Chapter VII

Conclusions

Since its establishment, the European Community, now formally rechristened as European Union (EU), has come a long way. For one thing, the Union has grown from a club of six to a community of fifteen in a span of just thirty eight-years. For another, its sphere of influence both within and outside Europe has increased significantly. From just being able to take some key decisions affecting the economies of the Member States at its margins, it can now decide their macro-economic policies. Consequently, it can now also affect a great deal of an individual's life who is legally the citizen of the Union as well.

No wonder, the growth of EU membership coincided with the extension of its sphere of competence. This itself was based on the familiar deepening versus widening debate. In this debate, the advocates of deepening the Community had the upper hand at least in the early stage of the history of the Community. France twice successfully thwarted the attempt of Britain to join the club until 1973, inspite of the fact that it was France under General deGaulle which had earlier obstructed the expansion of supranationalism in the Community.

The concept of supranationalism remained the bedrock which the legislative process of the Community is based upon, although it has been effectively checked by the forces of inter-governmentalism. This not only led
to the decision-making process of the community being described as 'the Council-Commission relationship', since the two key institutions represent the two seemingly opposite doctrines -- intergovernmentalism and supranationalism. It also gave the theory of neo-functionalism an opportunity to be realized practically at the Community level.

Not that the Community functioned exactly the way neo-functionalists had visualized. On the contrary, after the signing of the "Luxembourg Accord" in 1966, the neo-functionalists were forced to make corrections in their model to match the functioning of the EC. Haas even called this theory, his own, a 'pre-theory'. For, the theory had assumed an incremental advancement towards supranationalism without giving any place to contingencies that could break the chain of smooth transition from inter-governmentalism.

Guided by the forces both internal and external, the Community followed an autonomous course independent of any model. Single European Act (SEA) was the result of the pressure put up by supranational forces to expedite the process of integration in Europe. The Maastricht Treaty was the culmination of the deepening efforts on the one hand, and the external pressure of widening it on the other.

The legislative process of the Community can be projected as a successful experience in a regional organization. No other organization has demonstrated such a fine balance of national and community interests in its legislative process. The EC Treaty ensures it by distributing the powers equitably
between the Council and the Commission of the EC. Various reforms over the years have tried to maintain a corresponding balance between the policy formulation, adoption and implementation.

However, it is the Commission which has been losing its position vis-a-vis the Council because of the slow but gradual entry of the Parliament in the duel relationship on the one hand, and on the other, because of some extra-treaty creations like the Coreper (Committee of the permanent representatives) and the European Council. The quest of the Members of the European Parliament has made it an important player in the seemingly two-way affair, at least in some major policy areas. While the SEA armed the EP with cooperation procedure along with expanding the scope of the majority voting in the Council, it also robbed the Commission much of its executive powers when the Council subjected these powers to some intergovernmentalist committees on 13 July 1987.

Although the SEA was the culmination of the supranationalist forces who were frustrated at the slow pace of the European integration and wanted to expedite the process, the modest reforms the Act introduced left them largely unsatisfied. The expansion of the majority voting in the Council was tailored to meet its goal of creating the single common market so that western Europe could gain the ground lost to the US and Japan. Neither did it address the question of the "Luxembourg Compromise", nor did it aim to make the Parliament the co-legislator in the decision-making process of the Community.
In fact, devoid of any ideological base, the SEA made a half-hearted attempt by introducing the cooperation procedure to satisfy the long standing demands and aspirations of the parliamentarians led by Spinelli who wanted to make the EP a true legislative body. Deliberately, its wordings were kept ambiguous. It left considerable scope for the Commission and the Council to amend the proposal in ways other than the Parliament had suggested. Not only this, there may be occasions when Council would be able to consider amendments different from those introduced by the Commission, should it be unanimous.

In its quest to get a powerful leverage in the legislative process of the Community, the Parliament has apparently gained significantly. No longer just a consultative body in ten policy areas, its relationship with the Commission underwent a transformation. The Commission has the responsibility to incorporate Parliament’s amendments in its reexamined proposal. Once the Council has taken the common position with the Parliament, the Commission loses the power of amending it freely: it can either accept or reject it in its entirety. Significantly, since it may not be politically desirable or practically possible for the Commission to reject an amended proposal, the Parliament has definitively acquired an upper hand over the Commission here.

When Parliament introduced 31 amendments to the initial proposal submitted by the Commission regarding the common custom code of the
Community, it invoked Article 149 (2) (a) of the EEC Treaty and the Council had to follow the cooperation procedure. The Commission had to adopt the amended proposal since it was under a considerable pressure to expedite the process because the code was an important piece of legislation required to complete the single common market. In its second reading too, the Parliament introduced two key amendments, and the Commission had to accept it within the stipulated deadline of one month.

The SEA, however, left the legislative process involving the Commission and the Council rather intact and the relationship between the two key institutions of the Community remained largely unaffected. The Act was an apt testimony of an ever evolving balance of power as far as the legislative process of the Community is concerned. While the Act armed the Commission with the executive powers as per Treaty requirements, the Council robbed much of them by creating committees. This demonstrates the capability of the Council to thwart the formal treaty amendments by twisting the law into its favours.

The cooperation procedure, intended to satisfy the long standing demands of the MEPs, gave way to the co-decision process introduced by the Maastricht Treaty. It turned the two-way legislative relationship involving the Commission and the Council, into a three way affair in 14 policy areas. While it does not empower the Parliament to initiate the legislation, the Commission initiates it as envisaged in the Rome Treaty; it makes it an important player in the legislative process of the Union.
The inter-governmental conference (IGC) negotiating the political union once again witnessed the age-old debate between the supranationalists and the intergovernmentalists. The former wanted a tree-like structure of the union where all the institutions are organically linked to each other. But the latter preferred a Greek temple where the main structure representing the Community would be artificially supported by two weak flanks representing justice and home affairs and the common foreign policy. And, ultimately the intergovernmentalists' view prevailed with some modifications.

In the process, the concept of subsidiarity became a handy tool for both the camps to justify their approaches. The farmer led by Britain applied the concept to put a limit to the Community's share of competence, but the latter, especially Germany, thought to do just the opposite.

Significantly, the Commission had lost much of its supranationalist aura and zest. While negotiating the political union, the Commission's working paper played safe and maintained the institutional balance. It was the Parliament which launched a relentless quest for the joint decision-making and had a lofty vision of turning the Community into a true federal entity.

The co-decision process itself cannot be termed revolutionary or epoch-making. It was a cautious attempt made by the Member States to involve the representative body of the Community in its legislative process, perhaps to satisfy the growing Euro-escapists who view the Community as an
epitome of bureaucracy. No wonder it has been described as just an extension of the cooperation procedure. In all likelihood, it will not make the Parliament the key legislative body of the Union in the near future.

The Council-Commission relation, however, has been considerably modified by the Maastricht Treaty. Now, with the concept of subsidiarity becoming the litmus test to introduce a legislation, the Commission will find itself burdened to carry a much wider consultation with all kinds of groups before submitting the proposal to the Council. This may give the Council a upper hand. It may find it easy to dispose of a proposal it considers inappropriate. Hopefully, the Commission would be able to compensate this loss by the extension of the Union's competence--it will be able to legislate on subjects such as education, national training and youth, culture, public health and consumer protection the issues which were until now, under the jurisdiction of the Member States.

The journey of the Community from the common market to the union has not been a smooth ride. It has had its own ups and downs. Nevertheless, it remained the most successful regional organization in the world. Its membership has only grown, never reduced, so also the sphere of its competence. Now with an extended membership of fifteen, Norway refusing to join notwithstanding, it looks ahead towards 1996 when the proposed IGC would attempt an overall revision of the Treaty. It would again put on the agenda, the question of deepening and widening along with giving the Union a further thrust to move towards a deeper integration.