4) conditions of employment for third-country nationals legally residing in Community territory”. In other words, unanimity currently applies in these four areas. The Constitution would introduce a change. The Council would be able to act by QMV, if it had first unanimously agreed to do so.

(v) Energy and transport

- The Union would “share competence” for **energy**. This is a completely new competence and one of potentially great significance. QMV would apply. In time of crisis, North Sea Oil could become a common resource. Union policy on energy shall aim to:
 - Ensure the functioning of the energy market.
 - Ensure security of energy supply in the Union.

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- Promote energy efficiency and saving and the development of new and renewable forms of energy.
- The Union would “share competence” for **transport** and Trans-European Networks. QMV applies.

(vi) Consumer protection and public health

- The Union would “share competence” for **consumer protection**. Decisions are made by QMV.
- The Union would “share competence” for common safety concerns in **public health** matters. Decisions are made by QMV.

(vii) Agriculture and fisheries

- There would be a **common agriculture and fisheries policy** (CAFP). These issues are currently determined by QMV. The Union would “share competence” for agriculture and fisheries.
- The Union would have exclusive competence for the conservation of marine biological resources under the CFP. This is a new competence.

(viii) Environment and regional policy

- The Union would “share competence” for **environmental** policy.
- Currently QMV applies to all environment areas except to planning, water management, land management and choices between energy sources – these are currently decided by unanimity. The Constitution would introduce a change. The Council would be able to act by QMV, if it had first unanimously agreed to do so.
- The Union would “share competence” in the policy area of economic, social and territorial cohesion. Most of these policies are discharged through various structural funds.

(ix) Freedom, security and justice

- The Union would “share competence” in the area of freedom, security and justice.
- Concerning the area of “**freedom, security and justice**” certain issues (including civil law matters and asylum and immigration) had already been transferred from Maastricht’s third pillar to the Community (under the Treaty of Amsterdam). But criminal matters, for example, remained inter-governmental. The Constitution would transfer all other policy issues in this area into the main body of the EU.
- The Union would develop a common policy on **asylum** and a common policy on **immigration**.
- The Union would develop judicial co-operation in **civil matters** having cross-border implications. Such co-operation would include the adoption of measures for the “approximation” of the laws and regulations in member states.
- The Union would develop judicial co-operation in **criminal matters** and include the adoption of measures for the “approximation” of the laws and regulations in member states.²⁹
- The Constitution provides for a **European Public Prosecutor** (EPP) with powers of investigation and prosecution in each member state.
- There would be the expansion of the role of Eurojust (the existing joint prosecuting authority) and extra tasks for Europol (which deals with co-

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operation between police forces). The rules of Eurojust and Europol would be decided by QMV instead of the present unanimity. Indeed all decisions will be by QMV under this area.

- In connection with the fight against organised crime, terrorism and trafficking in human beings, EU laws may define a framework for measures with regard to capital movements and payments, such as the freezing of funds etc.

(x) *Common Foreign and Security policy*

- **Common Foreign and Security Policy (CFSP)** would cease being inter-governmental and would be Union competence. The CFSP part of the draft Constitution includes a very general “solidarity clause” and a proposal for an ever-increasing degree of convergence of member states’ actions. Member states, acting in international conferences, would be expected to support the Union’s interests. They would be required to ‘actively and unreservedly support’ the CFSP ‘in a spirit of loyalty and mutual solidarity’.
- The European Council would identify the Union’s CFSP’s strategic interests unanimously, but the actual policy will be decided by QMV.
- The Articles on defence require that member states make military and civilian capabilities available to the Common Security and Defence policy (CSDP) (formerly the **European Security and Defence Policy (ESDP)**). There is no doubt that the Constitution represents a further step towards a militarised Union, independent from NATO.
- There would also be a permanent Foreign Minister, who would conduct the Union’s foreign and security policy (see institutional changes above).

9.4 The UK Government’s White Paper

We must end this nonsense of ‘this far and no further’.

PM Tony Blair, Cardiff, November 2002

...the objective for Britain...is a Europe that is strong, effective and democratic. This requires a strengthening of Europe at every level: Council, Commission, Parliament and Court. And the test we should apply to each issue is not whether it tilts the balance towards national Governments or European Government. But rather in each case: does it strengthen Europe; does it make it more effective; does it make it more democratic?

PM Tony Blair, Cardiff, November 2002

The Treaty will not, however, change the fundamental relationship between the EU and the member states. Nor will it change the basic principles of the Union, such as the conferral of competences by the member states.

The Government’s White Paper, “A Constitutional Treaty for the EU” (Cm 5934, September 2003)

Anyone in Britain who claims the Constitution will not change things is trying to sweeten the pill for those who don’t want to see a bigger role for Europe. The Constitution is not just an intellectual exercise. It will quickly change people’s lives.

Former Italian Prime Minister Lamberto Dini.

The UK Government brought out its White Paper on the European Constitution in September 2003.³⁰ Its main points were as follows:

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- The Government was broadly welcoming to the European Constitution and made light of the huge Constitutional changes, as shown in the second quotation above.
- The Government specified their ‘red line’ issues, where they will insist on retaining unanimity for voting.³¹ They were:
 - Treaty changes.
 - Taxation.
 - Social security.
 - The European Security and Defence Policy (ESDP) – “defence”.
 - “Key areas of criminal procedural law”.
 - “Own resources” (concerning the rebate, see chapter 5).
 - They added that unanimity must remain the general rule for the CFSP, as proposed in the final text of the European Constitution.
 - They also added that the Government would not give up the UK’s right to carry out frontier controls and Protocols that safeguard the UK’s position. (The current Schengen protocols, providing the UK with its opt-out, will formally have to be added to the draft Constitution.)
 - The Charter of Fundamental Rights was not a red line issue. The White Paper said that the Government would make a final decision on the Charter “only in the light of the overall picture at the IGC”.
 - The White Paper made some mildly sceptical noises about the plan to allow the EU to co-ordinate the economic policies of member states, but it failed to state that the Government would oppose this proposal.
- The White Paper was broadly in favour of legal personality for EU, but said that certain aspects of JHA and representation in international organisations (e.g. Security Council seat) must be safeguarded.
- Perhaps the most worrying aspect of the White Paper was its complete silence on issues that are of vital importance to British business. For example, there was no explanation of the new ‘shared competence’, which would only allow Member States to act to the extent that the EU had chosen not to do so.
- The “escalator clause” **was** mentioned along with a statement that anything undermining the role of national parliaments in Treaty changes would be opposed (paragraph 62). The ‘escalator clause’ would allow the European Council to replace unanimity requirements with QMV in any area it wished without seeking the consent of national parliaments or the European Parliament (clause 24). The escalator clause would put the remaining vetoes permanently under threat.
- On competences the White Paper did not make it clear whether the Government supported, for example, the new EU competence on energy. Instead, the White Paper said the Government ‘will need to consider, on a case by case basis, whether the conferral of specific powers on the EU is the best way’. The author’s view is that the Government has had ample time to consider these issues. The White Paper should have set out a clear position on each ‘competence’, especially as the extension of the Union’s competences (including those affecting business) is so great.

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9.5.1 A referendum on the Constitution

There can be no doubt that the Constitution proposes many profound changes to the EU and its relationship with the member states and is no mere “tidying up” of previous treaties.^{32,33} As such there case for a referendum was overwhelming.

Several countries have already announced they are having referenda and others are as yet undecided, as shown in the table (below). PM Blair, announced a referendum for the UK in April 2004 after some spirited campaigning by concerned democrats.³⁴

EU25 countries and those holding a referendum on the Constitution

Country	Will there be a referendum?	Major EU-related referenda
Austria	No	1994 – EU membership
Belgium	Undecided	
Denmark	Yes	1972 – EC membership 1986 – Single European Act 1992 – Maastricht Treaty [No] 1993 – Maastricht Treaty (without-outs) 1998 – Treaty of Amsterdam 2000 – EMU membership [No]
Finland	Unlikely	1994 – EU membership
France	Undecided	1972- EC enlargement 1992 – Maastricht Treaty
Germany	No	
Greece	No	
Ireland	Yes	1972 – EC membership 1986 – Single European Act 1992 – Maastricht Treaty 1998 – Treaty of Amsterdam 2001 – Treaty of Nice [No] 2002 – Treaty of Nice
Italy	No	
Luxembourg	Very likely	
Netherlands	Likely	
Portugal	Undecided	
Spain	Likely	
Sweden	No	1994 – EU membership 2003 – EMU membership [No]
UK	Yes	1975 – EC membership
New Countries:		
Cyprus	No	
Czech Republic	No	2003 – EU membership
Estonia	Undecided	2003 – EU membership
Hungary	Unlikely	2003 – EU membership
Latvia	Undecided	2003 – EU membership
Lithuania	Undecided	2003 – EU membership
Malta	No	2003 – EU membership
Poland	Undecided	2003 – EU membership
Slovakia	Unlikely	2003 – EU membership
Slovenia	Undecided	2003 – EU membership

Source: Centre for European Policy Studies (CEPS) et al, *Referenda on EU Constitution – let the people vote?* from the website: www.euractiv.com

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9.5.2 Options for the UK

The timing of a British referendum is, at the time of writing, uncertain. It is dependent on when (or even if) the Constitution is agreed by the 25 members of the EU. But assuming the referendum occurs, there would be broadly four options for the UK, as outlined in the matrix below.

	The UK's four options	
	UK votes "yes"	UK votes "no"
Treaty not enforced	Status quo, but an opportunity for the EU to reform.	Status quo, but an opportunity for the EU to reform – possibly driven by the UK seeking a more flexible EU.
Treaty enforced*	UK a full member of the EU, under the new Constitution.	The UK would probably negotiate a reformed EU membership.

* This would need the assent of all 25 member states, including those which may have failed to ratify the Treaty. Note also Article IV/7 of the Treaty "If, 2 years after the signature of the treaty amending the Treaty establishing the Constitution, four fifths of the member states have ratified it and one or more member states have encountered difficulties in proceeding with ratification, the matter shall be referred to the European Council".³⁵

This is not the place to consider every permutation, combination and speculation about what may or may not happen with the Constitution. But the following general comments give a flavour of what, can be expected to happen:

- If the Treaty is not enforced, whether the UK votes "yes" or "no", then this should give the EU time to reflect. The failure of this Constitution could potentially be very disruptive to the EU. But disaster can be averted and, in particular, thought should be given to developing a much less centralist EU.³⁶ A "no" vote in the UK could, in particular, stimulate debate on the need for reforming EU membership – possibly along the lines of a looser, much more flexible organisation. (See annex 1/B on "flexibility".)
- If the Treaty is enforced and the UK votes "yes", then the EU would still be advised to slacken its centralist tendencies – especially in the light of the poor economic outlook of many over-regulated EU member states.
- If the Treaty is enforced and the UK votes "no", then the UK would probably negotiate reformed terms of EU membership, with an emphasis on flexibility. There is absolutely no need to leave.³⁷ Norman Blackwell has already considered some options.³⁸ There are, of course, many options here – of which the "Norwegian" option (in the EEA and single market) and the "Swiss" option (involving trade and freedom of movement) are but two.

9.6 A Europe of the Regions

Another development that is undermining the concept of the nation state within the EU is the EU policy of regionalism³⁹ (or regionalisation), where countries are being "redefined" as regions of the EU. In other words, regionalism" is a policy where "countries" are replaced by regions and regions are seen as the natural constituents of the EU and not the countries. Countries, indeed, are arguably intended to "fade away". The Committee of the Regions (see chapter 3) is part of the EU policy of "regionalism". And it is, for example, the case that in documents by the English Regional Development Agencies (RDAs) they write that the "North West" is, for example, a region of the EU and not an English region.

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The UK has already been broken up into 12 regions, which are:

- Scotland.
- Wales.
- Northern Ireland.
- 9 regions of England:
 - North East.
 - North West.
 - Yorkshire and Humberside.
 - East Midlands.
 - West Midlands.
 - Eastern Region.
 - South East.
 - South West.
 - London.

Some key dates in the regionalisation of the UK (including “devolution”) are:

- 1998: Northern Irish Assembly opened (currently suspended – and note that Northern Ireland had previously experienced devolution).
- 1999: Scottish Parliament opened.
- 1999: National Assembly for Wales opened.
- 1999: 8 English Regional Development Agencies (RDAs) were set up (excluding London). Regional Chambers and first met.
- 2000: London Development Agency (LDA) set up.
- 2004: planned referenda in three English regions for Regional Assemblies – North East, North West and Yorkshire and the Humber.

The RDAs coordinate land use, transport, economic development, agriculture, energy and waste and are overseen by Regional Chambers. The next step to regionalisation will be the (possible) setting up of Regional Assemblies for the English regions, though these will depend on the outcomes of the regional referenda. Just how many of the English regions will vote for Regional Assemblies is unknown; there may only be a very few – if any. One problem is that there is very little sense of allegiance to “regions” in England, possibly outside the North East. If you take the North West, for example, the intense rivalry between Manchester and Liverpool makes it difficult to talk of North Western regional integration.

Though ministers deny it, there seems little doubt that the drive towards Regional Assemblies is at least partly motivated by a vision of a more continental form of governance in the UK. The Government’s 2002 White Paper⁴⁰ on the regions certainly implies this:

[Our proposals] also make sense within a wider context. The UK has for several centuries operated on the basis of a centralised constitution. This contrasts with the framework of most other European states, particularly in the post-war period during which regional tiers of government have played an increasingly important role. Indeed the English regions outside London – home for some 40 million people – are now virtually the only regions in Europe which do not enjoy some form of regional democracy or some form of regional representation.

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So the UK, in general, and England, in particular, are being dismembered. And their constituent parts (Scotland, Wales, Northern Ireland and the English regions) are being absorbed into a “European State of the Regions”. British power is being delegated upwards to the EU and downwards to the constituent parts. In five to ten years time there is a risk that there very little original legislative work left for Westminster to do.⁴¹

9.7.1 Europe’s economic prospects

Western Europe’s economic prospects do not look promising. Slow economic growth, over-regulated economies, adverse demographic developments and a rising pensions burden, which could well be shared throughout the Union, do not augur well. And, worst of all, there seems little appetite for reform.⁴² The declining global competitiveness of countries burdened by the over-regulated European Social Model, with its sluggish growth and high unemployment has serious implications for the UK, as the area is such a major trading partner.

Though this model is not “socialist” in the sense of having the state ownership of the means of production, it is “socialist” in the sense of emphasising workers’ rights, social partnership and other regulations. It drives the social policies of the EU and is, moreover, enshrined in the draft Constitution.^{43,44}

In recent years, the major eurozone economies have been comprehensively out-performed by the USA, and even the UK, as the table below shows.⁴⁵

GDP growth rates (cumulative 1993=100)

	1993=100	2003 (estimate)
US	100	137.6
Japan	100	114.0
Germany	100	114.8
France	100	122.6
Italy	100	118.9
UK	100	131.5

Sources:OECD, *Economic Outlook*, June 2003 and December 2003.

As the next table shows, the prospects do not improve for the major eurozone economies, in relative terms, in the near-term.

GDP growth rates and unemployment rates for selected countries

	Real GDP (%)		Unemployment rate (%)	
	2004	2005	2004	2005
US	4.6	3.7	5.6	5.3
Japan	3.0	1.7	5.0	4.9
Germany	1.6	1.7	10.3	10.0
France	1.7	2.1	9.6	9.4
Italy	1.1	1.9	8.5	8.3
UK	3.1	2.6	2.9	2.9

Source: Consensus Economics, *Consensus Forecasts*, 8 April 2004. Please note the unemployment data are not strictly comparable – taking ILO data for the UK gives unemployment nearer to 5%.

The draft Constitution’s extensions of EU power, including the Charter of Fundamental Rights, the coordination of economic and employment policies as

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well the discredited European Social Model, should be viewed with concern by all those wishing to see an economically vibrant EU.

One concerned person is the economist Georges de Menil (Professor of Economics, École des Hautes Études en Sciences Sociales), who has written:⁴⁶

The European Constitution has profound implications for its economy and for the euro...Part II of the Constitution presents a serious step backwards or competitiveness and flexibility. It creates a bill of social rights, enforceable by the ECJ. Article II-34, for instance, recognises an entitlement to a cornucopia of social benefits, without regard to cost, in a long list of circumstances including old age and loss of employment. The drafters of the constitution contend that enforcement of these social rights will be restricted to actions resulting from EU law. But that is cold comfort. In time, the reach of those laws will inevitably expand and reforming the welfare state will become a much more arduous task.

Looking beyond the near-term, prospects for Europe remain discouraging. In the course of an interview with *Figaro Magazine* Denis MacShane,⁴⁷ the British Minister for Europe, was quoted as saying:

...today the European [EU 15] economy produces 20% less than the US economy...according to economists at the Foreign Office, by 2010 the European economy will produce 40% less than the US economy...

At the same rate of underperformance, by 2020 the US economy would be well over twice as big as that of the EU, and, by 2050, almost four times as big.

France's most prestigious think-tank (Paris-based Institut Français des Relations Internationales, Ifri) has also entered the debate.⁴⁸ Ifri concluded that, unless it changes its policies, the EU will fail totally to rival the US and will soon enter a downward spiral of relative economic decline.

Ifri's report *World Trade in the 21st century* concluded that:

The enlargement of the EU won't suffice to guarantee parity with the US. The EU will weigh less heavily on the process of globalisation and a slow but inexorable movement onto 'history's exit ramp' is foreseeable.

Ifri forecasts that by 2050 Europe's share of world trade will shrink to 12%, against 22% now, and the euro will be regarded as a second-class currency. Over this period North America will maintain its "technological hegemony" and greater China, including Taiwan, will come to account for almost a quarter of the world's economy. Ifri blames Europe's problems on two factors:

- Demographic decline, with a fall in Europe's active population from 331m to 243m.
- The likelihood that North America will continue to suck in the lion's share of the world's savings because of a better earnings outlook.

It is widely expected that the economic impact on the EU of the recent **enlargement** will be very modest. The ten new members will only bring a very

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modest increase in markets for other members because they are relatively poor. The combined GDP of the ten new countries is similar to that of the Netherlands and amounts to less than five per cent of total EU GDP. And, in any case, free trade agreements have already been in place for several years. The new entrants may attract some extra inward investment but the adoption of the *acquis communautaire* and all its regulations could prove counter-productive.

In addition, the new members will not be receiving the generous agricultural subsidies and regional, structural and cohesion grants that an earlier generation of accession countries received.⁴⁹ The budget ceiling for 2000-06 (seven year period) has been frozen at 1.27% of GNP despite the accession of some very poor states. (See chapter 5.) And beyond 2006, the willingness of Germany, the major paymaster of the EU, to agree to large extra payments to the EU must be doubted.

9.7.2 And the UK?

The UK should have a reasonably bright economic future, though its economy is being burdened with extra taxes, a rapidly expanding public sector and extra regulations that are all undermining competitiveness. The UK/US “Anglo-Saxon” entrepreneurial model is being replaced by the failed European Social Model and the draft Constitution, if enforced, would provide a further kick in that direction.

However, the demographic situation is not so bad in the UK and the UK does not have the quite the size of the unfunded pensions time bombs that the major eurozone economies have – though the British tax-payer may end up part-paying for them. Moreover, despite the onslaught from the “Work-Life Balance” protagonists and assorted trade union leaders, the British workforce still seems prepared to work “average” hours (on a global comparison), compared with the very short working weeks now common on the Continent.⁵⁰

But let us not be complacent. Not merely will the European Constitution, if we agree to it, lock us into a single “European State (of the Regions)” it will lock us into a “Socialist European State (of the Regions)”. This is a double whammy for the UK: the end of political independence and the imposition of socialist anti-business policies.

References to Chapter 9

1. For an excellent guide to the legal aspects of the Constitution see Martin Howe, *A Constitution for Europe: a legal assessment of the draft treaty*, Congress for Democracy, November 2003.
2. Subsidiarity was introduced in the Maastricht Treaty and is the idea of limiting EU action to what is strictly necessary. Under the Constitution the subsidiarity principle would become only a suggestion. If a third of national parliaments request it “...the Commission shall review its proposals...after such a review, the Commission may decide to maintain, amend or withdraw its proposal.” See David Heathcoat-Amory, *The European Constitution and what it means for Britain*, CPS, 2003.
3. Rosemary Righter wrote in the *Times*, 25 February, 2003, of one draft: “...the draft is so frankly and robustly integrationist that, unless it is radically

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amended, its effect will be to strip national self-government of all but residual meaning.” In other words, it would arguably spell the end of independent, sovereign and democratic nation states. The European Constitution would create a state and the member states would be effectively reduced to having “sub-national” status. For the UK, this would mark the end of a thousand years of history as a free and self-governing nation.

4. All Parts of the Constitution have been presented to Parliament in Command papers: No. 5872 on 7 July 2003, containing Parts I and II, and No. 5897 on 12 August 2003 containing all Parts.
5. See (1) British Management Data Foundation (BMDF), *An analysis of the draft treaty establishing a Constitution for Europe*, October 2003. The BMDF’s document is especially useful – a “must have”. See also (2) The Federal Trust, *Guide to the new Constitutional Treaty*, 2003 and (3) Norman Blackwell, *What if we say no to the EU Constitution?*, CPS, 2004, quoted in “What the Constitution says – and what it really means”, *Sunday Telegraph*, 25 April 2004. See also annex 9/1.
6. The voluntary withdrawal agreement would be decided by the Council of Ministers (excluding the representatives from the member state that has requested withdrawal) on behalf of the Union, by QMV, after obtaining the consent of the European Parliament. It is clearly vital that there should be such a clause because no-one can be sure how economic, social and political matters will develop in the EU. But any negotiations could be costly and protracted.
7. As a sop to national parliaments, all legislative proposals from the Commission would be forwarded to the national parliaments of the member states. If/where at least one third of all national parliaments argue for non-compliance, the Commission would have to “review” its proposal. After such a review, the Commission may decide to maintain, amend or withdraw its proposal. This is the Constitution’s apology for the principle of “subsidiarity”.
8. David Heathcoat-Amory, *The European Constitution and what it means for Britain*, CPS, 2003. Alexis De Tocqueville (1805-59) was a French historian and politician and the author of “Democracy in America”.
9. The Government has persisted in describing the Treaty as a “tidying up”. But Giscard will have none of this. See “Tidying up, Mr Blair? That’s not what Giscard says”, *Daily Mail*, 17 May 2003.
10. “A federal constitution with the heart of a manifesto”, *Daily Telegraph*, 28 July 2003. This article explained why the Constitution is not a mere “tidying up”. The author wrote that there were two ways of answering the “charge” that it was. The **first** was to list the significant additions. And the **second**, potentially far more important, was the fundamental change that was that the powers of the EU, which were previously based on treaties, would now be based on a “constitution”. With this change the EU crossed the Rubicon, from something that could not legally be considered as a state to something that most definitely could. Any organisation based on treaties (eg NATO) drew its authority from two things: (1) the will of the sovereign states that signed the treaty, and (2) the principles of international law under which treaties operated. The author wrote “this constitution will also be brought in by treaty, but it will be a final, self-denying treaty (repealing all previous treaties) and will ensure that the authority of the EU will, from that moment onwards, no longer be treaty-based”. He quoted Article I/1: ‘This

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Constitution establishes the European Union' and commented "in other words, the authority of the EU will now be located in its own governing document. Any disputes about that authority will have to be dealt with not under international law, but by the EU's own constitutional court. In the political realm only states have constitutions – and the definition of a sovereign state is that its own constitution is not subject to the authority of any higher constitution. The EU will be a state – its own president, foreign minister and foreign policy, as well as its parliament, supreme court, flag, anthem and currency. It will fit the criteria of a sovereign state. The member states, whose constitutions will be subject to the authority of a higher constitution, will not".

11. The EU would be the de facto "European State", with its own president, foreign minister and foreign policy, as well as its parliament, supreme court, flag, anthem and currency.
12. The omission of the "F-word" (Federal or Federation) from the draft Constitution is entirely irrelevant; it is a red herring.
13. David Heathcoat-Amory, *The European Constitution and what it means for Britain*, CPS, 2003. See also David Heathcoat-Amory, *The EU Constitution: what it means for me*, Politeia, 2003, which states that the Constitution represents "a transfer of responsibilities and powers to the Union on a scale far surpassing all the amending treaties in the past".
14. The Federal Trust, *Guide to the new Constitutional Treaty*, 2003.
15. Miller, *The Convention on the Future of Europe: institutional reform*, House of Commons Library, research paper 03/56, June 2003.
16. See annex 9/2, for details.
17. Commission President Prodi has made it very clear that he regards vetoes as a nuisance as they can lead to "deadlock" in policy-making. The Commission's response to the draft Treaty is to remove further vetoes – a cynic would suggest that this is playing games.
18. David Heathcoat-Amory, *The European Constitution and what it means for Britain*, CPS, 2003, accompanying 2-page synopsis released by the CPS. The synopsis shows that QMV would become the norm and would be extended in more than 20 areas where the national veto currently exists, including: criminal justice and policing, asylum and immigration, social security (some areas), intellectual property, energy, culture, civil protection, certain aspects of company taxation and initiatives by the European Foreign Minister. See also (2) British Data Management Foundation, *And analysis of the Draft Treaty establishing a Constitution for Europe*, BDMF, 2003, for a comprehensive list of changes from unanimity to qualified majority.
19. "Blueprint for a superpower for Europe", *Daily Telegraph*, 10 September 2003, reported that the Constitution had removed the veto from roughly 40 new areas. The author calculates that there are only about 20 areas in the Treaty where the veto is retained.
20. Norman Blackwell's *A defining moment?*, CPS, February 2003, was one of the first introductions to the Treaty.
21. See Ruth Lea, *The Convention of the Future of Europe and the Constitutional Treaty*, IoD Business Comment, May 2003.
22. There are also Rubber Articles, which are discussed in chapter 6. They are Articles that were designed for the single market, but used in order to advance other aims of the EU.

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23. See Ruth Lea, *The draft Constitutional Treaty: a summer update*, IoD Business Comment, July 2003.
24. British Management Data Foundation (BMDF), *An analysis of the draft treaty establishing a Constitution for Europe*, October 2003.
25. The BMDF estimates that, with the widening spread of competences given to the Commission, the Constitution's proposed competences would encompass up to as many as 60-70% of all Government policy fields.
26. Keith Vaz (ex-Minister for Europe) claimed that the Charter would "have no more legal standing than the Beano". He must have known that he was being "economical with the truth".
27. This is quite simply a lawyers' paradise. They, if no one else, benefit from the "human rights" culture of which the Human Rights Act (1998) was one of its most egregious developments.
28. See also, for example, Ruth Lea, *Red tape in the workplace*, IoD, May 2003.
29. The further moves towards the "approximation" of criminal laws leads to the possibility that criminal procedures will be harmonised, including the rules of evidence in trials and the rights of the accused. This is especially important for the UK with its Common Law system rather than the continent's inquisitorial system – see chapter 8.
30. FCO, *A Constitutional Treaty for the EU: The British Approach to the EU Intergovernmental Conference 2003 (White Paper)*, Cm 5934, September 2003. The Prime Minister's quote in the box at the beginning of this section shows he has no interest in maintaining the UK as an independent, sovereign country in which Parliament still has the vestiges of supremacy over the EU. He is much more concerned about building a strong, "democratic" Europe. Whatever this may mean.
31. The draft Constitutional Treaty retains the veto in these areas, albeit not with 100% coverage. (An element of QMV has crept into taxation, for example.) If the Government managed to preserve the status quo of the current draft Treaty, they could claim to have effectively preserved most of their "red lines". This is essentially what happened at the Brussels Summit of December 2003.
32. See "reference 9", above.
33. See annex 9/4 for a synopsis of the Constitution's major proposals.
34. These included Vote-2004 as well as parts of the press, including the Daily Mail.
35. Paul Eastham, "Eurocrat's swipe at Britain", Daily Mail, 3 May 2004. Eastham reported that Pascal Lamy suggested countries that failed to ratify the treaty could be relegated to a "rearguard" of nations with similar status to Switzerland – whilst, by implication, other countries would move on. Eastham also reported that "Romano Prodi had said that the legal ramifications of a "no" vote were not yet clear, but he had left no doubt that he did not expect the other member states to abandon the Constitution if Britain turned it down."
36. See, for example, European Convention, *There is another way: The Europe of Democracies*, Proposal for a Common Alternative Laeken mandated Minority report, May 2003. The minority report was contributed by five members of the Convention including David Heathcoat-Amory and Jens-Peter Bonde.
37. Giscard d'Estaing made it quite clear that a "no" vote in the UK would not require the UK to leave the EU. (BBC R4, Today programme, 29 April 2004.)

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38. Norman Blackwell, *What if we say no to the EU Constitution?*, CPS, 2004.
39. See (1) Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin books, 2002, and (2) Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998.
40. ODPM, *Your Region, Your Choice: revitalising the English regions*, Cm 5511, May 2002.
41. Another act of trying to destroy people's sense of "allegiance", this time to counties, occurred with the redrawing of the county boundaries in 1974, with the enforcement of the Local Government Act (1972). It was an act of historical vandalism and ignorance of people's sense of local pride. And all in the name of reform and, no doubt, "modernisation".
42. Dominic Cummings, "A transformed relationship", *Crossbow*, Summer 2004, argues that "the EU faces years of stagnation if it continues with its present stale approach.
43. The Social Market Model is explicitly enshrined in Article I-3, as quoted earlier in this chapter.
44. See Bill Jamieson, *A Constitution to destroy Europe*, The Bruges Group, September 2003.
45. And this omits China, the new colossus, the new "workshop of the world", which has been growing at an annual rate of 8% plus for the last decade. India, too, is becoming a major "world player".
46. Georges de Menil, "Europe's reforms will curb economic flexibility", *Financial Times*, 4 August 2003.
47. "EU economic decline to continue, says MacShane", *Eurofacts*, 16 May 2003.
48. "EU heading for history's 'exit ramp'", *Eurofacts*, 30 May 2003.
49. Spain, Portugal, Ireland and Greece.
50. See Ruth Lea, *The work-life balance...and all that*, IoD, April 2001. It's not so much that the UK has a "long hours culture", it's that Continental Europe has a "short hours culture". France, of course, has the 35-hour week.

ANNEX 1A

KEY DATES

The 1940s and 1950s

Date	Event
1946	September: Winston Churchill's speech in Zurich advocating a kind of "United States of Europe".
1947	March: Belgium, the Netherlands and Luxembourg agree to set up a customs union. October: creation of Benelux economic union.
1948	Brussels Treaty Organisation (Belgium, France, Netherlands and the UK), creating the Brussels Treaty Organisation. The European Movement organised the Congress of Europe (in the Hague), which led to the establishment of the Council of Europe.
1949	April: NATO created. May: Council of Europe created with 10 members.
1950	May: Schuman Declaration, proposing that French and German coal and steel be placed under a common Authority. (The "Schuman Plan".) October: Plevin plan for a European Defence Community (EDC).
1951	April: Treaty of Paris, establishing the European Coal and Steel Community (ECSC) , signed by France, Germany, Italy, the Netherlands, Belgium, Luxembourg ("the Six").
1952	May: EDC Treaty signed by the six ECSC countries. July: ECSC came into effect (in Luxembourg).
1954	August: EDC Treaty rejected by French Parliament, EDC abandoned. October: the Western European Union (WEU) formed when Brussels Treaty Organisation (1948) was extended to include West Germany and Italy. December: UK and ECSC sign an association agreement.
1955	West Germany joins NATO. June: Messina Conference on integration (the creation of a Common Market) attended by the foreign ministers of the 6 ECSC states. Spaak Committee established to examine options for further integration.
1957	March: two Treaties signed in Rome . They established (1) the European Economic Community (EEC) (Treaty establishing the EEC) and (2) the European Atomic Energy Community (EAEC, Euratom) (Treaty establishing the European Atomic Energy Community).
1958	January: The EEC and Euratom, the Rome Treaties, came into force.
1959	November: European Free Trade Area (EFTA) convention signed in Stockholm (the UK, Austria, Denmark, Norway, Portugal, Sweden and Switzerland).

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The 1960s

Date	Event
1961	May: EFTA established, HQ in Geneva. July: the 6 EEC members issue the “Bonn Declaration” aimed at political union. July/August: Ireland applies, and the UK and Denmark request negotiations for EEC membership.
1962	January: framework of Common Agricultural Policy (CAP) agreed. April: Norway requests negotiations aimed at EEC membership.
1963	January: EEC negotiations on UK entry suspended, following opposition by de Gaulle to UK entry. January: Franco-German Treaty of Co-operation signed (Treaty of the Elysée) by de Gaulle and Adenauer. July: Yaoundé Convention, providing for economic aid and trade concessions for 17 African states, signed in the capital of Cameroon.
1964	July: CAP comes into effect.
1965	April: Treaty establishing a Single Council and a Single Commission of the European Communities, merging executives of 3 Communities, the Merger Treaty . Came into force 1 July 1967. July: French boycott of institutions begins, over disagreements on budgetary and institutional issues – the “empty chair crisis”.
1966	January: the “Luxembourg Compromise” (under which important issues were to be decided by unanimity, irrespective of the Treaty of Rome) agreed, ending French boycott.
1967	May: UK, Ireland, Denmark and Norway reapply for membership. In view of de Gaulle’s continuing hostility, the applications are left, later in the year, on the table (de Gaulle’s 2 nd veto on UK membership, December). May: the EEC is effectively merged with the ECSC and Euratom to form a single “European Community”, but they were still strictly known as “Communities”.
1968	July: EEC Customs Union completed (customs duties in intra-Community trade were finally abolished for manufactured goods, and common external tariff (CET) was introduced).
1969	December: France’s President Pompidou agrees with other EC leaders at a “summit” meeting in The Hague to consider an enlargement of EC membership. Pompidou lifts the French veto on British membership.

KEY DATES

The 1970s

Date	Event
1970	<p>April: Treaty amending certain Budgetary Provisions of the Treaties establishing the European Communities (and of the Merger Treaty) (Treaty of Luxembourg). This Treaty introduced “own resources”.</p> <p>June: new negotiations for accession of UK, Ireland, Denmark and Norway.</p>
1971	<p>“The Snake”, a short-lived attempt to create a zone of monetary stability, introduced. It was replaced by the “Snake in the Tunnel”, also short-lived, in 1972.</p> <p>Development of the Common Fisheries Policy (CFP).</p>
1972	<p>January: signing of treaties of accession for UK, Ireland, Denmark and Norway.</p> <p>July: free trade agreements signed with the EFTA states which didn't apply for EC membership.</p> <p>September: Norwegian referendum (46% for, 54% against) leads to withdrawal of Norway's application.</p> <p>October: PMs of the UK, Ireland and Denmark attend the Paris summit. The member states commit themselves to EMU and to converting “their entire relationship into a European Union” by the end of the decade.</p>
1973	<p>January: UK, Denmark and Ireland join the Community.</p> <p>May: Norway signs free trade agreement with the EC.</p>
1974	<p>April: UK requests “re-negotiation” of membership.</p> <p>December: decision to establish the European Council (Paris summit). Leo Tindemans (Belgian Foreign Minister) requested to draw up a report on European Union (the “Tindemans report”).</p>
1975	<p>Treaty amending certain Financial Provisions of the Treaties establishing the European Communities (and the Merger Treaty) was signed (in force 1978). This Treaty refined budgetary procedure to give the EP more power and set up the Court of Auditors.</p> <p>European Regional Development Fund (ERDF) established.</p> <p>February: First Lomé Convention, replacing the 1963 Yaoundé Convention, signed, giving aid to 46 African, Caribbean and Pacific (ACP) states.</p> <p>March: settlement on British renegotiation (Dublin summit).</p> <p>June: UK referendum shows 2:1 majority in favour of staying in the EC.</p> <p>December: agreement on the European passport and on European elections (Rome summit).</p>
1976	<p>July: agreement on the total number of seats in the European Parliament (Brussels summit).</p>
1977	<p>March: Portugal applies to join.</p> <p>July: Spain applies to join.</p> <p>July: Decision to create the European Monetary System (EMS) (Bremen summit).</p> <p>December: agreement on the introduction of the European Unit of Account from 1 January 1978; resolution on the EMS. “Three Wise Men” commissioned to draw up report on the Community institutions (Brussels summit).</p>
1979	<p>March: the European Monetary System (EMS) (included the Exchange Rate Mechanism (ERM)) established.</p> <p>June: first direct elections to the European Parliament (every 5 years: 1984, 1989, 1994 and 1999).</p> <p>November: row over UK budget contribution to the EC, when Mrs Thatcher demands “our money back”; British Budget problem first raised (Dublin summit).</p>

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The 1980s

Date	Event
1980	May: provisional solution to UK budget problem. June: Venice Declaration on the situation in the Middle East.
1981	January: Greece joins the Community. November: discussion of the Genscher-Colombo proposals on European Union. New impulse given to the accession negotiations with Portugal & Spain (London summit).
1983	The Labour party manifesto included a call for UK withdrawal (following a resolution passed at the 1980 annual conference). June: adoption of the Solemn Declaration on European Union, which effectively ended the 1966 Luxembourg Compromise (Stuttgart Declaration) and signalled France's conversion to political integration.
1984	February: EP approves the draft Treaty (Spinelli's) on European Union. June: final settlement of the British Budget problem, accompanied by agreement on new resources and on budgetary discipline. Establishment of the People's Europe committee and the Dooge Committee on institutional questions (Fontainebleau summit). June: second direct elections to EP.
1985	March: agreement on Integrated Mediterranean Programmes (Brussels). June: Commission White Paper on the completion of the Single European Market. June: Milan summit agreement on 7-year timetable to remove 300 barriers to the internal market, according to a programme devised by Lord Cockfield. Agreement (by qualified majority) to convene an Intergovernmental Conference to discuss institutional reform and consider amendments to the Treaty of Rome. June: Schengen Agreement. December: Agreement in principle to extend QMV in order to complete the Single Market Programme by the end of 1992, to increase the powers of the EP, to give European Political Co-operation a sounder legal base, and to extend Community competences (all set out in the Single European Act, agreed by the Foreign Ministers Council, December 1985). The SEA is a series of treaty amendments designed to speed up decision-making, especially on internal market measures. (Luxembourg).
1986	January: Portugal and Spain join the Community. February: the Single European Act (SEA) signed by all member states.
1987	It was agreed that the WEU should present joint security policy. July: SEA comes into force.
1988	February: Delors I, which set the guidelines for expanding EC budgets (but with tighter control over agricultural spending and introduction of "set-aside") over 5 years (1988-92), only partly agreed. Also agreement on measures to complete the Single Market Programme and on the structural funds (Brussels). June: European Council instructs a committee to develop proposals for EMU leading to the Delors Report (Hanover).
1989	Revolutions in Eastern Europe, Berlin wall brought down (November). April: Delors committee prepares report on EMU. June: 3 rd direct elections to EP. Austria applies to join EC. June: European Council (Madrid summit) approved three-stage introduction of EMU , with Mrs Thatcher reserving UK position. July: G7 summit asks EC to co-ordinate western aid to Poland and Hungary (and, subsequently, to other CEECs). December: negotiations begin between the EC and EFTA states to form the European Economic Area (EEA). Adoption of the Social Charter. Decision to convene an IGC (leading to Maastricht Treaty). Decision on the European Bank for Reconstruction and Development (EBRD), set up in 1991 (Strasbourg).

KEY DATES

The 1990s

Date	Event
1990	<p>January: Stage 1 of EMU begins, with (partial) removal of exchange controls.</p> <p>April: extra meeting on German reunification (Dublin).</p> <p>June: identification of the main issues for the IGCs on political union and EMU (Dublin).</p> <p>June: The Schengen Convention on the elimination of border controls for internal borders was signed by Belgium, France, Germany, Luxembourg and the Netherlands (following on from the Schengen Accord of 1985). Most EU countries signed later.</p> <p>October: German reunification (following GMU in July).</p> <p>October: UK joins ERM.</p> <p>October: extra meeting on the Gulf Crisis and EMU (Rome).</p> <p>November: UK PM Margaret Thatcher resigns.</p> <p>December: two IGCs begin work on (1) EMU and (2) political union.</p>
1991	<p>November: agreement reached to set up EEA (on 1 January 1993).</p> <p>December: Maastricht summit of European Council agrees Treaty on European Union. Title II of the Maastricht Treaty amends the Treaty establishing the EEC (1957) “with a view” to establishing the European Community, the first pillar. The Maastricht Treaty’s other 2 pillars were a Common Foreign and Security Policy (CFSP) and co-operation in the fields of Justice and Home Affairs (JHA).</p>
1992	<p>January: Delors II proposes increasing budget by 30% over 5 years (only partly accepted in December 1992 and budget period set for 7 years, 1993-99).</p> <p>February: the Maastricht Treaty signed.</p> <p>May: European Economic Area (EEA) Treaty signed, which was an agreement between all the governments concerned to extend the single market to EFTA countries. It now includes all EU countries plus Iceland, Norway, Liechtenstein (Switzerland retains observer status as the Swiss voted against EEA membership). It came into effect in 1994.</p> <p>June: Danish referendum narrowly rejects the Maastricht Treaty.</p> <p>June: agreement on guidelines for the enlargement of the Community (Lisbon).</p> <p>June: Irish referendum accepts Maastricht Treaty.</p> <p>September: withdrawal of UK (16 September, “Black Wednesday”) from ERM.</p> <p>September: French referendum narrowly accepts Maastricht Treaty.</p> <p>October: declaration on a “Community close to its citizens” and “subsidiarity” (Birmingham).</p> <p>December: Single European Market programme “completed” (“1992”).</p> <p>December: Switzerland turns down EEA membership in referendum.</p> <p>December: agreement on special arrangements for Denmark to allow a 2nd referendum on the Maastricht Treaty. Agreement on future financing. Decision to allow enlargement negotiations to begin with Austria, Finland and Sweden. Adoption of the Edinburgh Growth Initiative. Definitive decision on the seat of the EP. (Edinburgh).</p>

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- 1993
- January: **Single Market “1992”** programme starts.
 - May: Denmark votes in favour of Maastricht Treaty.
 - June: discussion of the Commission White Paper “Growth, Competitiveness and Employment”. Decision that Central & Eastern European countries with Europe Agreements which “...so desire, shall become members of the EU”. Discussion of openness (transparency) and fraud. (Copenhagen.)
 - August: de facto suspension of ERM (move towards 15% bands).
 - August: the UK ratifies the Maastricht treaty.
 - October: Germany ratifies the Maastricht treaty.
 - October: [3 days before the entry into force of the Maastricht Treaty] decision on stage 2 of EMU (to begin 1/1/94). Establishment of priority topics for the CFSP and JHA co-operation. (Brussels.)
 - November: **the Maastricht Treaty comes into force. The start of the EU.**
 - November: adoption of action plan on employment on basis of Commission White Paper. Agreement on Pact on Stability in Europe. Agreement on representation in Commission, EP of applicant states (Brussels).
- 1994
- January: **Stage 2 of EMU begins**, with the newly created European Monetary Institute (EMI).
 - January: EEA comes into force, excluding Switzerland and Liechtenstein (temporarily – until April 1995).
 - February: terms agreed on entry of Austria, Finland, Norway and Sweden.
 - June: 4th direct elections to the EP. Austria referendum in favour of entry.
 - June: identification of projects for trans-European networks. Commitment to include Cyprus and Malta in next round of enlargement. Establishment of Reflection Group to prepare 1996 IGC. (Corfu.)
 - October/November: Sweden and Finland vote for entry, Norway votes against.
 - December: further discussion of employment, financing of trans-European networks, strategy for central and eastern Europe, Mediterranean policy, and fraud. (Essen.)
- 1995
- January: **Austria, Finland and Sweden** join the EU. Santer president of the European Commission.
 - March: Schengen Agreement on open borders came into force.
 - June: agreement on Europol convention. Report on racism and xenophobia (Cannes).
 - July: EU member states sign convention establishing Europol. First EU ombudsman elected.
 - December: Madrid meeting of European Council agrees name of single European currency (the “euro”) and affirms 1 January 1999 as the launch date for the new currency. Final preparations for the 1996 IGC (launched in Turin in March 1996).
- 1996
- Through year: “Beef crisis” in wake of BSE disease in UK.
 - March: intergovernmental conference on reform of the Union (for further enlargement) opens in Turin.
 - June: further discussion on employment. Review of action against drugs. Decisions on elimination of BSE (Florence).
 - December: Dublin summit. EMU Growth and Stability Pact, enhancing coordination of economic policies, agreed. The legal framework and exchange rate relations between the “ins” and “outs” (“pre-ins”) discussed; the new ERM (ERM 2). Review of progress in the IGC and action against international crime.

KEY DATES

- 1997
- June: Amsterdam summit agrees the **Treaty of Amsterdam** (signed October 1997), the conclusion of the IGC. The UK adopts the Social Chapter (from Maastricht). Discussion on EMU. Resolutions on stability, growth & employment and on ERM 2.
- July: Commission adopts “Agenda 2000” policy statement, preparing the ground for further enlargement and setting targets for long-term financial and agricultural reforms.
- November: Special meeting on employment (“jobs summit”) (Luxembourg initiative).
- December: Luxembourg summit clears way for membership negotiations with Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia (6 countries). Agenda 2000 discussion.
- 1998
- May: agreement for 11 countries to join EMU on 1 January 1999 (decision on stage 3 of EMU) (London).
- June: further discussion on employment. March 1999 deadline set for Agenda 2000 decisions. Discussion on institutional and budgetary questions and “bringing the EU closer to the people”. (Cardiff.)
- December: EP refuses to approve final accounts of the 1996 budget, precipitating a crisis with the commission. Final preparations for stage 3 of EMU. Progress reports on Agenda 2000 and enlargement. Adoption of the “Vienna Strategy for Europe.” (Vienna.)
- 1999
- January: **EMU launch date (Stage 3)** with 11 members (Germany, France, Italy, Belgium, Netherlands, Luxembourg, Ireland, Spain, Portugal, Austria, Finland).
- March: entire Commission reigns over claims of fraud and mismanagement.
- March: agreement on Agenda 2000 (including the budget for 2000-06). Appointment of Romano Prodi as President-designate of the Commission. (Berlin summit.)
- May: Amsterdam treaty came into force.
- June: 5th direct elections to the EP.
- June: appointment of Javier Solana as Secretary-General of the Council and High Representative for the CFSP. Confirmation that an IGC will be convened “early in 2000” on institutional reform. Review of Stability Pact for the Balkans. (Cologne.)
- September: new commission led by Romano Prodi takes over (until 2004).
- October: special summit on JHA calls for the creation of an area of “freedom, justice and security” – “a Union of freedom, security and justice” (asylum and immigration, racism and xenophobia, police and judicial co-operation, money laundering). Agreement on a committee to draft a Charter of Fundamental Rights. (Tampere.)
- December: Helsinki summit decides to open accession negotiations with Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia (6 countries). Agreement on enlargement, institutional reform, and defence and security aspects of the CFSP. Adoption of “guidelines for reform” of the working methods of the Council of Ministers. Acceptance of Turkey as an applicant state.

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The 2000s

Date	Event
2000	<p>Start of current 7-year budget period (ie 2000-2006).</p> <p>March: Lisbon summit inaugurates 10-year programme to make the EU “the most competitive and dynamic knowledge-based economy in the world,” progress to be reviewed every spring. Commitment to “a European Area of Research and Innovation”.</p> <p>June: review of the Common [European] Security and Defence Policy (CESDP). Endorsement of the eEurope 2002 Action Plan (the “dot.com summit”). Partial agreement on further tax harmonisation. Adoption of a common strategy on Mediterranean policy. (Santa Maria de Feira.)</p> <p>June 2000: Cotonou Agreement signed.</p> <p>September: Denmark votes against the euro (53.3% to 46.7%).</p> <p>October: Convention draws up Charter of Fundamental Rights for the EU.</p> <p>December: the Nice Treaty adopted (to facilitate the admission of 12 new member states). Endorsement of the Charter of Fundamental Rights and the European Social Agenda (SPA).</p>
2001	<p>January: Greece joins EMU (and becomes 12th member), “euro-11” committee becomes “euro-12” committee.</p> <p>February: Nice Treaty signed.</p> <p>March: Switzerland voted decisively against closer ties with the EU.</p> <p>March: definition and discussion of the “Stockholm priorities” (full employment, fostering entrepreneurship, improving mobility, harnessing new technologies etc). Review of relations with Russia.</p> <p>June: review of enlargement and the Common European Security and Defence Policy (CESDP) (Goteborg.)</p> <p>June: Irish referendum rejects the Nice Treaty (53.87% to 46.13%).</p> <p>December: the Laeken Declaration. Summit agreed to set up a Convention for the Future of Europe, which was to consider the future balance of powers in an enlarged EU. The Laeken declaration suggested (1) electing the President of the Commission, (2) creating pan-EU parties, (3) creating a “European political area” complete with a constitution for the EU. Laeken summit adopted wide-ranging proposals to combat terrorism in the wake of 9/11. Review of the area of freedom, security and justice.</p>
2002	<p>January/February: Euro notes and coins to replace legacy currencies.</p> <p>First 6 months: Spanish presidency. Setting up of the Convention on the Future of Europe (President: Valéry Giscard d’Estaing).</p> <p>July: ECSC treaty expired.</p> <p>Second 6 months: Danish presidency.</p>
2003	<p>First 6 months: Greek Presidency.</p> <p>February: Nice Treaty came into force, after delays – Ireland originally voted “no”.</p> <p>March: Athens Summit agreed to 10 more countries joining the EU.</p> <p>June: European Council meeting to discuss the draft Constitutional Treaty at Thessaloniki.</p> <p>Second 6 months: Italian Presidency.</p> <p>September: Sweden votes no in a euro referendum.</p> <p>October: the start of the Inter-Governmental Conference (IGC) on the Convention’s draft Constitutional Treaty, which includes the Charter of Fundamental Rights.</p> <p>December: breakdown of talks on draft Constitution over voting rights (Brussels).</p>

KEY DATES

2004 First 6 months: Irish Presidency.
April: UK PM announces referendum on the Constitutional Treaty.
April: Greek part of Cyprus votes against unification of Cyprus; Turkish part votes for unification.
May: 10 new members join – **The Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.**

Future events

Date	Event
2004	June: elections for the European Parliament. June: summit to discuss the Constitutional Treaty
2004	Second 6 months: Dutch Presidency. New Commission
2007	Expected year of accession for Bulgaria and Romania. Start of next 7-year EU budget (ie 2007-2013)

GLOSSARY OF TERMS

Accession: the act of joining the EU, through a Treaty of Accession with the other member states.

Accountability: chains of responsibility run downwards by delegation, chains of responsibility run upwards by accountability. Thus British ministers representing the UK in meetings in the Council of Ministers are accountable to Westminster. Their authority flows upwards from Parliament to the Council of Ministers.

Acquis communautaire: “acquired Community practice and powers” (or “Community heritage” or “Community patrimony”), is the irreversible and irretrievable body of laws, policies and practices which have at any given time evolved in the EC/EU. The *acquis* includes, most notably, the Treaties in their entirety, all legislation enacted to date, the judgments of the Court of Justice, and joint actions taken in areas of the Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA).

Amsterdam Treaty (1997): see chapter 2 (section 2.6.3), under the “Treaty of Amsterdam”.

Approximation: see harmonisation, below.

Assent procedure: a mechanism introduced by the Single European Act (SEA) to give the European Parliament the right of veto over certain important decisions taken by the Council of Ministers.

Association Agreements: are provided for in the Treaty of Rome: “The Community may conclude with more or more States or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedures” (Article 310). They are conventionally subdivided into four distinct types:

- Europe Agreements (now sometimes known as Pre-Accession Partnership Agreements), with the states of central and eastern Europe; these make explicit provision for eventual full membership of the EU, though do not guarantee it. The first Europe Agreements were signed in 1991 with Czechoslovakia (sic), Hungary and Poland. All the Agreements provide for the progressive removal of barriers to free trade, for economic and technical co-operation and for financial assistance.
- The Stabilisation and Association Process – which is the name given to the EU’s relations with the Western Balkans (Albania, Bosnia-Herzegovina, Croatia, Macedonia and Serbia/Montenegro). It was set in train by the European Commission in May 1999 and endorsed by the European Council in June 2000 (in Feira).
- Development Association Agreements – eg, those with the Maghreb and Mashreq states and other Mediterranean countries; the Cotonou Agreement.
- The European Economic Area (EEA) (qv) Agreement with the states of the European Free Trade Area (EFTA) (qv).

Budget of the EU: see chapter 2 (section 2.5.2) and chapter 5 (5.2) for information on the EU’s budget – including the “British Budget Problem”.

“Cabinet” (en français): used to denote the small group of officials who make up the private offices of senior ministers in France and other countries, of members of the European Commission, and of other very senior figures in the European Union, such as the President of the European Parliament.

Cassis de Dijon case: the crucial 1979 judgement of the Court of Justice in the case known as “Cassis de Dijon” established that a product lawfully manufactured and on sale in one member state may be imported into another without restriction.

Cecchini report: see chapter 6 (section 6.3.2), under the internal market.

Charter of Fundamental Rights: see chapter 9 (section 9.3.5), under the draft Constitutional Treaty, and annex 9.

Citizenship: The Maastricht Treaty amended the Treaty of Rome to create citizenship of the European Union (EU).

GLOSSARY OF TERMS

Co-decision and co-operation procedures: see chapter 3 (3.2.5), under the European Parliament.

Cohesion: the word was introduced into the Treaty of Rome by the Single European Act (SEA), which added a new Title V on “economic and social cohesion”. It was done on the insistence of the poorer countries. The Cohesion Fund was agreed at the Maastricht Summit (1991), to assist the “poor four” (Greece, Ireland, Spain and Portugal).

Comitology (or “Comitologie”): is used to denote the complex of issues that centre upon the various types of committee, which oversee the implementation of EU law. In 1987 the three basic types of committee were laid down as follows:

- An advisory committee, which is empowered to deliver “Opinions” (qv) on Commission proposals; the Commission is required only to “take utmost account” of such Opinions.
- A management committee, which similarly delivers Opinions on Commission proposals; in this case the Commission can be forced to incorporate the Committee’s Opinion by the Council acting by qualified majority.
- A regulatory committee is similar to a management committee, except that in the event of the rejection of a Commission proposal or the failure to deliver an Opinion the matter is referred to the Council.

Committee of the Regions: see chapter 3 (3.3.3).

Common Agricultural Policy (CAP): see chapter 7 (7.2).

Common Commercial Policy: or external trade policy, see chapter 6 (6.2).

Common European Security and Defence Policy (CESDP): see chapter 8 (8.4), under foreign, defence and security policy. It is part of the Common Foreign and Security Policy (CFSP). It was referred to in the European Constitution as the Common Security and Defence Policy (CSDP).

Common External Tariff (CET): also known as the Common Customs Tariff (CCT), see chapter 6 (6.2), under trade.

Common Fisheries Policy (CFP): see chapter 7 (7.3).

Common Foreign and Security Policy (CFSP): see chapter 8 (8.4).

Common Market: synonymous with the European Economic Community established under the Treaty of Rome. Sometimes the common market and the internal market (“single market”) are used interchangeably – but the former term has wider connotations. It was never just a “free trade area”.

Common transport policy: see chapter 6 (6.9).

“Communautaire”: in the spirit of the Community, that is, integrationist.

Communitization: when an area of policy is brought within the ambit of the institutions and decision-making procedures set out in the Treaty of Rome.

Competences: the EU’s legal powers. “Competence” is the right to decide or legislate in a given field of activity. For “exclusive competences” and “shared competences” of the draft Constitutional Treaty see chapter 9 (9.3.4).

Compliance: individual member states’ application of EU Directives (and other EU legal instruments).

Constitution: the set of fundamental rules governing the politics of a nation or sub-national body.

Constitution of the EU: the EU currently has no formal constitution. (The draft Constitution Treaty as agreed at Thessaloniki in 2003 would change this, see chapter 9, section 9.3.) Its essential structure currently revolves round 2 documents:

- The 1957 Treaty of Rome (establishing the European Economic Community, EEC), as amended by the 1986 SEA, the 1992 Maastricht Treaty, the 1997 Treaty of Amsterdam and the 2001 Treaty of Nice.
- The intergovernmental segment of the 1992 Maastricht Treaty, as amended by the 1997 Treaty of Amsterdam and the 2001 Treaty of Nice.

Constitutional Treaty (draft): see chapter 9 (sections 9.2 to 9.5).

Convention on the Future of Europe: see chapter 9 (9.2).

Convergence criteria: the Maastricht Treaty’s criteria for eligibility for euro membership. See chapter 5 (section 5.3.2), under economic and monetary policy.

COREPER, “Comité des représentants permanents”, Committee of the Permanent Representatives: see chapter 3 (3.2.3), under Council of Ministers.

Corpus Juris: see chapter 8 (8.2), under “freedom, security and justice”.

Council of Economic and Finance Ministers (Ecofin): see chapter 3 (3.2.3), under Council of Ministers.

Council of Europe: this is **not** an EU institution. It was founded in 1949 to encourage economic and social co-operation in Europe.

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Council of Ministers (also known as the Council, the EU Council, or the Council of the EU): see chapter 3 (3.2.3).

It is not to be confused with the “European Council” (also see chapter 3 (section 3.2.4)).

Court of Auditors: see chapter 3 (3.2.7).

Court of First Instance (CFI): see chapter 3 (3.2.6).

Court of Justice: see chapter 3 (3.2.6).

Court of Human Rights: see European Court of Human Rights (ECHR).

Customs Union: an area with free internal trade but a common external wall of tariffs or quotas. Cf. free trade area.

Decision: see chapter 3 (section 3.5), under EU law/legal instruments.

Declaration: a detailed recital of points agreed by the European Council.

Delors Report: see chapter 5 (5.3.2), under economic and monetary policy.

Democratic deficit: this refers to the lack of proper democratic and parliamentary supervision and accountability of EC decision-making procedures.

Derogation: a temporary waiver from a Regulation or a Directive.

D’Hondt system: named after a Belgian political scientist, the D’Hondt system is widely used in continental Europe as a feature of various forms of proportional representation. It is also used within the institutions of the EU (especially the European Parliament) as a formula for distributing a fixed number of positions (such as committee chairs) among groups of different numerical strengths or among various nationalities.

Directive: see chapter 3 (section 3.5), under EU law/legal instruments.

Directorates-General (DGs): see chapter 3 (3.2.2) and chapter 4 (4.1), under the European Commission.

Dual mandate: in the EU someone who is a member both of a national parliament and the European Parliament is said to hold a “dual mandate”.

Ecofin: see chapter 3 (3.2.3), under Council of Ministers.

Economic and Monetary Union (EMU): see chapter 5 (5.3), under “economic and monetary policy”.

Economic and Social Committee (ESC, EcoSoc): see chapter 3 (3.2.2).

Enhanced co-operation: see flexibility.

Electoral Commission: was set up under the Political Parties, Elections and Referendums Act (2000) (UK), to supervise the financial restrictions on parties, oversee referendums and have broad responsibility for electoral law.

Enarque: the colloquial name for a graduate of the Ecole Nationale d’Administration, the elite French institute of higher education dedicated to preparing young people for careers in public administration.

Enlargement: the process by which countries join the EU. And see chapter 2 (sections 2.4.3, 2.5.6, 2.6.7 and 2.7.4).

Escalator (or “Passerelle) clause: see chapter 9 (9.2). The draft Constitution has a qualified majority (“escalator” or “Passerelle”) clause, which would allow the European Council to replace unanimity requirements (the “special legislative procedure”) with QMV (the “ordinary legislative procedure”) in any area it wishes, without seeking the consent of national parliaments or the European Parliament. This means that national vetoes would be permanently under threat.

EU law: See chapter 3 (section 3.5).

Euro: see chapter 5 (5.3), under economic and monetary policy.

Eurojust: see chapter 8 (8.2), under “freedom, security and justice”.

Europe Agreements: see Association Agreement, above.

European Agricultural Guidance and Guarantee Fund (EAGGF, FEOGA): see chapter 7 (7.2), under agriculture.

European Arrest Warrant: see chapter 8 (8.2), under “freedom, security and justice”.

European Atomic Energy Community (EAEC, Euratom): see chapter 2.2.3.

European Central Bank (ECB): see chapter 3 (3.4.3); and chapter 5 (5.3), under economic and monetary policy.

European Centre for the Development of Vocational Training (CEDEFOP): see chapter 3 (3.4.5).

European Coal and Steel Community (ECSC): see chapter 2 (2.2.2).

European Commission (Commission or Commission of the European Communities): see chapter 3 (3.2.2).

European Communities:

- The European Coal and Steel Community (ECSC, Treaty of Paris, 1951). The ECSC ceased to exist in July 2002.

GLOSSARY OF TERMS

- The “European Economic Community” (EEC or “Common Market”, Treaty of Rome, 1957). In the Maastricht Treaty the EEC was officially renamed “the European Community” (EC).
- The European Atomic Energy Community (by a 2nd Treaty of Rome, known as the Euratom or EAEC Treaty, 1957).

Since the 1965 Merger Treaty the three Communities have shared the same institutions while remaining legally distinct, and have always had the same membership. Since the Maastricht Treaty came into effect, the Council of Ministers of the European Communities has called itself the Council of the EU. The European Commission is still formally the Commission of the European Communities.

European Community (EC) or Community: originally strictly the European Economic Community, which was renamed the European Community by the Maastricht Treaty (qv). However, the phrase European Community became common parlance to denote the EEC (“Common Market”) with/without the ECSC and Euratom from the early 1980s.

European Community Humanitarian Office (ECHO): has been replaced by the Humanitarian Aid Office (HAO). See chapter 3 (3.2.2), under the European Commission.

European Company Statute: see chapter 6 (6.7.2), under employment and social policy.

European Convention on Human Rights: formally the Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention was drawn under the auspices of the (non-EU) Council of Europe (qv) and signed in Rome in 1950. It was incorporated into UK law through the Human Rights Act (1998). The European Court of Human Rights (ECHR) operates under the aegis of the Council of Europe and is located in Strasbourg.

European Council: this is the name given to the regular meetings (sometimes known as “summits”) of the heads of state or of government of the member states of the EU and the president of the European Commission. In the 1986 SEA, the frequency of the meetings was laid down as “at least twice a year” (including meetings at the end of member states’ Presidencies) and the list of those entitled to attend was extended to include the foreign ministers and an additional Commissioner. These “summits” are not a formal EC institution but have become central to the EC. They are not to be confused with the Council of Ministers (qv) or indeed the Council of Europe (qv).

European Court of Human Rights (ECHR): see European Convention on Human Rights (above).

European Court of Justice (ECJ): see chapter 3 (3.2.6), under Court of Justice.

European Economic Area (EEA): was established by a Treaty signed in 1992. The EEA purports to be a free trade area; its members are the 25 EU members and Norway, Iceland and Liechtenstein. (Switzerland signed the EEA Treaty but it was rejected in a referendum.) The Treaty, an **Association Agreement (qv)**, came into force in 1994. Portions of the *acquis communautaire* (qv) apply throughout the EEA thus non-EU members are subject to legislation over which they have no direct influence. They are not, however and for example, committed to the CFSP, CAP, EMU and the CFP (which is very significant for Norway and Iceland) and they are not committed to co-operation in Justice and Home Affairs.

European Economic Community (EEC): see “European Communities” (above).

European Environment Agency: see chapter 7 (7.4), under environment.

European Free Trade Area (EFTA): in 1960 the UK took the lead in forming EFTA (with Austria, Sweden, Denmark, Norway, Portugal and Switzerland – known as the “seven”). Finland (associate member from 1961 and full member from 1986), Iceland (member from 1970) and Liechtenstein joined later. The current members of EFTA are Iceland, Norway, Liechtenstein and Switzerland – they have close links through the EEA with the EU (except Switzerland).

European Investment Bank and European Investment Fund: see chapter 3 (3.4.2).

European Monetary Institute (EMI): established in 1994 and the precursor of the ECB; the ECB succeeded the EMI in 1999. See chapter 3 (3.4.3).

European Monetary System (EMS): see chapter 5 (5.3), under economic and monetary policy.

European Parliament: see chapter 3 (3.2.5).

European Patent Convention: was originally signed in 1973 and set up the European Patent Office (EPO). Its members comprise the member states of the EU, Liechtenstein, Monaco, Switzerland, Turkey and Cyprus.

European Regional Development Fund (ERDF): see chapter 7 (7.5), under regional policy.

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- European Security and Defence Policy (ESDP):** see the Common European Security and Defence Policy (CESDP).
- European Social Charter:** the non-EU Council of Europe's charter on employment rights, signed in Turin in 1961. Not to be confused with the EU's "Social Charter" (qv) or the EU's "Social Chapter" (qv).
- European Social Fund:** see chapter 6 (section 6.7.2), under employment and social policy.
- European Social Model:** see chapter 6 (section 6.7.1), under employment and social policy.
- European Social Policy Agenda (ESPA) or Social Policy Agenda (SPA):** see chapter 6 (section 6.7.6), under employment and social policy.
- European Union (EU):** denotes the supranational institutions of the European Community (qv) together with the two "pillars" (qv) of intergovernmental co-operation between member states. Formally created by the Maastricht Treaty.
- Europol:** see chapter 8 (8.2), under "freedom, security and justice".
- Euroclerosis:** hardening of Europe's economic arteries. A term used to denote stagnation arising from rigid labour laws, high social costs, heavy taxation and over-regulation – in other words, the failure of the socialist European Social Model.
- Eurozone:** those states in the single currency, also known as Euroland (or the euro-area).
- Exchange Rate Mechanism (ERM):** see chapter 5 (5.3), under economic and monetary policy.

Factortame case: this case arose when a Spanish-owned company, but British registered to enable its owner to exploit the British fishing quota, sought a judicial review of certain provisions of the British Merchant Shipping Act 1988 – which sought to outlaw "quota hopping". These provisions were alleged to be discriminatory in respect of the rules for registering fishing vessels as British. The Court of Justice's ruling in favour of the companies served to underline the primacy of EU law over national law.

Federation: is a form of political organisation characterised by a division of responsibility between central authority and component parts (usually states, regions or provinces) enjoying autonomy in certain fields. (It should be noted that the word "federalism" is a word about whose meaning there is wide disagreement. Some claim that it is a way of abolishing nation states in favour of a more centralised form of government. Others claim federalism is a force tending in the opposite direction; they argue that the federal government has its powers by **delegation**, not vice versa).

Fiche d'impact: appended to every important legislative proposal from the European Commission is a (usually rather cursory) assessment of its impact, known as the "fiche d'impact".

Fiscal harmonisation: the legal process of standardisation implicit in the creation of the single market as applied to taxes in order to create "level playing fields", prevent "unfair" competition and prevent "fiscal dumping". The Community's competence used to be strictly confined to VAT and other indirect taxes (including the *droit de suite*), but there have been plans for a voluntary code of conduct vis-à-vis business taxes and proposals to impose an EU-wide withholding tax on savings. See also "harmonisation".

"Flat earth economics": the very foundation of much of the EU's economic thinking on many issues – but especially concerning the functioning of labour markets. There seems to be a fundamental denial of the functioning of basic rules of supply and demand (the economist's equivalent of the laws of gravity). And there seems to be the view that you can raise the price of a factor of production (labour) and there will be no impact on demand for that factor of production (in other words, the demand for labour is invariably price inelastic). Another aspect of this thinking seems to be that enterprise and dynamism is fostered by strangling businesses with regulation. And another is the notion of "harmonisation" or "level playing fields" (or the removal of "unfair" competition), which implies countries should not be allowed to develop competitive advantages. There is a basic failure to understand competitiveness.

Flexibility (or "differentiated integration" or "closer co-operation"): where there are arrangements within the EU, which depart from the principle that all member states must move towards the same objectives at the same pace. "Enhanced/reinforced co-operation" (where some member states move ahead quicker with integration than others); "variable geometry" or "Europe à la carte" (in which member states decide whether or not to participate in certain activities); "concentric circles" (where there are circles of degrees of integration); opt-outs and two-speed/multi-speed Europe (qv) are examples of "flexibility".

GLOSSARY OF TERMS

Flexibility clause: see chapter 9 (9.2). The flexibility clause of the draft Constitution supplies the means to extend the powers of the Constitution without going through the proper ratification process in each member state. This clause states that the Council (acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament) shall take “the appropriate measures” to achieve an objective of the Constitution, if the Constitution has not provided the necessary powers.

Fortress Europe: the defence of Europe’s economic interests through protectionism rather than adaptation to the global market.

“Four freedoms”: these underpin the single or internal market. They are: (1) the free movement of goods, (2) the free movement of persons, (3) freedom to provide services and (4) the free movement of capital (as laid out in the Treaty of Rome). See also chapter 6 (6.3), under the internal market.

Francovich case: this case established the principle that the adoption of a Directive by the Council of Ministers confers rights on individuals, even in the event of a member state having failed to transpose the Directive into national law. This landmark ruling was made by the Court of Justice in 1990.

Fraud: see chapter 2 (2.6.4), under EU budget.

Free trade area: a free trade area differs from a customs union in that each of the member countries may have its own individual tariffs or other trading arrangements with third party states, whereas in a customs union there is a uniform external trade regime. EU member states’ trading relationships with 3rd countries are those of a customs union and not of a free trade area.

General Agreement on Tariffs and Trade (GATT): the organisation, which originally came into effect in 1948, charged with overseeing the orderly conduct of international trade, the lowering of tariffs and the resolution of disputes. The World Trade Organisation (WTO) succeeded GATT in 1995. The GATT “rounds”, which resulted in the general lowering of tariffs, were:

1947	Geneva
1949	Annecy
1951	Torquay
1955-56	Geneva
1959-62	Geneva (“Dillon”)
1963-67	Geneva (“Kennedy”)
1973-79	Geneva (“Tokyo”)
1986-94	Geneva (“Uruguay”)

Generalized System of Preferences (GSP): is a system of tariff preferences intended to benefit exports of manufactured goods and processed products from developing countries.

Globalisation: the ability to supply goods or services competitively from the cheapest source anywhere in the world.

Growth and Stability Pact: see chapter 5 (5.3), under economic and monetary policy.

Harmonisation (sometimes known as “approximation”): the legal process of standardisation implicit in the creation of the single market as applied to, eg, products, services, taxation (fiscal harmonisation, (qv)), trading arrangements, labour markets (labour market or “social” harmonisation, (qv)) etc. Harmonisation is intended to create “level playing fields”, prevent “unfair” competition and prevent “fiscal and social dumping”. (“Level playing fields” are where there is “equal and undistorted” competition.) All too often “harmonisation” destroys competitiveness vis-à-vis third countries (eg the US) and is consistent with a protectionist “Fortress Europe” attitude. It is (and has been) especially damaging to Britain’s competitiveness because the UK has been relatively lightly taxed and regulated. Harmonisation (or approximation) can be defined as the process of reaching agreement on measures which make the national laws of the various member states more “similar”, but not identical.

International Court of Justice: this is an institution of the UN, not the EC.

Intergovernmental: used to describe relationships in the EU which are not subject to Community law or governed by supranational EU institutions. Intergovernmentalism” is both a theory of integration and a term used to describe

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institutional arrangements and decision-making procedures that allow governments to co-operate in specific fields while retaining their sovereignty (qv).

Intergovernmental Conference (IGC): IGCs are summoned whenever a new Community Treaty (inevitably integrationist) is in the offing. IGCs to date are:

1950-51	Leading to the ECSC Treaty (signed in 1951).
1955-57	Leading to the EEC and Euratom Treaties (signed in 1957).
1985	Leading to the SEA (signed in 1986).
1990-91 on: (1) EMU. (2) European Political Union (EPU).	Leading to the Maastricht Treaty on EMU and EPU (signed in 1992).
1996-97	Leading to the Treaty of Amsterdam (signed in 1997).
2000	Leading to the Treaty of Nice (signed in 2001).
Began October 2003	To discuss the draft Constitutional Treaty.

Internal market: usually seen as equivalent to the single market and is used to distinguish economic activity within the member states of the EU from external trade.

Joint Research Centre (JRC): was created under the Treaty establishing the European Atomic Energy Community (EAEC). Its work is no longer confined to nuclear research.

Justice and Home Affairs (JHA): Maastricht's 3rd pillar. See chapters 2 and 8 for more.

Laeken Declaration: see chapter 9 (9.2.1).

Legal certainty: although nowhere defined in the Treaties, is an important principle of EU law, which has had some influence on cases before the Court of Justice. It requires union law and the national law derived from Union law to be coherent, unambiguous, accessible and clear with respect to its scope, purpose, effect and validity, and to be consistently applied.

Legal instruments: see EU law, chapter 3 (3.5).

Legal personality: Article 281 of the Treaty of Rome said: "The [European] Community shall have legal personality". Identical provisions may be found in the Treaties establishing the European Coal and Steel Community and the European Atomic Energy Community. This means that each of the Communities has rights and obligations under international law, including most notably those contained in international agreements. With respect to national law, Article 282 (and identical provisions in the other Treaties) confers upon the European Community "the most extensive legal capacity accorded to legal persons" under the national laws of member states, including *inter alia* the right to acquire or dispose of property and to be a party to legal proceedings. Although the 1965 Merger Treaty gave the Communities common institutions, and although the Maastricht Treaty made them a component part of the EU, the Communities have retained their distinct legal personalities. The EU itself, by contrast to the European Community, does not currently possess legal personality (though this would change under the draft Constitutional Treaty, see chapter 9, section 9.3.2). See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin Books, 2002.

Legislation/primary (UK): public Bills, as opposed to private Bills which specifically affect the powers of particular bodies or the rights of certain individuals, must normally be passed by both Houses and may start in either House, with the exception of finance Bills which must start in the Commons. Taking the example of a Bill starting in the Commons the stages for the passage of a Bill are as follows:

- Commons: First Reading, Second Reading, Committee Stage, Report Stage, Third Reading;
- Lords: the Bill goes through a similar procedure to the Commons;
- If the bill is amended by the Lords, it is returned to the Commons for consideration of the amendments – if Commons rejects Lords' amendments and/or makes further amendments the Bill can go back to the Lords;
- Royal Assent, which may be given by the Queen personally or by three Lords Commissioners and which converts a Bill into an Act of Parliament.

GLOSSARY OF TERMS

- Legislation/secondary (UK): when Parliament delegates the power to make orders, regulations or rules to some other person or body that have the force of law. Such legislation is known as delegated or subordinate legislation. Delegated legislation comprises:
- Orders in Council, ie Orders made by the Queen in (Privy) Council. In practice, the Minister of a Government department usually drafts and makes the Order in the name of the Queen, whose approval “in Council” is a formality;
- Statutory instruments, departmental orders, regulations, rules, circulars or codes of practice. A statutory instrument, formerly known as statutory rules and orders, is any delegated legislation to which the Statutory Instruments Act 1946 applies. Statutory instruments are normally made by government Ministers and must be submitted to Parliament – though most will be subject to negative resolution rather than affirmative resolution;
- By-laws which are made by local authorities, railways, water boards and other such bodies, and like statutory instruments, draw their authority from an Act of Parliament.
- Legitimacy: when the legitimacy of the EU is called into question, the debate normally centres not upon whether or not its institutions are duly constituted but upon whether they, and the decision-making system of which they are essential components, possess the necessary democratic credentials. See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin Books, 2002.

Level playing field: see harmonisation.

Lomé Convention: see chapter 8 (8.3), under development and aid.

Luxembourg Compromise: was an informal arrangement, arrived at by the Six in January 1966, whereby decisions which the Treaty of Rome foresaw being taken by majority voting in the Council of Ministers could be postponed until unanimous agreement had been reached.

Maastricht Treaty (Treaty on European Union): see chapter 2 (2.6.2).

MacDougall Report (European Commission, 1977): see chapter 5 (reference 3), relating to the EU’s budget.

Majority voting: this is one of the ways in which decisions may be taken in the Council of Ministers (the other being unanimity). Simple majorities apply to a limited number of minor issues, usually of a procedural nature. Qualified Majority Voting (QMV) is a more usual procedure for voting. In QMV each country’s votes are weighted by approximately population, and measures require a certain proportion of votes to pass. The total number of votes necessary for a measure to be adopted on a proposal from the European Commission is currently 62 votes out of a total 87 (the UK has 10); this will change under enlargement.

Merger controls: see chapter 6 (6.5), under competition policy.

Merger Treaty: see chapter 2 (2.3.2).

Molitor Group: was a committee of national experts (chairman, Bernhard Molitor) set up by the European Commission in 1994. The group was concerned with the legislative and administrative simplification of EU law and related national law, with a view to job creation, competitiveness, respect for subsidiarity (qv) and its impact on SMEs. The Group’s report was presented in June 1995 (Cannes meeting).

Mutual recognition: this principle, whether of product standards or professional qualifications, is central to the operation of the single market.

Mutual recognition: this is central to the operation of the single market, whether of product standards or of professional qualifications (for example). It is the idea that goods and services etc are as acceptable in other member states’ markets as in the originating domestic market.

Nationalism: the belief in the unity, self-determination, independence, sovereignty and interests of a nation (state), which can be defined as a body of people marked off by common and shared values and beliefs and a common sense of allegiance. (Sovereignty (qv), is the supreme authority in an independent political society and cannot be shared.) Nationalism is the primacy of national identity over the claims of class, religion, race or other aspects of humanity in general. In some contexts it has racist connotations, but this is a debasement of the original concept of nationalism. Nationalism is the antonym of internationalism, in which international organisations have supreme authority (sovereignty) over “nation states”. “Nationality” is the membership of a nation irrespective of race, religion, class etc. Patriotism (the love of and loyalty to a single state or country) stimulates, motivates and underpins nationalism and is, on the whole, an admirable sentiment. (Johnson’s comment on patriotism, “patriotism is the last refuge of the

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scoundrel”, referred to the demagogue John Wilkes.) Sovereignty should not be confused with power – see sovereignty below.

National parliaments: the EU story is one of progressive reduction of the influence of national parliaments.

Neutrality: a neutral state is one that adopts an attitude of impartiality between belligerents. Austria, Finland, Ireland, Sweden and Switzerland are neutral countries.

Nice Treaty: see chapter 2 (section 2.7.2), under the “Treaty of Nice”.

Non-tariff barriers: see tariff (below).

Nordic Council: the five countries that participate in the Nordic Council (Denmark, Finland, Iceland, Norway and Sweden) have a long history of contact of various kinds. By the end of 1952 the parliaments of Denmark, Iceland, Norway and Sweden had approved an agreement; Finland did not join until 1955 because of Soviet hostility.

North Atlantic Treaty Organisation (NATO): in 1948 Belgium, France, Luxembourg, the Netherlands and the UK (5 countries) signed a 50-year agreement on economic, social and cultural collaboration and collective self-defence (the Brussels Treaty, forming the Western European Union (WEU)). The US, Canada and the Brussels Treaty powers then negotiated the setting up of the North Atlantic Treaty Organisation (NATO), a new collective security alliance (which is both a military organisation for the defence of Western Europe and a political alliance). The NATO Treaty was signed in 1949 by the Denmark, Iceland, Italy, Norway and Portugal as well as the US, Canada, the Brussels Treaty powers (12 countries in all). The following countries then joined NATO: Greece (1952), Turkey (1952), West Germany (1955, Germany after reunification in 1990), Spain (1982, confirmed by referendum in 1986), the Czech Republic (1999), Hungary (1999) and Poland (1999) (19 countries in all.) Seven other countries joined NATO in March 2004: Estonia, Latvia, Lithuania, Slovakia, Slovenia, Bulgaria and Romania. There are, therefore, currently 26 members of NATO: Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Turkey, the UK and the US. The “neutral” countries of Austria, Finland, Ireland, Sweden and Switzerland are notable absentees.

“Occupied field”: an area of policy in which the EU is capable, under the Treaties, of taking legislative action. It may not have taken action, but the fact that it could may inhibit national authorities from acting independently, since EU law enjoys primacy over national law in member states.

Ombudsman: see chapter 3 (3.4.4).

Open method coordination: this was first defined at the Lisbon meeting of the European Council (March 2000). It was “designed to help Member States to progressively develop their own policies”. It entails fixing guidelines (accompanied by timetables), establishing indicators and benchmarks “as a means of comparing best practice”, adjusting the guidelines so that they can be transposed to and applied at the national and regional level, and setting up systems for “periodic monitoring, evaluation and peer review”.

Opinion: see chapter 3 (3.5), under EU law/legal instruments.

Own resources: see chapter 5 (5.2), under the EU’s budget.

“Passerelle” clause: see escalator clause.

Pillars: the Maastricht Treaty specified 3 pillars (see chapter 2, section 2.6.2, for more):

- Pillar 1: The traditional areas of the activity that were already pursued by the European Communities/Community (qv) (trade, agriculture, environment, employment etc).
- Pillar 2: Common Foreign and Security Policy (CFSP).
- Pillar 3: Co-operation on Justice and Home Affairs (JHA).

Political co-operation: eurospeak for foreign policy co-operation.

Preambles: the introductory Resolutions and Affirmations by the heads of state at the beginning of the EU’s key treaties were written after the treaties had been formulated and serve to describe, in general terms, the issues agreed. Like the Declarations attached to the end of treaties, these preambles are not legally binding. They are, however, important in that they are intended to express the common political will among the contracting parties and to define the intentions of the Community. They, therefore, form the basis of interpretation of the treaties and the justification for any resultant legislation.

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Precautionary principle: “the absence of evidence is not the evidence of absence”. It is a principle that is guaranteed to stifle risk-taking, however sensible. A Communication by the European Commission (COM(2000)1) set out how the Commission intended to apply the principle. And a Resolution on the Precautionary Principle was agreed at the meeting (a summit) of the European Council in Nice (December 2000).

Presidency: the presidency of the Council of Ministers and European Council currently rotates among the member states every six months. See also chapter 3.2.

Primacy: the doctrine that Community law is superior to national law. The primacy, sometimes known as **supremacy**, of EU law over national law was established by the Court of Justice in *Costa v ENEL*. (See Timothy Bainbridge, *The Penguin Companion to the European Union* (3rd edition), Penguin Books, 2002.)

Proportionality: any action by the Community shall not go beyond what is necessary to achieve the objectives of the Treaty.

Protocol: most Treaties have annexed to them protocols and Declarations (which do not have any legal force but can be of great political importance as pointers to future legislative action). A protocol has legal force, and usually embodies detailed provision on matters touched on in a treaty to which it is attached.

Qualified Majority Voting (QMV): see majority voting.

Rapid Reaction Force (RRF): see chapter 8 (8.4), under foreign, defence and security policy. Not to be confused with NATO's Rapid Reaction Corps.

Rapporteur: literally a reporter, the rapporteur is the spokesperson of a committee or presenter of a committee's report.

Ratification: in international law this is the confirmation of an international agreement.

Recommendation: see chapter 3 (3.5), under EU law/legal instruments.

Regionalism: the idea that European integration along supranational lines would provide an overarching framework for the re-emergence of the *regions* of Europe (and hence the promotion of regionalism) can be traced back at least as far as the immediate post-war years.

Regional policy: see chapter 7, section 7.5.

Regions of England: see chapter 3 (3.3.3, under Committee of the Regions) and chapter 9 (9.6, under regionalisation).

Regulation: see chapter 3 (3.5), under EU law/legal instruments.

Renegotiation: much discussed in the UK, a country that has never happily come to terms with the integrationist history of the EU. It can refer to renegotiation of either one or more unwanted aspects of EU legislation or, more fundamentally, the wholesale renegotiation of the UK's relationship with the EU.

Resolution: by the Council of Ministers or the European Council is a type of decision not recognised in the original Treaties. It is used to embody a firm political consensus, yet in the strict sense has no legal force.

Right of initiative: denotes one of the essential prerogatives of the European Commission, its responsibility for drafting proposals for legislation under the Treaties.

Rights: there are, debatedly, two sorts of rights: (1) those that assert the right to protection from intrusion and/or oppression and emphasise the need to be responsible and dutiful and (2) those that assert a claim on others to provide benefits such as welfare, employment or positive discrimination. The former are libertarian. The latter, which depend on the taxpayer, are not. These are rights without responsibilities. The “liberal” group favouring the latter, regrettably, has been in the political ascendancy for all too many years in the UK and is now in “charge” of a distressingly large number of the “professions” who are running, or ruining, according to one's viewpoint, the country. The Right has been cowed by the apparent persuasiveness of Left wing sentimentalism on the issue. They should take them on.

Rome Treaty: see chapter 2 (2.2.3), under the Treaty of Rome.

Rubber articles: see chapter 6 (6.3.4), under the internal market.

Schengen acquis: the achievements of policies covered by the Schengen Agreement. The **Schengen Agreement** was the agreement signed by Benelux, France and West Germany in 1985 “on the gradual abolition of controls at the common frontier”. It entered into force in 1995 as the Schengen Convention (signed in 1990), with the signatories

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the original five states, Portugal and Spain. Later members comprise Italy, Austria, Greece, Denmark (but partial opt-out), Sweden and Finland. The UK and Ireland have opt-outs. See chapter 6, under internal market. Note that there are currently limits on the freedom of movement of the citizens of the 10 new EU member states.

Scrutiny: the various procedures whereby national parliaments monitor and seek to influence legislation emanating from the EU.

Seat of the institutions: this is “Brussels” despite the fact that many EU institutions meet in other locations in the EU. (See annex 3.) When eurosceptics refer to their resentment of

Services of general interest: this expression is used in the EU to denote services of benefit to the general public.

Simplification: in the context of the EU, this refers to the efforts currently being made in the name of transparency to simplify legislation.

Single currency: see chapter 5 (5.3), under economic and monetary policy.

Single European Act (SEA): see chapter 2 (2.5.3).

Single market and Single Market Programme: see chapter 6 (6.3.2), under the internal market.

(The) Six: the 6 original members of the European Community: France, Germany, Italy, the Netherlands, Belgium and Luxembourg.

Social Action Programme: see chapter 6 (6.7.3), under employment and social policies. **Social Chapter:** see chapter 6 (6.7.5), under employment and social policy. Not to be confused with the Social Charter (qv) or the European Social Charter (qv).

Social Charter or “Community Charter of the Fundamental Social Rights of Workers”: see chapter 6 (6.7.4), under employment and social policy. Not to be confused with the Council of Europe’s European Social Charter (qv) although it is often referred to as the European Social Charter – which is confusing.

Social harmonisation: see chapter 6 (6.7.1), under employment and social policies. It is otherwise known as *labour market harmonisation*, *levelling playing fields* and preventing *social dumping*.

Social Partners: see chapter 6 (6.7.4), under employment and social policies. They used to be known in the UK as the “two sides of industry”.

Social Policy Agenda (SPA): see European Social Policy Agenda.

Sovereignty: is an attribute which political bodies possess in relation to other such bodies. (Sovereignty is not to be confused with power.) It implies the recognition of a state as having rights of jurisdiction over a particular people and territory, and being solely answerable for that jurisdiction in international law. Broadly a state can be said to be sovereign if it can make decisions without recourse to higher authority. Sovereignty, in other words, is where there is an exclusive and comprehensive right of independent action. Ultimately all member states of the EU retain sovereignty as they can leave the EU if they wish. It is frequently said that for many EU measures the member states have agreed to “pool” or “share” their sovereignty by undertaking to abide by majority decisions. But it is more helpful to regard such sovereignty as “delegated sovereignty”, in which member states have delegated, indeed lost, powers to a supranational institution, the EU.

Stabilisation and Association Process (SAP): see Association Agreement, above.

Stability and Growth Pact (SGP): see chapter 5 (5.3), under economic and monetary policy.

State aids: see chapter 6 (6.5), under competition policy.

Structural funds: see chapter 7 (7.5), under regional policy.

Structured dialogue (or structured relations): between the EU and countries with which the EU has Europe Agreements (see Association Agreements, above) is an important element in the pre-accession strategy.

Stuttgart Declaration (Solemn Declaration on the EU): was a wide-ranging statement concerning the institutions and policies of the European Community issued by the European Council meeting in Stuttgart (June 1983).

Subsidiarity: where the Community will take action only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by member states. It is the principle that decisions should be taken at the lowest level consistent with effective action within a political system. In an increasingly integrationist EU, subsidiarity loses out.

Summit: meetings of heads of government are often referred to as summits. And see European Council.

Supremacy: see primacy.

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Switzerland: in June 1992 the Swiss Government applied for EEA membership – but it was rejected in a referendum. In common with other EFTA states, Switzerland already had free trade arrangements for manufactured goods within the European Community.

Tariff (or import levy): a duty that is levied on imports. In addition to “tariff barriers”, there are non-tariff barriers such as quotas (quantitative) or qualitative barriers (such as different product specifications, discriminatory public purchasing policies, restrictive pricing or distribution agreements, patent or copyright difficulties, major discrepancies in the tax structure).

Tax harmonisation: see fiscal harmonisation.

Trans-European Networks (TENS): see chapter 6 (6.9), under transport policy.

Transitional period: normally refers to the period of grace during which a new member state may be allowed progressively to introduce and apply EU rules, the immediate adoption of which would cause difficulties.

Transparency: whereby decisions of the Community institutions are taken as openly as possible – not just to the clarity of the decision-making procedures but also to the extent to which the public has access to them.

Transport analogies: a much-loved conceit of *euromphiles*. Britain is forever *missing* European trains, boats, buses etc. The unspoken assumption is that these trains, boats etc are heading in the right direction. This may not, of course, be the case. (The European Journal (July 2003) expressed this as: “Therefore the UK did not miss the ‘European bus’ but instead opted not to take the bus that was ‘going in the wrong direction’”).

Treaties: the EU is based on and governed in accordance with a number of Treaties between member states. They are the most fundamental part of the *acquis communautaire*. (See also chapter 2 and annex 2A.) They are::

Treaty	Notes	See
European Coal and Steel Community (ECSC) Treaty (Treaty of Paris)	Signed: 1951 In force: 1952 (lapsed July 2002)	Chapter 2
European Economic Community (EEC) Treaty (commonly referred to as the “Treaty of Rome”)	Signed: 1957 In force: 1958	Chapter 2
European Atomic Energy Community (Euratom or EAEC) Treaty (also signed in Rome)	Signed: 1957 In force: 1958	Chapter 2
Treaty establishing a Single Council and a Single Commission of the European Communities (Merger Treaty)	Signed: 1965 In force: July 1967	Chapter 2, under the Merger Treaty
Treaty amending certain Budgetary Provisions of the Treaties establishing the European Communities (and of the Merger Treaty) (Treaty of Luxembourg)	Signed: 1970 In force: 1971	Chapter 2
Treaty amending certain Financial Provisions of the Treaties establishing the European Communities (and the Merger Treaty)	Signed: 1975 In force: 1978	Chapter 2
Single European Act	Signed: 1986 In force: July 1987	Chapter 2
Treaty on European Union, Maastricht Treaty	Signed: 1992 In force: November 1993	Chapter 2, under the “Maastricht Treaty”
Treaty of Amsterdam	Signed: 1997 In force: May 1999	Chapter 2
Treaty of Nice	Signed: 2001 In force: February 2003	Chapter 2

Troika: the current presidency of the Council of Ministers, together with its immediate successor and predecessor.

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Two-speed Europe (two-tier Europe): this was first set out in the Tindemans Report (1975), which sought to recognise the fact that not all member states were willing and able to proceed towards integration at the same pace. It is sometimes generalised as *multi-speed* or *multi-tier* Europe. See *flexibility*, above.

UKREP: the acronym for the UK Permanent Representation to the EU.

Unanimity: this is one of the ways in which decisions may be taken in the Council of Ministers (the other being majority voting qv).

Veto: the mechanism which allows any member state to block a decision, both in the Council of Ministers and when member states' representatives are meeting outside the Council framework. Under the Maastricht Treaty the European Parliament, for example, has the right to veto legislation agreed in the Council of Ministers in some policy areas.

Western European Union (WEU): an organisation effectively founded by the Treaty of Brussels in 1948 with a secretariat in Paris. It was called the Brussels Treaty Organisation between 1948 and 1954. It is not an EC/EU institution. The WEU provides a forum for discussion and co-operation on matters of defence & security. Under the Maastricht Treaty the WEU became the “defence component of the EU” and it was agreed to move its HQ to Brussels. The current members of the WEU are Belgium, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Spain and the UK (10 in all). Observers are Austria, Denmark, Finland, Ireland and Sweden (5 in all). Associate members are Czech Republic, Hungary, Iceland, Norway, Poland, and Turkey (6 in all). Associate partners are Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia and Slovenia (7 in all).

Wider versus deeper: “deepening” means extending the range of the EU's activities and strengthening the EU's institutions, whilst “widening” means the opposite. The debate has been a live one in the context of the next round of enlargement (May 2004) – but it is now clear that enlargement will lead to deepening rather than widening.

World Trade Organisation (WTO): the successor of the General Agreement on Tariffs and Trade (GATT, qv).

ANNEX 2A

THE TREATIES

Annex 2A/1 The Treaties: summary

Treaty	Summary	In force
European Coal & Steel Community (ECSC) Treaty (Treaty of Paris, signed April 1951)	Concluded for 50 years among the Six on the basis of the Schuman Plan: allowed to lapse in July 2002	July 1952
European Economic Community (EEC) Treaty (Treaty of Rome, signed March 1957)	Concluded on the model of the ECSC Treaty but with a much broader range of objectives – the most important of the Treaties	January 1958
European Atomic Energy Community (EAEC or Euratom) Treaty (also signed in Rome, March 1957)	A sector-specific Treaty of limited application	January 1958
Treaty establishing a Single Council and a Single Commission of the European Communities (Merger Treaty, signed April 1965)	<ul style="list-style-type: none"> Amended the ECSC, EEC (Treaty of Rome) and Euratom Treaties to create a Council & a Commission serving all 3 Communities. Repealed by the Treaty of Amsterdam 	July 1967
Treaty amending certain Budgetary Provisions of the Treaties establishing the European Communities (and the Merger Treaty) (Treaty of Luxembourg, 1970)	Laid down a new procedure for settling the Budget & introduced the system of “own resources”	1971
Treaty amending certain Financial Provisions of the Treaties establishing the European Communities (and of the Merger Treaty) (1975)	Refined the budgetary procedure to give the European Parliament more power and set up the Court of Auditors	1978
Act concerning the election of the representatives of the European Parliament by direct universal suffrage (European elections, 1976)	The basis for the first (1979) & subsequent European elections	1978
Single European Act (signed February 1986)	<ul style="list-style-type: none"> Amended & expanded the EEC Treaty (Treaty of Rome), most importantly by extending the scope of QMV. Laid down new procedures for foreign policy co-operation 	July 1987
Maastricht Treaty (Treaty on European Union; signed February 1992)	<ul style="list-style-type: none"> Established the EU. Amended & expanded the EEC Treaty (Treaty of Rome), renamed the EEC as the “European Community” (leading to the EC Treaty or Treaty of the European Community). Created the co-decision procedure; created “pillars” of (2) CFSP and (3) JHA 	November 1993

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Treaty of Amsterdam (signed October 1997)	<ul style="list-style-type: none"> • Amended the Maastricht Treaty. • Extended co-decision. • Added new provisions on social policy. • Incorporated the Schengen <i>acquis</i> into the EC Treaty. 	May 1999
Treaty of Nice (signed February 2001)	<ul style="list-style-type: none"> • Amended the Maastricht Treaty. • Modified provisions on suspensions & flexibility. • Adjusted institutions in “Protocol on the Enlargement of the EU” 	February 2003

Source: Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.

Annex 2A/2 European Economic Community (EEC) Treaty (Treaty of Rome): major provisions

The Treaty of Rome: contained 248 articles & 160 pages of annexes, protocols & conventions. The Articles were laid out as follows:

- Article 1: **establishment of the EEC.**
- Article 2: establishment of a **common market**, progressively approximating the economic policies of the member states...[and with] closer relations between the States belonging to it.
- Article 3: covered:
 - Elimination of customs duties etc between member states
 - Establishment of CET & common commercial policy towards 3rd countries
 - Removal of obstacles to freedom of movement for persons, services & capital
 - Common policy in sphere of agriculture
 - Common policy in sphere of transport
 - System to ensure competition is not distorted
 - Procedures so economic policies can be co-ordinated
 - Approximation of laws for the proper functioning of a common market
 - European Social Fund
 - European Investment Bank
 - Association with overseas countries & territories.
- Article 4: stated that the tasks shall be carried out by the following institutions:
 - An Assembly
 - A Council
 - A Commission
 - A Court of Justice
 - An Economic & Social Committee shall act in an advisory capacity.
- Articles 5-248 dealt with the following areas:

5-8	The setting up of the EEC during a transitional period of 12 years
9-11	Free movement of goods
12-29	The establishment of a Customs Union
30-37	The elimination of quantitative restrictions
38-47	Provisions for agriculture
48-73	The free movement of persons, services & capital
74-84	The requirements of a common transport policy
85-102	Competition policy, taxation & the approximation of laws
103-116	Economic & trade policy
117-128	Social policy
129-130	The establishment of a European Investment Bank
131-136	The association of overseas countries & territories
137-198	The composition & powers of the various Community institutions
199-209	Financial provisions

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210-248 The legal personality of the Community, the admission of additional members, the setting up of the institutions & various miscellaneous points. Article 240 states that “the Treaty is concluded for an unlimited period”. The treaty came into effect on 1 January 1958

Main source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

Annex 2A/3 Major provisions of the Single European Act (SEA)

The SEA (the legal framework for the Single Market):

- Declared that the single internal EC market would be completed by December 1992 & all remaining barriers to intra-Community trade removed.
- Extended the scope of Qualified Majority Voting (QMV) in the Council, ending the national veto in most areas pertaining to the single market. QMV was extended to:
 - All types of autonomous modification or suspension of the duties applicable under the common customs tariff
 - Measures on the protection of savings & the exercise of medical, paramedical & pharmaceutical professions
 - The freedom to provide services
 - The free movement of capital
 - The common policy on sea & air transport
 - The approximation of national legislation aimed at completing the internal market (with the exception of taxation, freedom of movement for persons, & measures concerning the rights & interests of employed persons for which unanimity was still required).
- Gave formal standing to the European Council, by which the heads of state & government of the member states meet to discuss & determine policy.
- Added 6 new policy areas to European Community competence: single market, monetary co-operation, social policy, cohesion (i.e. between richer & poorer regions), R&D, environmental standards.
- Extended European Parliament’s (EP) powers: The EP had the right to be consulted twice over certain types of legislation (the co-operation procedure) and to veto accession treaties and Association Agreements (the assent procedure).
- Provided for the introduction of “common measures” on police co-operation, visas, extradition and immigration.
- Provided for co-operation in foreign policy and called for closer co-operation on European security, though as not to conflict with NATO or the WEU.
- The Act’s Preamble referred to monetary union as a goal.
- The Court of First Instance was created.

Main sources: Steven McGiffen, *The European Union: a critical guide*, Pluto Press, 2001, and Alex Roney and Stanley Budd, *The European Union: a guide through the EC/EU maze (6th edition)*, Kogan Page, 1998.

Annex 2A/4 The Maastricht Treaty (The Treaty on European Union): major provisions

The new aspects of the Maastricht Treaty were:

- **Establishment of the EU with a three pillar structure:**
 - The European Community (EC) (Pillar I);
 - Common foreign & security policy (CFSP) (Pillar II);
 - Justice & home affairs co-operation (JHA) (Pillar III).
- Please note that the CFSP and JHA were “intergovernmental”:
 - They could not issue Directives & Regulations (EC laws);
 - They were conducted by national governments through the Council of Ministers & the European Council;
 - They gave no formal powers to the supranational institutions – the Commission, EP & European Court of Justice (ECJ).

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- Establishment of a timetable & conditions for **economic & monetary union** (EMU), including the single currency. A single currency in the context of EMU to be established by 1999 at the latest, ensuring cohesion of the economies of the member states for this (involving the establishment of a Cohesion Fund to benefit poorer member states).
- Establishment of EU citizenship, in other words, the establishment of new rights for citizens of member states of the EU as citizens of the EU.
- Further extension of EC competence: to consumer protection, public health, education and vocational training, culture, “trans-European networks” (TENs), extension of existing powers in environmental policy, industrial policy & R&D expanded.
- Agreement by 11 member states (excluding the UK) on the Social Chapter. The Protocol on Social Policy and an Agreement on Social Policy (The Social Chapter) was appended to the Maastricht Treaty.
- Further extension of powers of EP: to extend the legislative powers of the EP in EC decision-making, the appointment of the Commission & in external relations policy. Other institutional changes, included the increase in the Commission’s term of office from four to five years, and granting to the ECJ of the right to impose fines on member states for failing to implement its judgments.
- Subsidiarity written into text of Treaty.
- Introduction of a Common Foreign & Security Policy (CFSP, the II pillar) with limited provision for QMV & a statement of intent to build a common defence. In other words, the development of common foreign & defence policies, with the defence issues initially subcontracted to the WEU.
- Introduction of powers related to Justice & Home Affairs (JHA, the III pillar) & dealing with such matters as asylum policy and immigration & policing (visas and co-operation on anti-crime policies). In other words, the strengthening of judicial, immigration & police co-operation between member states, largely on an inter-governmental basis.

The main aims of the Maastricht Treaty can be identified as:

- To promote economic & social progress in the EU through the creation of a single market without frontiers through the strengthening of economic & social cohesion & through the introduction of EMU.
- To assert the European identity on the international scene, particularly through the implementation of a common foreign and defence policy.
- To protect the interests of the nationals of member states through the introduction of European citizenship.
- To develop close co-operation between the member states on justice & home affairs.
- To ensure the effectiveness of the mechanisms & institutions of the Community.

Main sources: Steven McGiffen, *The European Union: a critical guide*, (Pluto Press, 2001; Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002); Alex Roney and Stanley Budd, *The European Union: a guide through the EC/EU maze (6th edition)*, Kogan Page, 1998.

Annex 2A/5 The Treaty of Amsterdam: major provisions

The new aspects of the Treaty of Amsterdam were:

- Extension of QMV: extended QMV to the following fields: employment guidelines and incentive measures; social exclusion; free movement of persons (after 5 years); special treatment for foreign nationals; public health; equal opportunities & equal treatment for men & women; R&D; countering fraud; customs co-operation; statistics; data protection; peripheral regions.
- A new “**flexibility**” clause was added, enabling groups of member states to use the Community institutions to co-operate more closely on specific areas not within the exclusive competence of the EC.
- Introduced a new provision on suspensions.
- Free movement of persons, asylum, immigration, the crossing of external borders & judicial co-operation in civil matters were brought within the Community framework (in other words, transferring much of the decision-making from **Pillar III** to **Pillar I**).
- Institutional changes:
 - Limited the number of members of the EP to 700, however big the EU may grow. The **EP’s powers were extended**, giving it the right to co-decision with the Council over the majority of EU legislation

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- Nomination of Commission President by member states must be approved by EP. The role of the **President of the Commission was upgraded**: he would have to approve of other members of the Commission (with governments) and he was to define the Commission's general political guidelines.
- ECJ given direct responsibility for ensuring that human rights were respected and its jurisdiction extended to the fields of immigration, asylum, visas & the crossing of borders, and police & judicial & criminal co-operation.
- EU Court of Auditors given new investigative powers.
- QMV in the Council of Ministers was extended to include research, employment, social exclusion, equal opportunities & public health.
- Repealed the 1965 Merger Treaty.
- Development of CFSP:
 - Provided for greater co-operation between member states in pursuit of a Common Foreign & Security Policy. In other words, the provisions for CFSP were strengthened.
 - Empowered the Union to carry out humanitarian aid & peacekeeping tasks (known as Petersberg tasks), to devise common strategies, general foreign policy guidelines, joint actions & common positions.
 - The EU to be represented by a group (called the troika) consisting of the Presidency of the Council, the Commission & the **Secretary-General of the Council, who will act as the Union's "High Representative for the Common Foreign & Security Policy"** (a new post).
- Social questions and civil rights:
 - Empowered the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation & provided measures to combat discrimination based on disability. Made a furtherance of gender equality a Community task.
 - Provided for permanent & regular collaboration, within the Community framework, on employment & unemployment. An employment chapter was, therefore, added to the treaty.
 - Protected individuals from the processing of personal data & the free movement of such information by institutions & administrations that handle it.
 - Please note: The Protocol on Social Policy and an Agreement on Social Policy (The Social Chapter), which was appended to the Maastricht Treaty, was signed by the UK and a single framework for social policy was included in the Treaty of Amsterdam. The **Social Chapter** was, therefore, incorporated into the treaty.
- Internal security:
 - Provided for closer co-operation between police forces and customs authorities and directly with Europol, the European police network.
 - Established a legal requirement to have closer co-operation between member states' police and judicial authorities to combat and prevent racism, xenophobia, terrorism, organised crime, trafficking of persons and offences against children, drug trafficking, corruption and fraud.
 - Established a common minimum standard for rules, and penalties for organised crime, terrorism and drug trafficking will be adopted across the EU.
- Inward migration:
 - **Incorporated the Schengen agreement**, providing for an area without impediment to free movement of travel between 13 of the EU15 member states (the UK and Ireland have opt-outs, Denmark had a partial opt-out), into the Treaty previously an inter-governmental accord. But also provided for the removal of all controls on people crossing internal borders – whether EU citizens or nationals of non-member countries.
 - In respect of controls at all the EU's external borders, the establishment of common standards and procedures for checking people, common rules on visas for intended stays of no more than three months, a common list of non-member countries whose nationals must hold visas when crossing external borders, and a list of non-member countries whose nationals are exempt from this requirement, common procedures and conditions for the issue of visas by member states, and a

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definition of the terms on which nationals of non-member countries shall be free to travel within the EU for three months (it should be emphasised that the Treaty obliged the member states to develop these; it did not draw them up).

- Defined minimum standards for the reception of asylum seekers in member states and for classifying nationals of non-member countries as refugees.
- Laid down the terms of entry and residence of immigrants in the EU, and standards for procedures for the issue of long-term visas and residence permits by member states, standards for dealing with illegal immigration and illegal residence, and the repatriation of illegal residents, and the rights of citizens of non-member countries who are legally resident in a member states and the terms on which they may reside in other member states.
- The environment, public health and consumer protection:
 - Stipulated that a high level of human health protection must be assured in the definition and implementation of all Community policies and activities.
 - Provided for a high level of consumer protection.
 - Please note: the environment must be taken into account into all Community policies. Commission obliged to conduct an environmental impact assessment of its own proposals. Environment, public health and consumer protection legislation now covered (with rare exceptions) by the co-decision procedure, giving the EP some power over these areas.

Main sources: Steven McGiffen, *The European Union: a critical guide*, Pluto Press, 2001; and Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

Annex 2A/6 The Treaty of Nice: major provisions

The new aspects of the Treaty of Nice were:

- New Protocol on **Enlargement** was adopted.
- **Institutional changes**, mainly in preparation for enlargement:
 - Commission President given more power to manage the Commission, & to force the resignation of an individual Commissioner. From 2005, Commission to consist of one member per member state until membership of the EU reaches 27. After that, membership to be fixed at a number, & according to a system of national rotation, to be determined by unanimous vote at Council.
 - A re-weighting of votes in the Council of Ministers to strengthen the position of the larger member states.
 - The larger member states would give up their right to a second Commissioner.
 - EP numbers decided for existing and prospective members. Maximum number of Members of the EP fixed at 732.
 - Membership numbers for other EU institutions also agreed.
 - Some European Council meetings (which currently take place in the country holding the Presidency) to be held in Brussels. From the accession of the 18th member state, all European Councils are to be held in Brussels.
 - Minor changes are made to the ECJ & the ECB.
- New judicial co-operation body, Eurojust, established.
- Clear procedure for amending the fundamental aims of the EU, in consultation with the ECB & by unanimous vote at Council.
- The scope of the “flexibility” clause of the Treaty of Amsterdam extended.
- The “suspension” provision of the Treaty of Amsterdam amended.
- Establishment of an advisory Social Protection Committee.
- Procedure defined for setting up “political parties at European level”.
- There are new provisions to facilitate the implementation of the **[Common] European Security & Defence Policy (CESDP)**.

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- **QMV** in the Council of Ministers extended to over 30 more Articles of the TEC (Treaty of the European Community, part of the Maastricht Treaty) including notably the appointment of the president of the commission. The EP's powers of co-decision are extended to ten more Articles. The extensions to QMV included:
 - Certain high-level appointments, including, including the President of the Commission & the High Representative for the CFSP.
 - Certain aspects of the making of international agreements.
 - Actions taken in support of anti-discrimination measures adopted by the member states.
 - Certain actions taken to enable citizens to take advantage of freedom of movement.
 - Most measures related to visas, asylum & immigration.
 - Granting of emergency financial assistance to member states.
 - Most industrial policy measures.
 - From 2007 measures relating to the Structural Funds, given agreement on the relevant budget.
 - Financial & technical co-operation agreements with third countries (does not apply to association agreements or pre-accession measures).
- Formalisation of “**Enhanced Co-operation**” – groups of at least eight member states may make agreements among themselves which enable them to go further in particular policy areas than the rest were prepared to do, provided such agreements:
 - Furthered the objectives of the EU & reinforce integration.
 - Respected the Treaties & the single institutional framework of the EU.
 - Respected the EU law.
 - Respected existing competences.
 - Did not undermine the internal market or economic or social cohesion.
 - Respected the competences, rights & obligations of non-participating member states.
 - Were in principle open to all member states.
 - Were used only as a last resort.

Main sources: Steven McGiffen, *The European Union: a critical guide*, Pluto Press, 2001; and Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

ANNEX 2B

ADDITIONAL INFORMATION FOR CHAPTER 2

Table 2B/1 New member states

Country	Applied	Joined
Ireland	July 1961	January 1973
UK	August 1961	January 1973
Denmark	August 1961	January 1973
Greece	June 1975	January 1981
Portugal	March 1977	January 1986
Spain	July 1977	January 1986
East Germany	NA	October 1990, as a consequence of German reunification
Austria	July 1989	January 1995
Sweden	July 1991	January 1995
Finland	March 1992	January 1995
Estonia	December 1995	May 2004
Latvia	October 1995	May 2004
Lithuania	December 1995	May 2004
Poland	April 1994	May 2004
The Czech Republic	January 1996	May 2004
Slovakia	June 1995	May 2004
Hungary	March 1994	May 2004
Slovenia	June 1996	May 2004
Cyprus (Greek part only)	July 1990	May 2004
Malta	July 1990*	May 2004

* withdrawn October 1996, but later renewed

Source: Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002, updated.

Table 2B/2 Applications for membership (excluding the 15)

Country	Applied	
Norway	April 1962	Rejected by referendum in September 1972.
Turkey	April 1987	Accepted as applicant 1999, target date 2007
Morocco	July 1987	Rejected by the Council
Cyprus	July 1990	Joined May 2004
Malta	July 1990*	Joined May 2004
Switzerland	June 1992	On the table
Norway	December 1992 (2 nd application)	Rejected by referendum in November 1994.
Hungary	March 1994	Joined May 2004
Poland	April 1994	Joined May 2004
Romania	June 1995	Due to join 2007
Slovakia	June 1995	Joined May 2004
Latvia	October 1995	Joined May 2004
Estonia	December 1995	Joined May 2004
Bulgaria	December 1995	Due to join 2007
Lithuania	December 1995	Joined May 2004
Czech Republic	January 1996	Joined May 2004
Slovenia	June 1996	Joined May 2004
Macedonia (FYROM)	February 2004	New

* withdrawn October 1996, but later renewed

Source: Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002, updated.

ANNEX 3

ADDITIONAL INFORMATION FOR CHAPTER 3

Table 3/1A Locations of EU institutions

Institution	Location
Commission	Brussels
Council of Ministers [and COREPER]	The General-Secretariat and the Permanent Representations are based in Brussels.
European Council	Traditionally, the meetings were held in the member state holding the presidency of the Council of Ministers. Under the Treaty of Nice, they are now to be held in Brussels
European Parliament	Monthly plenary sessions are held in its HQ Strasbourg (with additional meetings in Brussels), most committees meet in Brussels and the bulk of the Secretariat is in Luxembourg
Court of Justice and Court of First Instance	Luxembourg
Court of Auditors	Luxembourg
Economic & Social Committee	Brussels
Committee of the Regions	Brussels
EIB and European Investment Fund	Luxembourg
ECB	Frankfurt
European Ombudsman	Strasbourg
Decentralised agencies	
Community Plant Variety Rights Office	Angers, France
European Agency for the Evaluation of Medicinal Products (EMA)	London, UK
European Agency for Reconstruction	Thessaloniki, Greece
European Agency for Safety & Health at Work	Bilbao, Spain
European Centre for the Development of Vocational Training (CEDEFOP)	Thessaloniki, Greece
European Environment Agency (EEA)	Copenhagen, Denmark
European Foundation for the Improvement of Living and Working Conditions	Dublin, Ireland
European Centre for Drugs & Drug Addiction (EMCDDA)	Lisbon, Portugal
European monitoring Centre on Racism and Xenophobia	Vienna, Austria
European Training Foundation	Turin, Italy
EUROPOL – European Police Office	The Hague, the Netherlands
Office for Harmonisation in the Internal Market (OHIM, Trade Marks & Designs)	Alicante, Spain
Translation Centre for Bodies in the EU	Luxembourg

Source: *Dod's European Companion 2003*, Vacher Dod, 2002.

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Table 3/1B Ten new agencies (as agreed December 2003)

Agency	Location
1. European Food Safety Agency	Parma, Italy
2. European Aviation Safety Agency	Cologne, Germany
3. European Maritime Safety Agency	Lisbon
4. Railway Safety Agency	Lille, France
5. Fisheries Control Agency	Vigo, Spain
6. European Network Security Agency	Greece
7. Agency to regulate the EU's chemicals industry	Helsinki
8. European Centre for Disease Prevention and Control	Sweden
9. European Human Rights Agency	Vienna (currently the Centre on Racism and Xenophobia)
10. EU's Border Management Agency	TBC

In addition there are:

The European Police College	London
Eurojust	The Netherlands
The Office of the European Public Prosecutor (EPP)	Luxembourg

Source: C. Booker, "No new treaty, but 10 mighty agencies", *Sunday Telegraph*, 21 December 2003.

Table 3/2 Commission presidents

1958-67	Walter Hallstein	Germany
1967-70	Jean Rey	Belgium
1970-72	Franco-Maria Malfatti	Italy
1972-73	Sicco Mansholt	Netherlands
1973-77	Francois-Xavier Ortoli	France
1977-81	Roy Jenkins	UK
1981-85	Gaston Thorn	Luxembourg
1985-95	Jacques Delors	France
1995-99	Jacques Santer	Luxembourg
1999-	Romano Prodi	Italy

Source: Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.

Table 3/3 The current structure of the European Commission – including the 10 new Commissioners (in bold)

Commissioner	Responsibilities	Service/Directorate-General*
President: Romano Prodi (Italian)	Secretariat; Forward Studies Unit	Secretariat-General
Romano Prodi	Legal Service	
Romano Prodi	Press and Communication Service	
Vice-President for Administration Reform: Neil Kinnock (UK)	Overall coordination of administrative reform; Personnel and Administration	Personnel and Administration DG
Neil Kinnock	Joint Interpreting and Conference Service	
Neil Kinnock	Translation Service	
Neil Kinnock	Internal Audit Service	
Vice-President for relations with the European Parliament, and for Energy	Relations with the European Parliament	

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& Transport: Loyola de Palacio (Spain) Loyola de Palacio	Relations with the Committee of the Regions, the Economic and Social Committee and the Ombudsman	
Loyola de Palacio	Energy	Energy & Transport DG
Loyola de Palacio	Transport (including trans-European Networks)	Energy & Transport DG
Commissioner for Competition: Mario Monti (Italy)	Competition	Competition DG
Commissioner for Agriculture and Fisheries: Franz Fischler (Austria)	Agriculture & Rural Development	Agriculture DG
Agriculture: Sandra Kalniete (Latvia)		
Franz Fischler	Fisheries	Fisheries DG
Commissioner for Enterprise and Information Society: Erkki Liikanen (Finland)	Enterprise; Competitiveness; Innovation	Enterprise DG
Enterprise policy: Jan Figel (Slovakia)		
Erkki Liikanen	Information Society	Information Society DG
Commissioner for the Internal Market: Frits Bolkestein (Netherlands)	Internal Market; Financial Services	Internal Market DG
Frits Bolkestein	Customs & Taxation	Customs & Taxation DG
Commissioner for Research: Philippe Busquin (Belgium)	Science, Research & Development	Research DG
Philippe Busquin	Joint Research Centre	
Commissioner for Economic & Monetary Affairs: Pedro Solbes Mira (Spain)	Economic and financial affairs; Monetary matters	Economic and Financial Affairs DG
Commissioner for Economic & Monetary Affairs: Siim Kallas (Estonia)		
Pedro Solbes Mira	Statistical office	Statistical office
Commissioner for Development & Humanitarian Aid: Poul Nielson (Denmark)	Development aid & co-operation	Development DG
Development & Humanitarian Aid: Joe Borg (Malta)		
Poul Nielson	Humanitarian aid	Humanitarian Aid Office (HAO, formerly ECHO)
Poul Nielson	External aid	EuropeAid (sic) Co-operation office [with Chris Patten]
Commissioner for Enlargement: Günter Verheugen (Germany)	Enlargement process including the pre-accession strategy service	Enlargement DG
Commissioner for Enlargement: Janez Potocnik (Slovenia)		
Commissioner for External Relations: Chris Patten** (UK)	External Relations; Common Foreign & Security Policy (CFSP); Delegations in non-member countries	External Relations DG

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Chris Patten	Common Service for External Relations	Common Service for External Relations
Commissioner for Trade: Pascal Lamy (France)	Trade policy and instruments of trade policy	Trade DG
Trade: Danuta Hübner (Poland)		
Commissioner for Health and Consumer Protection: David Byrne (Ireland)	Public Health; Consumer Protection	Health and Consumer Protection DG
Health and Consumer Protection: Pavel Telicka (Czech Republic)		
Commissioner for Regional Policy: Michel Barnier (France)	Regional Policy; Cohesion fund;	Regional Policy DG
Regional policy: Peter Balazs (Hungary)	Institutional Reform; IGC	
Commissioner for Education and Culture: Viviane Reding (Luxembourg)	Education and Culture	Education and Culture DG
Education and Culture: Dalia Grybauskaite (Lithuania)		
Viviane Reding	Publications Office	Publications Office
Commissioner for the Budget: Michael Schreyer (Germany)	Budget	Budget DG
Budget: Markos Kyprianou (Cyprus)		
Michael Schreyer	Financial Control	Financial Control DG
Michael Schreyer	Fraud Prevention	European Anti-Fraud Office (OLAF)
Commissioner for the Environment: Margot Wallström (Sweden)	Environment	Environment DG
Commissioner for Justice and Home Affairs: Antonio Vitorino (Portugal)	Freedom, Security and Justice	Justice and Home Affairs DG
Commissioner for Employment and Social Affairs: Anna Diamantopoulou (Greece)	Employment; Social Affairs; Equal Opportunities	Employment and Social Affairs DG

* DG=Directorate-General

** Javier Solana is the Secretary-General of the EU Council and High Representative for the CFSP

Sources: *Dod's European Companion 2003*, Vacher Dod and Raphael Minder: "Former Communist stooges? Lacking experience? Europe's new executives ready to defeat the sceptics", *Financial Times*, 29 April 2004.

ADDITIONAL INFORMATION FOR CHAPTER 3

Table 3/4 The structure of the European Commission (prior to current structure)

DG*

DG I	External economic relations
DG II	External political relations
DG III	Economic and financial affairs
DG IV	Industry
DG V	Competition
DG VI	Employment, industrial relations and social affairs
DG VII	Agriculture (and Veterinary and Phytosanitary Office)
DG VIII	Transport
DG IX	Development
DG X	Personnel and administration
DG XI	Information, communication, culture, and audiovisual
DG XII	Environment, nuclear safety, and civil protection
DG XIII	Science, research, and development (and Joint Research Centres)
DG XIV	Telecommunications, information market, and exploitation of research
DG XV	Fisheries
DG XVI	Internal market and financial services
DG XVII	Regional policies
DG XVIII	Credit and investments
DG XIX	Budgets
DG XX	Financial control
DG XXI	Customs and indirect taxation
DG XXII	Education, training and youth
DG XXIII	Enterprise policy, distributive trades, tourism, and cooperatives

* DG: Directorate General

Helen Wallace and William Wallace, *Policy-making in the European Union*, OUP, 1996.

Table 3/5 Presidents of the High Authority of the ECSC and of the Commission of Euratom

Presidents of the High Authority of the ECSC		Presidents of the Commission of Euratom	
1952	Jean Monnet		
1955	Rene Mayer		
1958	Paul Finet	1958	Louis Armand
1959	Piero Malvestiti	1959	Etienne Hirsch
1963	Dino Del Bo	1962	Pierre Chatenet

Note: the High Authority of the ECSC merged with European Commission on 1 July 1967.

Table 3/6 Countries holding the presidency of the Council of Ministers 1996-2008

	January-June	July-December
1996	Italy	Ireland
1997	Netherlands	Luxembourg
1998	UK	Austria
1999	Germany	Finland
2000	Portugal	France
2001	Sweden	Belgium
2002	Spain	Denmark
2003	Greece	Italy
2004	Ireland	Netherlands
2005	Luxembourg	UK
2006	Austria	Finland
2007	Germany	Portugal
2008	France	Sweden

Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

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Table 3/7A Changes to the Council of Ministers and the European Parliament (Treaty of Nice): EU15 members.

Country	Population (million)	Council (of Ministers)		Parliamentary allocation of seats	
		Pre- enlargement vote	Post- enlargement vote	Pre- enlargement vote	Post- enlargement vote
Germany	82.0	10	29	99	99
UK	59.2	10	29	87	72
France	59.0	10	29	87	72
Italy	57.6	10	29	87	72
Spain	39.4	8	27	64	50
Netherlands	15.8	5	13	31	25
Greece	10.5	5	12	25	22
Belgium	10.2	5	12	25	22
Portugal	10.0	5	12	25	22
Sweden	8.9	4	10	22	17
Austria	8.1	4	10	21	17
Denmark	5.3	3	7	16	13
Finland	5.2	3	7	16	13
Ireland	3.7	3	7	15	12
Luxembourg	0.4	2	4	6	6
Total (EU15)	375.3	87	237	626	534
QMV threshold	Na	62 (71%)	Na	Na	Na

Table 3/7B Representations to the Council of Ministers and the European Parliament (Treaty of Nice): EU25 and EU27 members

Country	Population (million)	Council (of Ministers)	Parliamentary allocation of seats
Poland	38.7	27	50
Czech Republic	10.3	12	20
Hungary	10.1	12	20
Slovakia	5.4	7	13
Lithuania	3.7	7	12
Latvia	2.4	4	8
Slovenia	2.0	4	7
Estonia	1.4	4	6
Cyprus	0.8	4	6
Malta	0.4	3	5
Total (10 members)	75.2	84	147
Total (EU25)	450.5	321	682
QMV threshold	Na	232 (72%)	Na
Romania	22.5	14	33
Bulgaria	8.2	10	17
Total (2 members)	30.7	24	50
Total (EU27)	481.2	345	732
QMV threshold	Na	255 (74%)	Na

Sources: "EU Summit in Nice", *Financial Times*, 12 December 2000, and Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

ADDITIONAL INFORMATION FOR CHAPTER 3

Table 3/8 Political groups in the European Parliament (1999)

	EPP, ED	PES	ELDR	Greens, EFA	EUL, NGL	UEN	IND	EDD	Total	Turnout (%)
Austria	7	7	-	2	-	-	5	-	21	49.4
Belgium	6	5	5	7	-	-	2	-	25	91.0
Denmark	1	3	6	-	1	1	-	4	16	50.4
Finland	5	3	5	2	1	-	-	-	16	30.1
France	21	22	-	9	11	12	6	6	87	46.8
Germany	53	33	-	7	6	-	-	-	99	45.2
Greece	9	9	-	-	7	-	-	-	25	75.3
Ireland	5	1	1	2	-	6	-	-	15	50.2
Italy	34	17	7	2	6	9	12	-	87	70.8
Luxembourg	2	2	1	1	-	-	-	-	6	87.3
Netherlands	9	6	8	4	1	-	-	3	31	30.0
Portugal	9	12	-	-	2	2	-	-	25	40.0
Spain	28	24	3	4	4	-	1	-	64	63.0
Sweden	7	6	4	2	3	-	-	-	22	38.8
UK	37	30	10	6	-	-	1	3	87	24.0
Total	233	180	50	48	42	30	27	16	626	

- EPP/ED: the European People's Party and European Democrats (right-of-centre MEPs from all member states – mainly Christian Democrats, UK Conservatives, Spanish Popular Party and the French UDF).
- PES: the Party of European Socialists (left-of-centre MEPs from all EU states).
- ELDR: European Liberal Democratic and Reformist Group.
- Greens/EFA: Greens and European Free Alliance.
- EU/NGL: the European United Left and the Nordic Green Left.
- UEN: the Union for a Europe of Nations.
- IND: Independents.
- EDD: the Europe of Democracies and Diversities Group.

Sources: *Dod's European Companion 2003*, Vacher Dod, 2002, and Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998.

Table 3/9 Presidents of the European Parliament (1958-2002)

1958-1960	Robert Schuman
1960-1962	Hans Furler
1962-1964	Gaetano Martino
1964-1965	Jean Duvieusart
1965-1966	Victor Leemans
1966-1969	Alain Poher
1969-1971	Mario Scelba
1971-1973	Walter Behrendt
1973-1975	Cornelis Berkhouwer
1975-1977	Georges Spénale
1977-1979	Emilio Colombo
1979-1982	Simone Veil (France)
1982-1984	Pieter Dankert (The Netherlands)
1984-1987	Pierre Pflimlin (France)
1987-1989	Lord Plumb (UK)
1989-1992	Enrique Baron (Spain)
1992-1994	Egon Klepsch (Germany)
1994-1997	Klaus Haensch (Germany)
1997-1999	Jose-Maria Gil-Robles (Spain)
1999-2002	Nicole Fontaine (France)
2002-	Pat Cox (Ireland)

Sources: Office for official publications of the European Communities, *The European Parliament*, 2002, and Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.

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Table 3/10 Committees of the European Parliament

1. Foreign Affairs, Human Rights, Common Security & Defence Policy
2. Budgets
3. Budgetary Control
4. Citizens' Freedoms & Rights, Justice and Home Affairs
5. Economic & Monetary Affairs
6. Legal Affairs & the Internal Market
7. Industry, External Trade, Research & Energy
8. Employment & Social Affairs
9. Environment, Public Health & Consumer Policy
10. Agriculture & Rural Development
11. Fisheries
12. Regional Policy, Transport & Tourism
13. Culture, Youth, Education, the Media & Sport
14. Development & Co-operation
15. Constitutional Affairs
16. Women's Rights & Equal Opportunities
17. Petitions

Source: Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002.

Table 3/11 The Economic and Social Committee: membership (EU25/27)

Member state	Number of members
Germany	24
France	24
Italy	24
UK	24
Spain	21
Poland	21
<i>Romania</i>	<i>15</i>
Bulgaria	12
Czech Republic	12
Hungary	12
Austria	12
Belgium	12
Greece	12
The Netherlands	12
Portugal	12
Sweden	12
Slovakia	9
Lithuania	9
Denmark	9
Finland	9
Ireland	9
Latvia	7
Slovenia	7
Estonia	7
Cyprus	6
Luxembourg	6
Malta	5
Total	344 (317 excluding Romania and Bulgaria)

Source: British Management Date Foundation, *Analysis of the draft Treaty establishing a Constitution for Europe*, BDMF, October 2003.

ADDITIONAL INFORMATION FOR CHAPTER 3

Table 3/12 The Economic and Social Committee: sections for detailed work

1. Agriculture
2. Transport and Communications
3. Energy and Nuclear Questions
4. Economic and Financial Questions
5. Industry, Commerce, Crafts and Services
6. Social Questions
7. External Relations
8. Regional Development
9. Protection of the Environment, Public Health and Consumer Affairs

Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

Table 3/13 Compliance record by member state

Country	Applicable Directives	Directives for which measures notified	% compliance	Rank
Belgium	1,311	1,215	92.7	9
Denmark	1,310	1,285	98.0	1
Germany	1,313	1,227	93.5	6
Greece	1,304	1,189	91.1	12
Spain	1,314	1,245	94.8	3
France	1,310	1,203	91.8	=10
Ireland	1,310	1,218	92.9	8
Italy	1,310	1,181	90.2	13
Luxembourg	1,309	1,223	93.4	7
Netherlands	1,310	1,275	97.3	2
Austria	1,306	1,153	88.3	14
Portugal	1,311	1,204	91.8	=10
Finland	1,306	1,057	80.9	15
Sweden	1,309	1,227	93.8	5
UK	1,309	1,233	94.2	4

Source: Rodney Leach, *Europe: a concise encyclopedia of the European Union from Aachen to Zollverein*, Profile books, 1998, (quoting the Commission's annual table on compliance, 1997 report, period to end 1996).

Table 3/14 Information from the Internal Market Scoreboard (May 2003)

Source for following tables: *The Internal Market DG*, The European Commission.

Table 3/14A Currently only 5 member states meet the Commission's 1.5% target for the transposition of EU legislation into national law (EU15)

Country	% outstanding directives	Number of outstanding directives
Italy	3.9	59
Portugal	3.7	57
Ireland	3.5	54
Austria	3.4	53
Greece	3.3	51
France	3.3	50
Luxembourg	3.2	49
Germany	3.0	46
Netherlands	2.0	31
Belgium	1.8	27
UK	1.5	23
Spain	1.2	18
Finland	1.0	16
Sweden	1.0	16
Denmark	0.6	9

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Table 3/14B Only 4 countries hit the Commission's 0% target for directives overdue by more than 2 years (EU15)

Country	Number overdue by more than 2 years
France	9
Luxembourg	6
Belgium	5
Ireland	5
Germany	4
Greece	4
Austria	3
Italy	3
Spain	1
Netherlands	1
Sweden	1
Denmark	0
Finland	0
Portugal	0
UK	0

Table 3/14C Number of open infringement cases (EU15)

Country	Number of cases
France	220
Italy	200
Spain	153
Greece	144
Belgium	138
Germany	136
Ireland	132
UK	121
Austria	79
Netherlands	68
Portugal	57
Finland	47
Denmark	36
Luxembourg	34
Sweden	32

ANNEX 4

ADDITIONAL INFORMATION FOR CHAPTER 4

Table 4/1 UK Government departments and the EU's influence

Department	EU influence
HMT & related departments (Inland Revenue, Customs and Excise)	<ul style="list-style-type: none">• Monetary policy (and BoE) (if join EMU)• Fiscal policy (if join EMU)• Taxation and Customs• Tax “harmonisation” – already established• Budget contributions to the EU
DTI	<ul style="list-style-type: none">• External trade• Internal market• Competition policy• Company/business law et al• Science and R&D et al• Employment legislation• Energy• Consumer protection
DWP	<ul style="list-style-type: none">• Social security & pensions (still the veto)
DoT	<ul style="list-style-type: none">• Transport
DEFRA	<ul style="list-style-type: none">• Agriculture & rural development• Fisheries• Environment
ODPM	<ul style="list-style-type: none">• Regional policy
DoH	<ul style="list-style-type: none">• Public health
DfES	<ul style="list-style-type: none">• Education (limited)
DCMS	<ul style="list-style-type: none">• Culture et al
HO/DCA	<ul style="list-style-type: none">• Police co-operation• Judicial co-operation• Immigration, asylum and border controls
DFID	<ul style="list-style-type: none">• Aid and development
FCO/MOD	<ul style="list-style-type: none">• Common foreign and security policy, defence (CFSP)

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Annex 4/footnote: The EU's influence on the UK's policy

This footnote draws on information from Nirj Deva, "Who really governs Britain?", *The European Journal*, July/August 2001.

The EU's powers

The EU has a number of powers set out in the Treaties. These range from exclusive powers through to co-operation with member states. Deva divides the powers of the EU into seven levels of Community intervention:

- Where the member states have **surrendered policies**. This covers almost all the powers in regard of the internal market & the initiation of new legislation. Since the Single European Act, the Community has had jurisdiction over all matters relating to the internal market (comprising the abolition of customs duties and obstacles to freedom of movement of goods, persons and services, the right of establishment within the EU, competition rules, economic and monetary policy for those in the eurozone).
- **Common policies**: namely, external trade, agriculture & fisheries, transport and environmental policy – areas in which the member states have relinquished powers of initiation and general jurisdiction to the Community. Here the Parliament and ministers automatically transpose EU legislation into national legislation.
- At a lower level are the **complimentary policies**. In these areas the EU complements policies that are basically national such as social policy (including a "common programme" on vocational training) and development co-operation policy.
- Policies designed to **strengthen** existing national policies particularly in the areas of industrial competitiveness, economic and social cohesion, R&D, and consumer protection. Here much "gold plating" is also undertaken by British officials.
- More modestly, the Community also makes a **contribution** in the areas of health, education & culture by providing policy guidelines and advice.
- The EU is limited to taking **measures** in the areas of energy, tourism and sport.
- The sensitive areas of **policy co-operation**: the Common Foreign and Security Policy (CFSP), Justice & Home Affairs (JHA), and employment policies.

The following tables give an idea of the huge influence of the EU over British policy.

Table 4/I Legislation surrendered to EU or made where the EU takes the Authorship and Initiative (updated by the author)

Subject matter	Involved Department	Percentage lost to the EU
Free movement of goods	DTI	100
Customs Union	HMT	100
Freedom of movement of workers	HO (lead department)	50
Freedom to provide services	Several	70
Competition policy	DTI	80
Bilateral trade relations	DTI	80
Agriculture	DEFRA	90
Fisheries	DEFRA	90
Transport	DoT	60
Environment policy (except regional policy)	DEFRA	80
Taxation	HMT	20

ADDITIONAL INFORMATION FOR CHAPTER 4

Table 4/II EU legislation that is either complementary, where the EU shares the authorship or initiative, or strengthens national legislation (updated by the author)

Subject matter	Involved Department	Percentage lost to the EU
International development	DfID	50
Social policy (Social Chapter)	DTI (mainly)	50
Working Time etc Directive	DTI	40
Regional policy	Office of the Deputy PM (ODPM)	50
Consumer protection	DTI	50
Public health	DoH	50
Industrial policy	DTI	70
Company/business law	DTI	30

Table 4/III Legislation that is non-binding (advisory or guidelines) or voluntarily cooperative (updated by the author)

Subject matter	Involved Department	Percentage lost to the EU
Science & information	DTI	20
Education	DfES	10
Culture	DCMS	10
Energy policy	DTI (except Euratom treaty)	20
Nuclear safeguards	DTI	90
Tourism	DCMS	10
Sport	DCMS	5
External relations/CFSP	FCO	30
Defence/CFSP	MoD	30
Immigration	HO	5
Asylum	HO	10
Border controls	HO	0
Police co-operation (criminal)	HO	10
Judicial co-operation (civilian)	DCA (ex-LCD)	0
Judicial co-operation (criminal)	DCA (ex-LCD)	10

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Table 4/IV Summary table of where legislation is initiated or authored (updated by the author)

Policy & Department of State	% of the legislative programme initiated/authored	
	In the EU	In UK Parliament
Customs Union (HMT)	100	0
Other internal market (DTI)	100	0
Trade (DTI)	90	10
Agriculture (DEFRA)	90	10
Fisheries (DEFRA)	90	10
Nuclear safeguards (DTI)	90	10
Competition (DTI)	80	20
Environment (DEFRA)	80	20
Transport (DoT)	60	40
International development (DfID)	50	50
Social policy (DTI)	50	50
Employment policy (DTI)	40	60
Regional policy (Office of the Deputy PM, ODPM)	50	50
Public health (DoH)	50	50
Consumer protection (DTI)	40	60
Energy (DTI)	40	60
Laws on undertakings (DTI)	30	70
Foreign affairs/CFSP (FCO)	30	70
Defence/CFSP (MoD)	30	70
Taxation (HMT)	20	80
Science (DTI)	20	80
Education (DfES)	10	90
Health (DoH)	10	90
Culture & media (DCMS)	10	90
Sport (DCMS)	5	95
Police co-operation (criminal) (HO)	10	90
Judicial co-operation (criminal) (DCA)	10	90
Immigration (HO)	0	100
Border controls (HO)	0	100
Asylum (HO)	0	100

ANNEX 5

ADDITIONAL INFORMATION FOR CHAPTER 5

Table 5/1 EU expenditure in 1970, 1980, 1990, 1995, 2000

	1970	1980	1990	1995	2000*
Total EU expenditure (€m)	3,576	16,455	45,608	68,408	92,254
Per capita expenditure (€)	19	63	139	183	244
EU expenditure as % of public-sector expenditure in member states	2.00	1.70	2.00	2.10	2.40
Annual rate of growth in nominal terms (%)	73.10	11.44	7.90	11.30	8.60
Annual rate of growth in real terms (%)	61.5	1.70	2.60	7.70	8.60
EU expenditure as % of member states' GDP	0.73	0.80	0.94	1.04	1.09

* As adopted.

Source: Timothy Bainbridge, *The Penguin Companion to the European Union (3rd edition)*, Penguin books, 2002 (using information from the EC's *The Community Budget: the facts and figures (2000)*.)

Table 5/2 € conversion rates

Eurozone country	Conversion rate
Austria	13.7603 ATS
Belgium	40.3399 BEF
Finland	5.94573 FIM
France	6.55957 FRF
Germany	1.95583 DM
Greece	340.750 GRD
Ireland	0.787564 IEP
Italy	1936.27 ITL
Luxembourg	40.3399 LUF
Netherlands	2.20371 NLG
Portugal	200.482 PTE
Spain	166.386 ESP

Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002.

ANNEX 6

ADDITIONAL INFORMATION FOR CHAPTER 6

Table 6/1A IoD survey: “On a scale of 1-5, how well does the internal market work for your organisation?”

Response	% of respondents
1 Very well	7.6
2 Well	10.2
3 Neither well nor poorly	23.7
4 Poorly	21.2
5 Very poorly	34.7
No reply	2.5
Balance ((1+2) – (4+5))	-38.1

Source: James Walsh, *Internal market: IoD member questionnaire*, IoD, August 2003.

Table 6/1B IoD survey: “How has the internal market affected the costs to your organisation of doing business in the EU?”

Response	% of respondents
1 Much cheaper	5.1
2 Cheaper	17.8
3 No change	33.9
4 A little more expensive	23.7
5 Much more expensive	17.8
No reply	1.7
Balance ((1+2) – (4+5))	-18.6

Table 6/1C IoD Survey: “How has the internal market affected the amount of paperwork that your organisation has to handle?”

Response	% of respondents
1 Decreased	11.9
2 No change	39.0
3 Increased	48.3
No reply	0.9
Balance (1-3)	-36.4

ADDITIONAL INFORMATION FOR CHAPTER 6

Table 6/1D IoD survey: “What is the greatest practical obstacle to a genuine internal market?”

Response	% of respondents
Local rules on testing & certification	16.9
Rules on free movement of persons	5.9
Failure to implement cross-border recognition of professional qualifications	8.5
Rules on establishment of enterprises	10.2
Failure to implement the Mutual Recognition Principle (which says that when a product is approved for sale in one EU country, it automatically qualifies for sale across all member states)	28.0
Other	28.0
No reply	2.5

Table 6/1E IoD survey: “Strengthening the internal market is only one of a number of challenges facing EU policy makers. Which of the following should be top priority?”

Response	% of respondents
Reforming the Internal Market	17.8
Tackling regulation	50.0
British entry into the euro	19.5
Other	11.0
No reply	1.7

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Table 6/2 EU Major social/employment Directives

Reference group	Date of Directive	Directive
Equal opportunities	1975	Equal Pay Directive
	1976	Equal Treatment Directive
	1979	Equal Treatment (Social Security) Directive
	1986	Equal Treatment (Occupational Social Security) Directive
	1986	Equal Treatment (Self-Employed) Directive
	1996	Parental Leave Directive (SC)*
	1996	Directive amending the Equal Treatment (Occupational Social Security) Directive
	1997	Parental Leave (UK Extension) Directive
	1997	Burden of Proof in Sex Discrimination Cases Directive (SC)*
	1998	Burden of Proof in Sex Discrimination Cases (UK Extension) Directive
	2000	Equal Treatment (Racial or Ethnic Origin) (Article 13 of the Amsterdam Treaty)
	2000	“General Framework” for the Equal Treatment in Employment and Occupation Directive (Article 13)
	2002	Equal Treatment Amendment Directive (2002)
	Employment protection and working conditions	1975
1977		Transfer of Undertakings (Protection of Employment) (TUPE) or Acquired Rights Directive
1980		Insolvency Directive
1987		Insolvency (Spanish Accession) Directive
1991		Proof of Employment Relationship Contract
1991		Temporary Workers Directive
1992		Directive amending Collective Redundancies Directive
1996		Posted Workers Directive – Posting of Workers Directive (to ensure that a member state’s core regulations should apply to workers posted from elsewhere to work in that member state)
1997		Part-time Workers Directive (“Atypical” Workers) (SC)*
1998		Part-Time Work (UK Extension) Directive
1998		Amended Transfer of Undertakings (Protection of Employment) (TUPE) regulations (Acquired Rights)
1999		Fixed-term Work Directive (began under SC)*
Postponed		Temporary Agency Work (TAW) Directive
Health and Safety at Work		1989
	1991	Health and Safety (Fixed-Term and Temporary Workers) Directive
	1992	Pregnant Workers Directive (Protection at Work)
	1993	Working Time Directive (WTD)
	1994	Young Workers Directive (The Employment of Young Workers Directive)
	1999	Working Time (Extension to Seafarers) Directive
	2002	Working Time Amendment (Excluded Sectors) Directive
	Employee relations	1994
1997		European Works Council (UK Extension) Directive
2002		Compulsory Information and Consultation Procedures (National Works Councils) Directive (began under SC)*

NB The six-asterisked Directives were implemented and/or initiated under the Social Chapter.

Source: Ruth Lea, *Red tape in the workplace*, IoD, 2003.

ADDITIONAL INFORMATION FOR CHAPTER 6

Table 6/3 The Social Policy Agenda (SPA): objectives

1 Full employment and quality of work:

1.1 Towards more and better jobs.

1.2 Anticipating and managing change and adapting to the new working environment. 1.3 Exploiting the opportunities of the knowledge-based economy.

1.4 Promoting mobility.

2 Quality of social policy:

2.1 Modernising and improving social protection.

2.2 Promoting social inclusion.

2.3 Promoting gender equality.

2.4 Reinforcing fundamental rights and combating discrimination.

3 Promoting quality in industrial relations:

To make social dialogue at all levels contribute in an effective way to the challenges identified. To promote competitiveness and solidarity and the balance between flexibility and security.

4 Preparing for enlargement including:

To contribute to preparing the enlargement of the Union under conditions of balanced economic and social development.

5 Promoting international co-operation:

To facilitate the exchange of experience and good practice in particular with international organisations.

Sources: European Commission, *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Social Policy Agenda*, DG for Employment, Industrial Relations & Social Affairs, draft, September 2000, and the Chartered Institute of Personnel and Development, *The Social Policy Agenda*, 2000.

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Table 6/4 The EU implementation report of the 2002 Broad Economic Policy Guidelines (BEPGs): Progress on implementation

Key challenges	Public finances	Labour markets	Product markets
Belgium: public finances, increase employment & tackle high regional differences, improve key service sector competition & public administration	**	**	**
Denmark: labour supply constraints, increase competition & achieve effective restraint of government consumption	***	**	***
Germany: consolidation of public finances, increase high unemployment rate & regional disparities, improve the business environment	*	*	**
Greece: sustainability of public finances, increase the low level of productivity & tackle high structural unemployment	**	**	**
Spain: long-term public finances for age-related expenditure, reduce high unemployment (especially female), high inflation combined with low productivity	**	**	**
France: labour market growth & structural unemployment, health & pension reform, public expenditure & accelerate structural reforms	*	**	**
Ireland: national agreements policy, planning & control of the public finances & sectoral competition	**	**	**
Italy: fiscal adjustment effort, the high debt ratio, high unemployment disparities, low employment rates for women & older workers, transition to the knowledge-based economy, competition in the energy & service sectors	*	**	**
Luxembourg: low participation & employment rates, the wage formation process & competition legislation	**	**	*
Netherlands: labour market participation & labour productivity growth	**	**	**
Austria: longer-term budgetary sustainability, competition in some sectors & improving the weak technology base	*	*	**
Portugal: consolidation of public finances, overall competitiveness & the longer-term sustainability of public finances	**	**	**
Finland: structural unemployment, effects of ageing on public finances, low level of competition in certain sectors & efficiency of the public sector	**	**	*
Sweden: productivity, the labour-supply in the medium-term, level of competition in certain sectors & efficiency of the public sector	***	***	**
UK: low level of productivity, high unemployment (?) & the quality of public transport services	**	**	***

*** = good; ** = some; * = limited

Source: Parker and Buck, "Brussels accuses Europe of backtracking on reforms", *Financial Times*, 15 January 2003 (quoting data from the European Commission, released in 2003).

ANNEX 7

ADDITIONAL INFORMATION FOR CHAPTER 7

Table 7/1 EAGGF guarantee appropriation by product group, 2002

Product	% of total
Arable crops	40.5
Beef, sheepmeat, goatmeat & pigmeat	20.2
Fruit & vegetables, wine & tobacco	9.1
Milk & milk products	4.3
Sugar	3.2
Olive oil	5.3
Other sectors	8.2
Other expenditure	9.2

Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002 (quoting data from the European Commission).

Table 7/2 EAGGF guarantee expenditure, 1973-2002 (€m)

Year	€m
1973	3,928
1977	6,830
1980	11,315
1985	19,744
1989	25,873
1990	26,522
1994	32,970
1995	34,502
1996	39,108
1997	40,423
1998	38,748
1999	39,541
2000	40,994
2001	39,529*
2002	39,660*

* Appropriation

Source: Dick Leonard, *Guide to the European Union (8th edition)*, Economist, 2002 (quoting data from the European Commission).

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Table 7/3 CAP expenditure 2000-06, €m, 1999 prices

	Total future CAP	Of which: markets	Of which: rural development
2000	40,920	36,620	4,300
2001	42,800	38,480	4,320
2002	43,900	39,570	4,330
2003	43,770	39,430	4,340
2004	42,770	38,410	4,350
2005	41,930	37,570	4,360
2006	41,660	37,290	4,370
Total	297,740	267,370 (89.8%)	30,370 (10.2%)

Source: Dick Leonard, *Guide to the European Union* (8th edition), Economist, 2002 (quoting data from the European Commission).

Table 7/4 Cohesion Fund commitments, 2001

	€m	%
Greece	696,574	22.28
Ireland	115,000	3.68
Portugal	528,886	16.92
Spain	1,784,766	57.11
Technical assistance	7	0.01
Total	3,125,333	100.00

Source: Dick Leonard, *Guide to the European Union* (8th edition), Economist, 2002 (quoting data from the European Commission).

Table 7/5 Population covered by Objective 1, 2000-06 (EU15)

	'000 inhabitants	Ranking
Austria	275	13
Belgium	-	
Denmark	-	
Finland	1,076	10
France	1,644	9
Germany	14,153	3
Greece	10,476	5
Ireland	965	11
Italy	19,302	2
Luxembourg	-	
Netherlands	-	
Portugal	6,616	7
Spain	23,219	1
Sweden	452	12
UK	5,079	8
Total	83,258	

Source: Dick Leonard, *Guide to the European Union* (8th edition), Economist, 2002 (quoting data from the European Commission).

ADDITIONAL INFORMATION FOR CHAPTER 8

Box 8/1: Differences between English law and European law

There are different ways of thinking between English and European law:

- The style of legislation drafting is different, and the practices on interpretation are correspondingly different. Whereas the common law draftsman values certainty and precision and adopts a correspondingly detailed legislative style, the European lawyer is content to paint with a relatively broad brush, leaving the detail to be worked out by others, including the courts.
- Attitudes to precedent are different. Whereas at common law, there is a strict system of precedent, in which judgments are binding according to a system of “stare decisis” (a maxim expressing the underlying basis of precedent), in European law there is no doctrine of precedent, and a like point could in theory be decided differently on each occasion that it arises. Whereas in common law there are several different judgments, some of which may be dissenting, in EU law there is only one judgment and no one dissents. In European law, therefore, where there is a codified system (eg the French legal system where the actual achievement of codification only became possible after 1800 under Napoleon Bonaparte) a judgement is made by individual interpretation, not by precedent.

In addition, in the criminal courts there are differences in procedure. In English courts there is the “adversarial” system, which is designed to get a decision (with a jury). But in European courts there is the “inquisitorial” system, which is designed to get at the truth (with an investigating judge or other law officer or panel of judges).

Main source: Glanville Williams, *Learning the law* (12th edition, edited by ATH Smith), Sweet & Maxwell, 2002.

ADDITIONAL INFORMATION FOR CHAPTER 9

Annex 9/1 The structure of the draft Constitutional Treaty

Part I: is a statement of the principles on which the EU's legal and political order is based. It comprises the constitutional structure:

- Title I defines the aims and objectives of the Union (Articles I-1 to I-6).
- Title II deals with fundamental rights (in outline) and citizenship of the Union (Articles I-7 to I-8).
- Title III lists the Union's exclusive competences and those that it shares with member states (Articles I-9 to I-17).
- Title IV explains how the powers of the EU's institutions are distributed (Articles I-18 to I-31).
- Title V discusses the exercise of the Union's competences (Articles I-32 to I-43).
- Title VI outlines the democratic life of the Union (Articles I-44 to I-51).
- Title VII considers the Union's finances (Articles I-52 to I-55).
- Title VIII deals with the Union and its immediate environment (Article I-56).
- Title IX deals with Union membership, including the "exit clause" (Articles I-57 to I-59).

Part II: contains the Charter of Fundamental Rights of the Union:

- Title I: Dignity (Articles II-1 to II-5).
- Title II: Freedoms (Articles II-6 to II-19).
- Title III: Equality (Articles II-20 to II-26).
- Title IV: Solidarity (Articles II-27 to II-38).
- Title V: Citizen's rights (Articles II-39 to II-46).
- Title VI: Justice (Articles II-47 to II-50).
- Title VII: The general provisions governing the interpretation and application of the Charter (Articles II-51 to II-54).

Part III: sets out how the Union's policies function, including the detailed provisions of the institutions:

- Title I: Clauses of general application (Articles III-1 to III-6).
- Title II: Non-discrimination and citizenship (Articles III-7 to III-13).
- Title III: Internal policies and action, including the internal market, EMU and the area of freedom, security and justice (Articles III-14 to III-185).
- Title IV: Association of the overseas countries and territories (Articles III-186 to III-192).
- Title V: The Union's external action, including the CFSP, common commercial policy, international agreements and the solidarity clause (Articles III-193 to III-231).
- Title VI: The functioning of the Union (Articles III-232 to III-329).
- Title VII: Common provisions (Articles III-330 to III-342).

Part IV: contains general and final provisions, notably procedures for ratification and amendment and including the repeal of previous treaties.

- (Articles IV-1 to IV-10).

ADDITIONAL INFORMATION FOR CHAPTER 9

Protocols:

- The role of national parliaments in the EU.
- The application of the principles of subsidiarity & proportionality.
- The euro group.
- The representation of citizens in the European Parliament & the weighting of votes in the European Council & the Council of Ministers.
- Protocol amending the Euratom Treaty.

Source: British Management Date Foundation, *Analysis of the draft Treaty establishing a Constitution for Europe*, BDMF, October 2003.

Annex 9/2 The draft Constitution: institutional changes

Institution	Proposed changes
The Commission	<ul style="list-style-type: none">• The President of the Commission will be elected by the European Parliament (EP).• The Foreign Minister (see below) will be the Vice-President. The present position of Commissioner for External Affairs will cease to exist.• The Commission will be accountable to the EP rather than the Council.• The compromise on the Commission's composition will come into place on 1 November 2009. From that date the Commission College will consist of its President, its Vice-President (the Foreign Minister) and 13 Commissioners. In addition, there will be non-voting Commissioners (junior status) from the member states not represented in the College.
The Council of Ministers	<ul style="list-style-type: none">• The Council of Ministers will, for each of its formations, consist of a representative of each member state. (Unchanged.)• With the introduction of a President of the European Council the rotating system for council presidencies will be abolished. But the different council formations will be chaired by member states representatives on the basis of equal rotation, for periods of at least one year. The Foreign Affairs Council will be chaired by the European Foreign Minister (see below) and will thus not be part of the rotation system.• The role allocated to the Council will be diminished.• Qualified Majority Voting (QMV) will become the general procedure of decision-making, with the notable exceptions of taxation, some areas of social policy, and the CFSP.^{16,17}• The calculation of a qualified majority has been changed, leaving behind the weighted voting system which has applied since the original Community treaties, and which was changed by the Treaty of Nice. A so-called "double-majority" system is introduced. From 1 November 2009, a qualified majority will need the support of half the member states representing at least 60% of the EU's population.• The co-decision procedure will become the general mode of decision-making.

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European Council

- For the first time the European Council figures will be part of the EU's institutional framework, beside the Council of Ministers, the European Parliament, the Commission and the Court of Justice.
- It will meet quarterly and be headed by a permanent president or chair, so ending the current six monthly rotation system (the rotating presidency), which has involved one member state taking the chair in every formation of the Council/European Council/COREPER.
- The President of the European Council will be elected by the European Council (by QMV) for a renewable term of two and a half years. He/she will represent the Union externally on issues concerning the EU's CFSP, without interfering with the responsibilities of the new Foreign Minister.
- [NB The President of the Union would be the effective Head of State of the European State – including the UK.]
- The new European Foreign Minister will assume his/her office in 2006 and will be appointed by the European Council. He/she will conduct the Union's CFSP, chair the Foreign Affairs Council and become Vice-President of the Commission. The present position of Commissioner for External Affairs will cease to exist.

European Parliament

- The European Parliament will vote on the European Council's proposal for Commission President and generally hold the Commission accountable.
- With the Council of Ministers it will act as the EU's co-legislator. (The co-decision procedure will become the general mode of decision-making.)
- Its competences will be extended to include the EU's budget as well as justice and home affairs. The number of policy areas where its approval is required will almost be doubled.

The Court of Justice

- With the primacy of EU law, the Court of Justice's remit and powers will increase.

Sources include: British Management Date Foundation, *Analysis of the draft Treaty establishing a Constitution for Europe*, BDMF, October 2003.

Annex 9/3 The Charter of Fundamental Rights (the “Charter”)

The Charter of Fundamental Rights (the “Charter”) was agreed at the Nice Summit (Final draft, October 2000, agreed December 2000). The “Charter” is very widely drawn and contains an extensive list of social and economic rights. When these become subject to the jurisdiction of the European Court of Justice (ECJ), there will be a new mechanism for the consolidating power at Union level. The Charter will, for example, inevitably influence the ECJ's adjudications on employment law. This could mark a significant transfer of power from elected national politicians to the unelected judges who sit in the ECJ in Luxembourg. Some key articles that have ramifications for business are shown in the following table.

ADDITIONAL INFORMATION FOR CHAPTER 9

Title

- III “Equality”
 - Article 23: equality between men and women must be ensured in all areas, including employment, work and pay.

- IV “Solidarity”
 - Article 27: workers’ right to information and consultation within the undertaking.
 - Article 28: right of collective bargaining (including the right to take collective action to defend their interests, including strike action).
 - Article 29: right of access to placement services.
 - Article 30: protection in the event of unjustified dismissal.
 - Article 31: fair and just working conditions (covering health and safety, restrictions on hours worked etc).
 - Article 32: prohibition of child labour and protection of young people at work.
 - Article 33: Family and professional life (including maternity and paternity employment rights).
 - Article 34: social security and social assistance.
 - Article 35: health care.
 - Article 36: access to services of general economic interest.
 - Article 37: environmental protection.
 - Article 38: consumer protection.

Source: *Draft Treaty Establishing a Constitution for Europe*, July 2003.

Annex 9/4 The Constitution’s major proposals

- The EU would have its own Constitution, which would have higher authority than the constitutions of the member states. It is the constitution for a single European State.
- The EU would have full legal personality and would be able to sign treaties on its own behalf.
- For the first time, there would be specific procedures for withdrawal from the Union.
- The Constitution provides a clear statement of the supremacy of European law over member states’ “internal” law.
- The Constitution provides for a President of the European Council as Head of State of the European State, a Foreign Minister and a reinforced Commission President.
- The Constitution provides for a significant extension of Union powers (including exclusive competences and shared competences) – though no new tax-raising powers. Energy would be a new EU competence.
- There would be a legally-enforceable (a judiciable) Charter of Fundamental Rights.
- There would be a unitary structure.
- There would be a big extension of majority voting. Unanimity is being phased out.
- There would be no repatriation of powers. And subsidiarity was removed in the draft.