

49

POLITICAL UNION: A QUANTUM LEAP FORWARD or SEA MARK 11

Paper prepared for presentation to ESCA Conference, 24  
May 1991.

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The European Community emerged as the core regional organisation in Europe at the end of the 1980s. The Single European Act (SEA) marked a resurgence of formal integration among the EC states characterised by a change in policy priorities and in the decision-making process. The SEA, presented by and large as a modest modification of the Rome Treaties, proved to be far more dynamic than originally anticipated. Renewed confidence in the Community intensified pressures for further integration. Agreement was reached to convene two intergovernmental conferences in December 1990, one on Economic and Monetary Union and the second on Political Union. The purpose of this paper is to address the issues that are dominating the Political Union IGC.

#### **A Turbulent International Environment**

The intergovernmental conferences are being convened at a time of considerable political turbulence in Europe and in international politics. 1989 will go down in the history of Europe as an *annus mirabilis*; the year when the post-war political, economic and social order imposed on Eastern and Central Europe after WWII came crashing down. Soviet 'new thinking' about international relations manifested itself in the unwillingness of the Kremlin to use the Red Army in support of the communist regimes of eastern Europe. The collapse of communism ended the division of the continent into two halves and ended the partition

of Germany, the centre-piece of the post-war order. The Soviet retreat from empire is accompanied by the disintegration of the security system based on the Warsaw Pact as one east European country after another negotiates the withdrawal of the Red Army. The countries of Europe and the North Atlantic are in the process of establishing a regional system to manage inter-state relations for the continent as a whole.

The revolutions in Eastern and Central Europe have profound consequences for Western Europe. Since WW11 Western Europe formed a distinct regional system in international politics, insulated by the 'iron curtain' and protected by the US nuclear umbrella. In the 1990s, the countries of Western Europe will have to address issues concerning the boundaries of the continent. For Hungary, Poland and Czechslovakia 'rejoining' Europe means joining the European Community. The outcome of the reform process in Eastern Europe is far from certain. Enormous political, social and economic tensions will accompany the transformation of the failed command economies into viable free market ones. Multinational states like the Soviet Union and Yugoslavia seem set to disintegrate. Ethnic and national conflicts, contained by the presence of the Red Army and the centralised nature of communist rule, could pose a real threat to the stability of the continent in the next decade. Adverse economic conditions in Eastern Europe could provoke large movements of people across the continent in search for employment in EC countries.

The euphoria that accompanied the ending of the cold war was short lived because of events in the Gulf. The Iraqi invasion of Kuwait prompted the most serious international crisis since the Cuban Missile Crisis in 1962. The ending of the cold war enabled the UN to become a key arena for fashioning a global response to the crisis. A series of UN Security Council resolutions condemned the invasion and imposed economic sanctions on Iraq. In January 1991, the Gulf War broke out. The use of force succeeded in ousting Iraqi forces from Kuwait but did not succeed in dislodging Saddam Hussain as leader of Iraq. There is currently extensive internal strife in Iraq and a massive refugee problem as the Kurds flee the onslaught of the remaining Iraqi forces. The Gulf crisis served to turn world attention away from Europe to the Middle East.

#### **The Community Environment: An Overcrowded Agenda**

At the dawn of the 1990s, the EC is confronted with an overcrowded policy agenda. It is attempting to deepen the level of integration while at the same time establishing new relations with the European non-member states. Yet the EC has little option but to manage the overcrowded agenda because it is the centre-piece of the new European order. The decision to negotiate an EMU Treaty raises questions about the proper balance of policy competence between the Community and the member states and about political accountability in an EMU. The revolutions in Eastern

and Central Europe underline the importance of the EC as a zone of stability and prosperity for the continent as a whole. The prospect of further enlargements acts as a powerful incentive for some member states to deepen the level of integration so as to protect what the Community had achieved so far. Rapid German unification forced the French to adapt the traditional maxims of its foreign policy. The joint Kohl/Mitterand resolution addressed to the Irish Presidency on the 19 of April 1990 calling for an intergovernmental conference on Political Union, to run in parallel to the EMU conference, was essentially a strong political statement that the Franco-German axis, for long the motor force of political and constitutional development in the EC, had overcome the turbulence and unease created by the prospect of German unification. For the Federal Republic an acceptance of further integration gave substance to its assertion that unification would lead to a 'European Germany rather than a German Europe'. France having experienced the erosion of its foreign policy by the changes in Europe, sees West European integration as the most effective means of anchoring the new Germany. The other member states, some with great enthusiasm others with reluctance, agreed to the Political Union IGC at the Dublin European Council in June 1990.

#### **The Dooge Phase**

The European Council gave the Foreign Ministers responsibility for preparing the work of the Council 'to permit negotiations on

a concrete basis to begin from the start of the Conference' (European Council Conclusions, 25/6 June 1990, point 3). The Foreign Ministers appointed their personal representatives, in most cases the members of COREPER, to undertake the preparatory work. The Secretary General of the Commission represented M. Delors. The Italian Presidency engaged in an intensive round of meetings with the objective of establishing the agenda for the IGC. A report from the Foreign Ministers was submitted to the Dublin European Council in June 1990. The Foreign Ministers report emphasized four areas for consideration:

- \*the scope of the Union and the question of citizenship
- \*political accountability
- \*the efficiency and effectiveness of the Community and its institutions
- \*the unity and coherence of the Community's international action. (Report of the Foreign Ministers to European Council, 25/6 June 1990)

The IGC which formally opened in December 1990 is examining all four areas as the member states and Community institutions establish the outer boundaries of the negotiations and begin the tortuous process of fashioning an agreement in on Political Union and Economic and Monetary Union. The negotiations should conclude sometime in the autumn 1991.

Before embarking on an assessment of the issues under each of the four headings outlined by the Foreign Ministers it is worth

establishing the main features of the successful SEA negotiations. Keohane and Hoffman argue strongly for an explanation based on what they call the 'preference-convergence' hypothesis. The convergence of national interests around a new pattern of economic policy making characterised by deregulation and a reduction in the role of the state in economic activity ensured that the 1992 internal market programme would receive a high priority (Keohane and Hoffman,1990,p.18). The completion of the internal market in turn required institutional change. Thus a synergy was created between substantive policy issues and institutional change (Noel,1989,p.8). A further synergy was created between the goal of market liberalisation and the politics of redistribution. A commitment to economic and social cohesion was sufficient to foster a favourable response from the Community's peripheral countries. The key players in the process of constitutive bargaining were France, the Federal Republic and the UK (Moravcsik 1990). The Benelux and Italy tend to favour major political initiatives that are jointly endorsed by the Franco-German axis. The UK was persuaded to go along with the negotiations despite its initial hostility for fear of exclusion and because it favoured the 1992 programme. The successful conclusion of a Political Union Treaty will require a new series of bargains, moulded into a package deal or a series of package deals perhaps encompassing the EMU negotiations as well. The Treaty must represent a 'win-win' outcome especially for the

larger players who can veto the proceedings. It is more difficult for a smaller member state to cry halt to negotiations that are of major interest to the other partners.

#### **Political Authority, Legitimacy and International Politics**

Although the work of the IGC is organised into four baskets, the EC is attempting to grapple with three central concerns, namely political authority, legitimacy and the international role of the Community. Questions of political authority and legitimacy arise because the EC is an evolving polity. Although the voluntary pooling of sovereignty is the distinctive characteristic of the EC, there remains considerable tension between integration and independence, between the advantages of collective policy-making and the costs to national autonomy. Although there is a political system in the EC, it lacks the authority and legitimacy of the national political systems because there is no government at Brussels level. In fact the EC derives much of its authority from the intermeshing of the national and EC levels. The authority of governments rests on the twin pillars of capacity and legitimacy. A weakness of capacity can undermine the legitimacy of a polity if the system does not deliver what is expected by the citizenry and likewise a weakness of legitimacy can undermine capacity and hence political authority. The Political Union Conference is attempting to deal with the dual problem of capacity and political accountability. Concern with the international role of



the Community stems directly from the turbulence of international politics and the demands of the new Europe.

#### **Political Authority and Capacity**

Two main issues dominate the debate on the on the capacity of the Community, namely, the policy scope of the Union and the efficiency and effectiveness of its institutions. This debate includes discussion of specific areas of policy, the legal basis for the transfer of competence and the principles that should guide the sharing of policy responsibilities in the Community.

#### The Policy Scope of the Union

There is considerable debate in the EC about the extension of its scope to new policy areas and the enhancement of its competence in areas where there is now a limited Community dimension. There is a long list of proposed changes to existing areas of policy. A strengthening of the Treaty basis in relation to social policy, industrial policy, energy and economic and social cohesion is being sought by some member states and the Commission. Concern with cohesion is part of the continuing debate in the Community about the distribution of the economic benefits of market integration, a central issue in an EMU.

Attempts to widen the policy reach of the Community are focused on education, health, consumer affairs, culture, infrastructure and police co-operation. The negotiators are also examining the possible revision of Article 235 of the Rome Treaty that allowed

the EC to develop new areas of policy if the achievement of the common market so required. A revised Article 235 would refer to the goals of the EC rather than a narrow focus on economic Subsidiarity

The term subsidiarity increasingly impinges on all major debates on the future development of the EC. While it is not a new concept to EC parlance, it is only in the last two years that subsidiarity achieved centre stage in the debate about constitutional reform. Eurocrats and bureaucrats are attempting to work out the practical application of this rather abstract principle. The term encapsulates a growing debate about the appropriate balance between the policy competences of Brussels based institutions and the member states. Since its inception the EC has amassed an everwidening range of policy competences and is today involved in some way or other in most areas of public policy. The transfer or sharing of policy competence has taken place in a gradual and niggardly manner without serious debate about the EC's policy reach and grasp. The EC's capacity as a problem solving arena is impaired if it attempts to do too much.

The concept of subsidiarity originated in Catholic social teaching in the 1930s as a means of restricting the reach of public policy and the role of the state in matters of social policy. As a political or federalist concept subsidiarity is generally understood to mean that policy competence should be exercised at the lowest effective level. In other words, policy

competence should only be transferred to a higher level of government if the latter is better able to exercise this competence. Policy problems that cross the boundaries of governmental units are more appropriately dealt with by a higher level of government. Subsidiarity is thus a principle of federal systems of government designed to maintain as much autonomy as possible at the lower levels of government.

There are three related reasons for the recent interest in subsidiarity. First, subsidiarity may be seen as a response to fears of a centralising over-powerful Community. It provides the means of protecting the rights of states within the Union and in turn with protecting national sovereignty. Second, the development of the Community has not just affected central governments in the member states but has had a major impact on sub-national government especially on the German Lander. In May 1988, President Jacques Delors of the Commission met the representatives of the Lander and assured them that their rights would be protected in the integration process. He cited the significance of subsidiarity in this respect. Third, the debate on subsidiarity stems from a concern about the Community's capacity to deal with an ever-widening range of policy responsibilities. All in all the member states and Community institutions are casting a cool eye over the vertical distribution in the Community.

So far the principle of subsidiarity has been included in a number of EC texts. The EP Draft Treaty on European Union contains many references to subsidiarity, most notably, in the Preamble when it is stated that the member states intend to 'entrust common institutions, in accordance with the principle of subsidiarity, only with those powers required to complete successfully the tasks they may carry out more satisfactorily than the States acting independently' (Preamble, EP, Draft Treaty on European Union, 1984). The principle at issue here is one of effectiveness. A further aspect of the principle is elaborated on in Article 12 of the Draft Treaty where a distinction is drawn between 'exclusive' and 'concurrent powers' of the Union. The Treaty does not make a once and for all demarcation of policy competences. Rather, the member states would continue to legislate in areas of 'concurrent' powers if the Union had not legislated. The Union may, however, extend its legislative scope to new areas provided that the principle of subsidiarity is respected. Article 12.2 reads as follows:

The Union shall only act to carry out those tasks which may be undertaken more effectively in common than by the Member States acting separately, in particular those whose execution requires action by the Union because their dimension or effects extend beyond national frontiers (Article 12.2 EP Draft Treaty on European Union).

According to d'Estaing, Article 12 enshrines the value of

decentralisation in the Draft Treaty (EP report,p.6) as a counterbalance to the criterion of effectiveness established in the Preamble. Subsidiarity as a principle is already invoked in the SEA, the Delors report on EMU and in the Social Charter on the Fundamental Rights of Workers. Article 25 of the SEA on environmental policy states that the EC will only undertake those actions that can be better realised at EC level (Art.130 R SEA ,1987). It is argued in the Delors Report, that

the attribution of competences to the Community would have to be confined specifically to those areas in which collective decision-making was necessary. All policy functions which could be carried out at national (and regional and local) levels without adverse repercussions on the cohesion and functioning of the economic and monetary union would remain within the competence of the member countries (Delors Report, April 1989,p.9).

Equally in the Social Charter it is stated that the responsibility for the implementation of the social rights contained in the Charter lies with 'the member states or their constituent parts and ,within the limits of its powers ,with the European Community' (Social Charter,1989,preamble). Thus subsidiarity is already used as a principle governing the allocation of competences in the EC.

But invoking a principle does not ensure that the principle will be respected. The task of the IGC is to move beyond the

abstract use of a principle to introduce it into the day to day politics of the Community. This is far from simple. It has been claimed that subsidiarity is 'just an empty shell devoid of any concrete substance, It is considered a fashionable term, a concept to which anyone might agree, because everybody can interpret it in a way he or she wishes'. (Gretschmann, 1991,p.5). At the IGC, the negotiators are likely to agree to a definition of the principle but are finding it difficult to take the principle much further. There is general agreement that the principle should be included in the Treaty but there are difference between those states that want to see substantial references to it and those that want it restricted to the Preamble. Although there was some discusison about giving the Court of Justice a say in the application of the principle, fear of 'government by judges' has prevented agreement on this. The division of power and competence will remain politically charged in an evolving polity such as the EC. Invoking the principle of subsidiarity may channel the debate and may induce a more thorough analaysis of the Community's policy scope and grasp but it will not take the politics out of the relationship between the EC and the domestic polities. For individual member states, the principle may well be a double edged sword;useful to invoke against unpalatable policy initiatives but a problem if used to restrict policy developments in an area of interest. Just as domestic politics is bedevilled by issues relating to the

appropriate balance between the public and the private, the division of power and competence will remain politically charged in an evolving polity such as the EC.

#### The Efficiency and Effectiveness of Community Institutions

As the reach of Community policies expands with the management of the internal market, an EMU and the demands of non-member countries for new relationships with the Community, questions concerning the efficiency and effectiveness of the Brussels legislative process take on a new urgency. Those involved in the negotiations are preparing the institutional blueprint for the next round of accession negotiations that may increase significantly the number of member states. The SEA had a dramatic impact on the Community's decision-making system particularly on the operation of the Council. The greater use of majority voting changed the 'rules of the game' by removing the psychological barriers to taking votes and greatly enhanced the speed of decision-making (Ehlermann 1990,p.138). The acceleration of the legislative process had an impact on the other EC institutions as all parts of the legislative process sought to implement the 1992 programme. Concern for the efficiency and effectiveness of the Community's institutions is a continuation of the debate on institutional lourdeur that characterised the SEA negotiations and an examination of the institutional set-up required to manage the post-1992 era.

Discussion of the Community's policy competence and subsidiarity drew attention to the instruments of Community law. The legislative system requiring a Commission proposal, two hearings by the Council and the EP often deals with highly technical matters that would be the prerogative of the Executive at national level. Adding a single item to the list of permitted food additives requires the full legislative process. (Corbett, 1990, p.1) Domestic policy-making would grind to a halt without a significant amount of secondary legislation.

The Commission has proposed a hierarchy of EC laws that would greatly simplify the legislative process. The Commission's proposed classification is:

- constitutional or treaty
- Law
- national implementing measures of EC regulatory decisions
- administrative decisions by the Commission.

In this hierarchy of norms, law which replaces the existing legal instrument—the directive, would become the source of all secondary legislation. Regulatory or administrative acts would be undertaken by the Community or the member states within the framework of the primary law. The proposed hierarchy would constitute a major change in the Community's legal order and legislative process. The Commission has linked its proposal to the issue of political accountability by proposing that the European Parliament should have co-decision with the Council of



Ministers on all laws. The member states have given a rather sceptical response to the proposed hierarchy because the Commission might win too much delegated power in this system.

The role and functioning of all of the institutions is under scrutiny. Discussion of the Council of Ministers relates almost entirely to extending majority voting to all substantive areas of policy except constitutional matters. Agreement on this would extend majority voting to sensitive issues in the social domain, environmental matters, taxation, and research and development. Voting is also a major issue in the debate about foreign policy. The IGC is treating the matter of majority voting on a case by case basis. Not all member states are willing to give a blanket endorsement to majority voting.

The focus on the Commission is likely to concentrate on three issues, namely its size, method of appointment and its implementing powers. The Commission itself is concerned that the outcome of the Conference should protect its right of initiative and give it greater freedom from the Council in matters of delegated legislation. Consideration of the judicial arm of the Community relates to the distribution of powers between the Court of Justice and the newly established Court of First Instance, on the one hand, and the possible introduction of penalties for non-observance of Community law.

Changing the functions and powers of any one institution affects the wider inter-play of forces and the institutional

balance. However, political accountability rather than the imperatives of efficiency and effectiveness has greater salience for the future institutional balance. There is a growing debate within the Community about the political legitimacy of the Community.

### **Legitimacy**

The legitimacy of governmental action is a key feature of the liberal democratic tradition of government. Legitimacy is founded on the rule of law and constitutionalism that impose a limit on the power of governments. Furthermore, the legitimacy of public authority is based on the involvement of citizens in participative democracy and their acceptance of the remit of the state. As the EC is a political entity with far-reaching political goals, it must show concern for its legitimacy. Two main issues on the IGC agenda derive from a concern with legitimacy, namely citizenship and political accountability.

### **Citizenship**

The Foreign Ministers paper of June 1990 introduces the notion of the rights of citizenship within the Union. There has been very little debate on what this might mean in practical terms. A Spanish paper of September 1990 goes furthest in elaborating the the path to 'European citizenship'. The Spainards call for the definition of a set of rights, freedoms and obligations for the citizens of a European Union and uniform protection for the human rights and fundamental freedoms of persons resident in the

Community irrespective of their nationality. Emphasis is placed on the free movement of people, freedom to choose one's place of residence and the right to political participation. These rights would be built on as the Union adopted further policy competences. A suggestion is made for a European 'ombudsman' to protect the rights of citizens (Spanish Paper , 'The Road to European Citizenship', 24 September 1990). Developments in this field are likely to build on the existing EC patrimony with some additional measures of political participation.

#### Political Accountability

Political accountability and the legitimisation of public policies via parliaments is a cornerstone of the liberal democratic tradition of government. From the outset the European Coal and Steel Community had a representative dimension in the form of an assembly, the precursor of today's European Parliament. Of the four Community institutions, the latter is least satisfied with its powers and influence within the decision-making system . After the first direct elections to the European Parliament in 1979 the EP could and did invoke its democratic credentials in its search for more authority and a greater say. The EP has pursued a 'minimalist' strategy of improving its internal procedures and increasing its visibility as a representative arena, on the one hand, and a 'maximalist' strategy of attempting to transform itself into a constitutive assembly with the Draft Treaty on European Union (Lodge, 1984 ) The Single European

Act, although it fell short of the demands of the EP, strengthened the role of the Parliament in two ways. Provision was made for a co-operation procedure, a second reading of SEA legislation, and an assent procedure for the accession of new member states and association agreements. The Parliament adapted quickly to the new procedures, determined to prove that a greater say for the EP did not undermine the speed of EC decision-making (Corbett, 1989, Fitzmaurice, 1988). The EP remains dissatisfied, convinced that it alone can overcome the democratic deficit in the Community.

Political accountability or its weakness within the Community's political system is a perennial issue on the agenda. A 'democratic deficit' is highlighted as one of the characteristics of the Community. National parliaments have been weakened by the transfer of policy responsibilities to the EC, responsibilities that are exercised at EC level by the Council of Ministers and not the representative body, the EP (Bogdanor 1989). Even after direct elections, the decisive say regarding EC legislation rests with the Council. The Parliament has no say concerning the revenue base of the Community (taxation) or the appointment of the Executive. In budgetary matters, its powers are heavily circumscribed. The SEA redressed the institutional balance, on the one hand, by giving the EP a second reading but its provisions on majority voting add a new dimension to the 'democratic deficit', on the other. Ministers in the Council are now

frequently outvoted on legislative matters that become directly applicable in their domestic jurisdictions (Bogdanor 1989). On the face of it then the EP can marshal weighty arguments in its search for increased powers.

There is little doubt that the Community's political system is removed from the citizens of the member states. The representation of economic interest groups at EC level is much more intensive than the five yearly exercise in popular sovereignty. By 1985, there were 654 interest groups operating in Brussels, according to a census conducted by the Commission and 583 of these represented business interests (Schmitter and Streeck, 1990, p.10). Producer interests far outweigh the presence of labour and consumer interests. Multinational chemical companies have far easier access to EC policy making than the environmental groups seeking to ensure that the said companies are supervised.

Increased powers for the EP would seem the most appropriate means of strengthening political accountability in the EC. It alone can supervise the Council and the Commission at EC level. There is however the dilemma of the dual democratic imperative. Heretofore EP elections are characterised by uneven and low turnout in all countries. In 1989 turnout ranged from 90 percent in Belgium where non-voters are fined to 36 percent in the UK. In six member states the turnout was less than 60 percent, considerably lower than in national elections (Lakeman

1990). Because government office is not at stake, EP elections tend to become mid-term tests of incumbent governments with the result that national political issues dominate in campaigns. The low visibility of the EP is exacerbated by its multiple locations and the sheer distance from the constituencies to Strasbourg. National Government office holders meeting in the European Council and the Council of Ministers tend by and large to be elected office holders with their own reservoir of authority and legitimacy.

The EP as an organisation intent on changing the institutional balance in the Community, sees the current round of negotiations and bargaining as an opportunity to press its case. Since the 1989 direct elections the EP has been actively debating the issue of European Union. The EP has adopted a 'maximalist' position in its search for increased powers. The resolution on the Colombo report passed by 217 votes to 38 with 20 absentions in July 1990 calls for co-decision between the EP and the Council on the basis of consensus, a conciliation procedure in the event disagreement and in certain defined areas, the EP should have the final say (Resolution on the Colombo Report, Agence Europe, 19 July 1990). As the Ep does nt have a seat at the IGC, it depends on the member states to fight its case.

There is considerable divergence among the member states concerning the institutional balance. The Commission proposed a system of co-decision for major political laws in the Community.

Strong support for the position of the Parliament has come from its traditional ally, Italy, in addition to Germany, and the Benelux. The Luxemburg Presidency included a form of co-decision in its draft treaty submitted to the Foreign Ministers on April 15 at the end of the first phase of conference negotiations. The Presidency text resembled the existing co-operation procedure but gives the final say to the European Parliament. The text envisages the creation of a conciliation committee at the end of the second reading in the Council to work out compromise deals between the two institutions. Failing agreement, the legislative process would have to begin again. Britain, Denmark and Ireland were the only delegations that felt the proposals went too far. However, there were also fears expressed that the process would become too bureaucratic and would undermine the efficiency of the legislative process. The Commission negotiators were concerned that the conciliation process would affect its right of initiative. Whatever the outcome of the negotiations, the EP is likely to see its place in the institutional landscape strengthened.

#### **Unity and coherence of the Community's international action**

The challenge of Eastern Europe and German unification provide the motivation for renewed interest in the system of European Political Co-operation (EPC). The breakup of the Warsaw Pact and the threat it posed to Western Europe profoundly alter the security environment for the continent as a whole and for the

Atlantic Alliance. The Gulf war added a compelling if complicating factor to the debate on the international role of the EC. If the IGC is to achieve a 'quantum leap forward', it will be achieved in this policy area.

At the outset, it seemed likely that the conference would concentrate on improving the workings of EPC and extending its scope somewhat. However, it became clear from the initial papers and discussions that a number of member states intended to make this the key to the IGC. The Kohl/Mitterand resolution of April 1990 established the objective of defining and implementing a common foreign and security policy although it did not elaborate on how this might be achieved. The Gulf crisis changed the parameters of the debate on EPC in a very profound sense. The appearance of an 'out of area' threat lent urgency to the discussion of EPC and a foreign and security policy. For the Italian Presidency, the Gulf crisis represented an opportunity to launch a 'maximalist' drive for a common security policy. In an 'aide memoire' of the 18 September 1990, the Italians sought a 'quantum leap forward' by proposing the transfer of the competences of the Western European Union (WEU) to the EC Union which implied the following institutional and policy measures:

- the principle of a security guarantee among the member states
- the extension of consultation and coordination of defence and security matters



- the creation of a Defence Council
- concertation on 'out of area' conflicts + joint initiatives
- consultation and coordination on disarmament and arms control
- industrial and technological cooperation in the military field
- consultation on arms sales to third countries (Italian Paper, September 1990)

The Italian paper was followed by papers on the international role of the Community from the French and Germans, the Commission, the Danes, the British in addition to the papers already submitted by the Netherlands, Belgium, and Greece.

The Rome European Council established the parameters for the negotiators. It outlined the vocation of the Union 'to deal with aspects of foreign and security policy, in accordance with a sustained evolutive process and in a unitary manner'. (Rome Communique, 14/15 December 1990, point 2). The Communique dealt with the institutional framework for a common foreign and security policy, its scope in terms of common security and the long term objective of a role for the Union in defence matters.

There is considerable divergence among the member states about translating the objective of a common foreign and security policy into reality. The Gulf war highlighted just how far short of such a policy the Community falls at present. Despite the SEA diversity rather than coherence characterised the member states response to the outbreak of hostilities in the Gulf. The member states were deeply divided on the legitimacy of using force, on

their readiness to use force and on their readiness to be led by the US. There are two views about the impact of the Gulf on the Political Union IGC. First there is the view expressed by the British Prime Minister, John Major, to the House of Commons, that:

Political union and a common foreign and security policy in Europe would have to go beyond statements and extend to action. Clearly, Europe is not ready for that, and we should not be too ambitious when it comes to the intergovernmental conference on political union. (Financial Times, 28.1.91,p.30)

On the other hand, advocates of a strong role for the Community in international politics argued that the response to the Gulf crisis highlights the absence of an adequate machinery for dealing with foreign and security policy. Although this argument has some validity, institutions and a rescribed policy process will not on their own deliver a common foreign and security policy. Common policies must rest on a sense of collective interest and shared values rather than on institutional mechanisms. Institutions aid the articulation of shared interests but cannot create them.

An assessment of the likely outcome of the negotiations on Title 111 of the SEA, must begin with the development of the process since 1970. EPC began as a low-key approach to foreign policy co-operation with the emphasis on procedures in the

initial stages. EPC institutions were gradually strengthened and the artificial distinction between EPC matters and Treaty matters was eroded overtime. The intense cycle of debate and discussion in EPC fostered the development of a co-ordination reflex, the sharing of information, joint diplomatic initiatives and a heightened international profile for the EC. A growing 'acquis politique' is evident in the myriad of declarations issued by the Presidency on behalf of the Twelve. The number of declarations has increased from 52 in 1985 to some 99 in 1989. The rhythm of activity in EPC reflects conditions in the international system. Attempts to forge an international identity separate from the US moulded EPC in relation to East-West relations and in the Middle East. By the end of the 1970s EPC had become a key element in the foreign policies of the member states.

EPC does not however amount to a common foreign policy; it interacts with the foreign policies of the member states. The latter tend to interpret the 'acquis politique' in a manner that is congruent with their traditional foreign policies. And the 'acquis' can be fragile. The conflict earlier in 1989 about South Africa and the sanctions issue is but one example of one member state deciding to break with the consensus. The need for consensus itself makes EPC foreign policy making difficult given the varying foreign policy traditions represented by the Twelve.

The negotiations on a common foreign and security policy are concerned with the institutional framework for such a policy, on

the one hand, and with its scope, on the other hand. The member states fall into three groups on the main issues. First, there are two member states, Ireland and Denmark, that seek a gradualist evolution of EPC with an enhancement of EPC but not a transformation of the process. Ireland represents a more 'minimalist' approach than Denmark because of its non-membership of a military alliance. For Ireland, the debate on EPC is particularly sensitive. A successful Supreme Court challenge to the constitutionality of the SEA which led to a referendum to ensure ratification of the Act induces a cautious attitude among Irish politicians and policy makers. A 30.1 percent 'no' vote in the referendum was largely mobilised on the issue of neutrality. The Government felt compelled to lodge a declaration on neutrality with the SEA instrument of ratification which described neutrality as 'a long established policy' and refers to the exclusion of 'military aspects' of security from the SEA (Keatinge 1988,p.85). The weakness of debate on foreign policy matters in Ireland and the tendency by both of the main political parties Fianna Fail and Fine Gael when in opposition to exploit the issue of neutrality leaves Irish public opinion ill-prepared for the imminent changes in EPC. Heretofore, Irish politicians and policy makers have managed to have their cake and eat it. The formula of words in the SEA concerning the 'political and economic aspects of security' provided adequate cover for Irish neutrality while at the same time, considerable flexibility by

Irish policy makers concerning informal debate in EPC, allowed the other member states to discuss topics relating to security.

Second, there are a group of states that could be classified as 'Atlantist', states that want to ensure that developments in the EC, notably with regard to security and defence should not undermine the US commitment to Western Europe and the operational responsibility of NATO for defence. Britain, the Netherlands, and Portugal fall into this camp. While these countries want to strengthen the international profile of the Community, they want to protect the existing Western European security order. Third, France, Germany, Italy, Belgium and Greece are prepared to transform EPC into a common foreign and security policy. These are the 'maximalist' states with regard to this policy area.

There is general agreement at the negotiating table that EPC should be merged with the Community's institutional system. In other words, the EPC Secretariat should be merged with the Council Secretariat and there should be one decision-making centre in the Council system. COREPER would take responsibility for the preparation of Ministerial meetings with the existing Political Committee acting in an advisory capacity much like the Monetary Committee at present. There is also agreement to give the Commission the right of initiative in this domain but without the exclusive right it has in the Community system. The codification of EP rights concerning EPC can be anticipated. These developments represent the continuation of a gradual

process of convergence between EC matters and EPC matters over the last twenty years.

There is disagreement about the procedures for establishing a common policy on foreign and security matters. States favouring a 'maximalist' approach want to see the principle of consensus that dominated EPC heretofore extended to include some provision for voting. The introduction of voting into the realm of foreign and security policy would represent a qualitative break with the existing 'acquis politique'. There is considerable support for maintaining consensus with regard to the principles and objectives of policy but introducing voting to the implementation phase. Ireland, Britain, and Denmark are most opposed to the introduction of voting to this domain. However, in the absence of a voting mechanism, it must be asked how different a common foreign policy would be to existing EPC procedures. The requirement of consensus has served to restrict the scope of EPC in the past. Disagreement also re-ins concerning the role of the European Council in determining the main policy guidelines. The smaller states, particularly the Benelux, are fearful that too much power for the European Council would imply the creation of a directorie.

Security and defence are the main issues of contention in the negotiations on the scope of a Union policy. A distinction should be drawn between 'soft security' and defence. The Rome European Council outlined areas that fall within the rubric of 'soft

security' on which there is general agreement:

- arms control and disarmament
- CSCE matters
- UN including peace keeping
- cooperation in the armaments field
- armaments export policy
- nuclear proliferation.

(Rome Communiqué, 14/15 December 1990).

All states agree to extending the competence of the Union to these fields. In other words, there is agreement that the existing distinction between the 'political and economic aspects of security' and security writ large will go. There is however considerable divergence about 'hard security', ie. defence.

At present defence co-operation in Western Europe is characterised by considerable 'variable geometry' and multiple arenas-NATO, WEU, and bilateral defence co-operation. Although it appeared that NATO's days might be numbered following the collapse of communism, instability in the Soviet Union and the need for a counter-balance to its continuing military strength, guarantees NATO's survival albeit in an altered security environment. This will affect transatlantic relations and the role of the US in the Alliance. The withdrawal of the Red army from central Europe and the implementation of the Conventional Forces treaty would lead to a reduction of the US presence in Western Europe which in turn may increase the pressure for a

stronger Western European presence or pillar within the Alliance.

The Western European Union could be regarded as a potential bridge organisation between the EC and NATO. The WEU received its certificate of rebirth in 1984 and has since attempted to insert itself into the Western European security arena. It has the advantage of including France, a state outside the integrated forces of NATO. The gradual absorption of the WEU into the EC is a major element of the Franco-German proposals on a common foreign and security policy. They are supported by Belgium and Italy in this view. The termination of the WEU treaty in 1998 provides the incentive for a gradual rapprochement of the EC and WEU. Ireland, Britain, and Denmark are opposed to any organic link between the two organisations.

The Luxembourg Draft Treaty of April 1991 attempts to find a solution to the divergence apparent among the member states. The document outlined the objectives of a common foreign and security policy but is considerably less ambitious than the proposals favoured by the 'maximalist' states. There is mention of the WEU in the text as an organization that can collaborate on security matters with its possible future integration in the EC but no explicit mention of defence as an objective of policy. The Presidency sees 1996 as the date of the next round of negotiations on defence and Political Union (Agence Europe, 13 April 1991). Even without treaty change, one can envisage the development of 'back to back' EC and WEU meetings. The fact that



the WEU defence ministers met in Luxembourg in April 1991 on the same day as a meeting of the European Council was not without its symbolism. In fact all EC states attended the WEU meeting with the exception of Ireland.

### **Looking into the Crystal Ball**

The history of the EC since 1985 suggests that there are deep-rooted pressures favouring a deepening of formal integration. This manifests itself in the decision to convene two intergovernmental conferences in December 1990. Once the member states commit themselves to negotiations a momentum towards agreement is created. The development of the negotiations suggest that the IGC is more likely to produce an SEA Mark II rather than a quantum leap forward. The institutional balance, political accountability and the extension of the Community's policy scope are part of the continuing debate in the EC about policy competence, authority and legitimacy. This debate is dominated by a concern for the effectiveness of the EC, on the one hand, and the democratic deficit, on the other. Changes are likely to be piecemeal rather than radical. The debate on subsidiarity stems from a growing concern about the appropriate balance between the EC and the member states.

The outcome on EPC is likely to be a mixture of institutional change with the emphasis on strengthening the Community's capacity to act internationally and an extension of the policy scope of EPC to security policy in broad terms. If this is

accompanied by changes in the strict intergovernmental and consensus approach characteristic of EPC it will overtime transform the diplomatic personality of the EC. The development of a Western European defence identity depends to a large extent on what happens in NATO. That in turn depends on future US policy towards the security of Western Europe and on developments in the wider continent. The operational responsibility of NATO for defence is unlikely to be weakened by the EC. Yet the latter will begin to treat security matters on its agenda in a less restrictive manner than in the past and may absorb the WEU by the end of the century.

#### **References**

Bogdanor V.(1989), 'The June 1989 European Elections and the Institutions of the Community', Government and Opposition, 24, pp.199-214.

Corbett R.,(1989), 'Testing the New Procedures:The European Parliament's first Experiences with its New 'Single Act' Powers', Journal of Common Market Studies, 27, pp.359-71.

Corbett R.,(1990), 'Efficiency and Accountability in the Community', paper presented to Federal Trust Conference, London 4.12.1990.

Ehlerman C-D,(1990) 'The Institutional Development of the EC under the Single European Act', Aussenpolitik, 41, pp.135-46.

Fitzmaurice J., (1988), 'An Analysis of the European Community's

Co-operation Procedure', Journal of Common Market Studies, 26, pp.389-97.

Gretschmann K.,(1991), 'The Subsidiarity Principle: Who is to do what in an integrated Europe', paper presented to a EIPA conference, March 1991.

Keohane R.O. and Hoffman S., (1991) 'Institutional Change in Europe in the 1980s', for Keohane and Hoffman eds., Decision-Making and Institutional Change in the European Community, Westview forthcoming.

Lakeman E.,(1990), 'The European Elections,1989', Parliamentary Affairs,43,pp.77-89.

Lodge J. (1984), 'European Union and the First Elected European Parliament :The Spinelli', Journal of Common Market Studies, 22, pp.377-402.

Moravcsik A.,(1989) 'Negotiating the Single Act:National Interests and Conventional Statecraft in the European Community', Working Paper 21, Harvard Center for European Studies.

Noel E.,(1989), 'The Single European Act', Government and Opposition, 24, pp.3-14.

Schmitter P.C. and Streeck W. (1990), 'Organised Interests and Europe of 1992', Conference Paper.

Wilke M. and Wallace H. (1990), 'Subsidiarity: Approaches to Power-sharing in the European Community', Chatham House paper, 27.

**Official Documents**

EC. Conclusions of the European Council, Dublin 25/6 June 1990.

EC. Foreign Ministers Report on Political Union, Dublin European Council, 25/6 June 1990.

EC. Conclusions of European Council, Rome, 14/5 December 1990.

EP. Report on Subsidiarity by M.G. d'Estaing, 5 April 1990.