Introduction

The aim of the European Community (EC) was to establish an ever closer union among the people of Europe, and, it had distinct supranational characteristics. Accordingly, the basis of this supranationality was the decision-making power which would be shifted from national institutions to the Community's institutions in course of time. The EC Council was given the power under the Rome Treaty to legislate laws by the virtue of a qualified majority which are binding on all the Member States. Thus, a real shift in the process of decision-making from national governments to the community occurred and a number of fields in which sovereignty was traditionally exercised by the nation-states, were legislated upon by the Community. Not that the governments were eager to forego their power, rather there has been

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1 The Preamble of the Treaty Establishing the European Community (herein after the Rome Treaty or the Treaty of Rome (Luxembourg: Office of the Official Publication of the EC, 1958)

2 Art. 148.2 of the Rome Treaty. Qualified Majority is the system of voting in an international organization in which the votes of individual Members are accorded different numerical weights.

3 The issues such as fixing the farm prices, rate of taxation in a number of areas, determination of emission of harmful gases by cars etc. are based on the acts by the Councils.
a constant attempt by them to circumvent the community process. The adoption by the Community of the devices which would arm it with greater powers, and a kind of balance between the two has been the main feature of the decision-making processes of the E.C. Hence, the analysis of its evolving decision-making process shall be the focus of the present chapter since this process is the basis the goals of the Community rest upon.

The decision-making is often termed as the legislative process of the Community; in fact both terms are used interchangeably. There are four types of EC legislation as provided in the Art. 189 of the Rome Treaty: 4

a) Regulation: A regulation shall have general application. It shall be binding in its entirety and directly applicable to all Member States.

b) Directive: A directive shall be binding as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

c) Decision: A decision shall be binding in its entirety upon those to whom it is addressed.

d) Recommendation: Recommendation and an opinion shall have no binding force.

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The decision-making process covers all four types of Community legislation. Among the four, the regulations are normally treated as laws and are the most comprehensive legislations of the EC.\(^5\)

The most important legislations, which resemble the law made by the legislative branch of the national governments are known as the Council Acts, adopted by the Council on a proposal submitted by the Commission. A few subordinate pieces of legislation resembling those rules and regulations passed by the executive branch of the national governments (known as delegated legislation) are adopted by the Commission. It sometimes consults the Management Committees while adopting these legislations.

Although the Council and the Commission, the two key institutions of the Community, are involved in the decision-making process, neither their involvement, nor their influence, in the process is equal. And, though there exist some similarities between these Community institutions and their corresponding equivalents at the national level, it cannot be stretched too far. The Commission in the executive branch of the EC, but it prepares the legislation is the form of proposals whereas at the national level, the Parliament initiates the legislation. Then, the Commission has no real power of taking decisions and action. The Council is the supreme legislative body but it is not a representative body. The Parliament can neither initiate nor amend

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the legislation in a large number of cases. Its powers are more supervisory and advisory in nature. Not surprisingly, scholars have argued, "Legislative power as a separate element, in the sense developed by Montesquieu is absent... only the judicial power is separate in classical sense", and that, "Community legislations result from a kind of dialogue between the Commission, on the one hand, and the member governments as represented in the Council on the other."  

The Decision-making process: An Overview

The legislative or decision-making process of the EC is based upon the very process of integration, that is to say that the process is slow and gradual, involving not only the formal institutions of the Community but also the non-formal actors, such as Europe-wide and national pressure groups. At every step, care has been taken to involve the national authorities to safeguard the respective national interest along with the Community's interests which the Commission is supposed to guard, so that a balance could be maintained between policy formulation, adoption and implementation which in turn ensures the balance between the national and Community's interests.

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The process has aptly been termed as 'engrenage' by Coombes who explains it as, "a more or less untranslatable word; meaning in this context 'meshing' or 'interlocking'." He includes only the national ministers and civil servants being engaged by the Commission in the overall decision-making process, but clearly, the non-official actors are involved too.

This 'engrenage' or 'meshing' necessarily means the ongoing and continuing "dialogue" between the Commission and the Council with the European Parliament playing a minor role, but the sphere of its influence has increasingly been extended.

Basically, there are three stages in the legislative process: (i) the Commission's right to initiate the legislative process, (ii) the Council's right to modify the Commission's proposal by a unanimous vote, and (iii) the Commission's power of implementing it. Thus the Treaty aimed to keep a balance between national interests and the Community interest by establishing a corresponding balance between the Commission and the Council.

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The Paris Treaty, establishing the European Coal and Steel Community also provided a dialogue between its High Authority and the Council of Ministers. But the sphere of this dialogue was rather limited.\(^\text{10}\) As noted in the last chapter, the Council's assent was required in certain important decisions and in some cases it should be unanimous. But the Rome Treaty, establishing the European Economic Community had changed the process a great deal. Art 149 of the Treaty provides the basic mechanism for this dialogue:

Where, in pursuance of this Treaty, the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal. As long as the Council has not acted the Commission may alter its original proposal, in particular where the Assembly has been consulted on that proposal.\(^\text{11}\)

Thus, the Commission was thought of as the motor of the Community and its right of initiation was central to the process of legislation. The Council would adopt it into the Community Acts. This, however, in a short course of time, developed into something that has very aptly been described by Spinelli's classical phrase, "the Commission proposes, the Council disposes".\(^\text{12}\)

\(^{10}\) See, Art. 8 of the Treaty of Paris


\(^{12}\) Altiero Spinelli, \textit{The Eurocrates} (Baltimore: John Hopkins Press, 1966) p. 71
The Decision-Making Process: The Introducing Stage

However, the decision-making process of European Community is not so simple and in this process many forces play their effective roles right from the making of the proposal. The entire process can be divided into two stages: the introductory stage and the deliberative stage. The staff of the Commission which very soon became a vast army of bureaucrats, originates a proposal. At this stage itself, the process of 'engrenage' starts. The bargaining with various national bureaucrats and ministers is required at this nascent stage, so is the 'consultation' with the European and national pressure groups. After the origin of an idea in the form of a proposal has been approved and studied by the Commission, the Commission makes a formal proposal but not before consulting the European Parliamentary Committee and the Economic and Social Committee.

In fact, the Commission, the custodian of the Community interest, confides the national actors from the very beginning so that it could be assured of a smooth passage of its proposal. Lindberg notes that, "the keystone of the Commission's tactics has been the effort to engage the governments in the process of preparation and decision," and it is because," the Commission bases its proposals on a judgement of what the governments are likely to

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accept.\textsuperscript{14}

Now, the legislative process starts with the Commission proposing one.\textsuperscript{15} A proposal contains a preamble, the substantive proposal itself and the legal basis\textsuperscript{16} on which it is based. The legal basis not only determines the voting procedure\textsuperscript{17} but also the sphere of the three institutions of the Community to influence it.\textsuperscript{18} Then, the governments try to influence the determination of the legal base of a proposal because if some of their vital interests are at stake, they would seek the legal base that needs unanimity in the Council to become the Act. The Commission thinks otherwise and be process of 'engrenage' starts.

**Pressure-Groups:** At this introductory stage of the legislative process, the major non-official actors are the national and Europe-wide pressure groups. It has been established now that they play a major role in the overall political

\textsuperscript{14} Ibid, p. 71.
\textsuperscript{15} According to the Arts. 84(2), 126 and 127 of the Treaty of Rome, the Council is empowered to act on its own initiative in a limited number of cases.
\textsuperscript{16} See, Treaty of Rome. Art. 131
\textsuperscript{17} Ibid, Art. 148(2)
\textsuperscript{18} Ibid. Art. 4(1)
process in a modern nation-state,\textsuperscript{19} hence a brief discussion of the Europe-wide pressure groups in the legislative process of the EC would be pertinent here.

The Europe-wide pressure groups, estimated to be more than five hundred (the maximum number of them are agriculture interest groups) try to influence the policy making of the EC both at the introductory and at the deliberative stages. After a policy finds its concrete expression in Community Acts, they try to influence its implementation. At the introductory stage, as soon as initiation begins by one of the Director Generals of the Commission, the more powerful groups start influencing the wording and nature of the proposal by constant lobbying and supply of information.

Besides the Commission, the Economic and Social Committee (ESC) is another important body through which these groups try to channelize their influence because the Commission must submit the proposal to the ESC for its comments and opinion. The ESC regularly transmits information to the European Parliament (EP) whose opinion it is a must to obtain, according to Art. 149 of the Rome Treaty. The pressure groups find it easier to influence the members of the ESC and the EP than to exert direct pressure on the

\textsuperscript{19} Pressure group politics has been the key area of study of political scientists, especially since the start of the behavioural movement after the Second World War. For a detailed study see, Gabriel A. Almond : "A Comparative Study of the Interest Groups Political Process" \textit{The Americas Political Science Review}, March 1958, pp. 270- 80. Also see, Graham Wotton, \textit{Interest Groups}, (Englewood Cliffs, New Jersey; Prentice Hall, 1970).
Commission. As a result, the ESC becomes the secondary stage for these groups to influence the drafting of a proposal. On the whole, the Europe-wide pressure groups are less influential and less articulate than the national pressure groups. One of the reasons as pointed out by Lindberg is, "that the establishment of the EEC and its central institutional system poses new problems of access."\(^{20}\) Secondly, "most of these Euro pressure groups have an extremely loose structure: they meet occasionally and have a very small secretariat to serve their organizational needs."\(^{21}\)

There are three major Euro-wide pressure groups: Committee of Professional Agricultural Organizations of the EC (COPA), the Union of Industries of the EC (UNICE) and the European Trade Union Confederation (ETUC). There are a few smaller but important groups too such as COMITEXTIL (of textile manufactures), the saving Banks groups of the EC (CCEE), the European Consumers Bureau and the European Environmental Bureau.

Of these, the agriculture group is the most important and the COPA has become a very effective source of power in itself. Since mid 1958 when the Commission got itself engaged in the elaborations of its Common Agricultural

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Policy (CAP), the COPA has been highly influential. During 1959 when the Commission was busy preparing the proposal for CAP, it regularly consulted the agricultural industries and, along with, submitted a working paper to COPA. The COPA focused its lobbying attempts at the ESC because when the Commission had submitted the proposal to the ESC on November 7, 1959, the COPA was assured of hearings for the producers.

These groups not only try to influence the legislative process at the Commission but also the implementation of the policies because, "it provides a rich field for influence, especially where management committees and advisory committees have been set up to oversee the day to day administration of existing policies." However, the Euro-wide pressure groups face many problems because of intra-group conflicts of interests and ineffective decision-making approaches adopted by them. As Lindberg pointed out, "Common positions are reached where interests coincide but otherwise decision-making is of the lowest-common-denominator type." As a result, the decision so arrived at is seldom powerful enough to influence the EC decisions because "its decision-making power is complex and protracted, and it requires special

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knowledge to influence it."²⁵ Naturally, only the better organized groups having special expertise in EC matters are able to do it significantly.

Clearly, the Europe-wide pressure groups are less influential than the national groups because of the lack of expertise as well as the diffused centres of the EC institutions.

Many find it difficult to operate simultaneously at Brussels, Luxembourg and Strasbourg. Not surprisingly, the Commission often pays more attention to the national pressure groups because, "in spite of much Community rhetoric, interest-groups' representation is not institutionalized where the most important matters are discussed."²⁶ For example, the COPA was excluded from the crucial discussion among the governments about food prices and was not represented in the Management Committees which were set up to supervise markets in particular agricultural products.²⁷

Nevertheless, as the policy making at this stage in the EC remains highly interdependent and the Commission has to accommodate large areas of support to get its proposals approved by the Council, the pressure groups are bound to increase their influence. Among them, the better organized groups

²⁵ Alan Butt Philip, "Pressure Groups and Policy-making in the EC" n. 21, p. 25.
²⁷ Ibid.
having large resources at their disposal, both human and financial, will continue to make their influence felt.

Economic and Social Committee:

After the Commission staff has studied the proposal which takes its shape after due consultation and bargaining with national and Europe-wide pressure groups, national civil-servants and their ministers, the consultation with the Economic and Social Committee (ESC) as well as European Parliamentary Committees is required. It is only after consulting these two bodies that the Commission makes the formal proposal to the Council.

Although the ESC is only an advisory body, and Member States keep tight control over it, it is important to briefly discuss its role in the overall decision-making process. This is because it is the 'functional body' of the Community. The membership is composed of the interest groups in the Member States and it is the main body through which these groups channelize their influence.

The ESC gives opinions on the proposals of the Commission. Its rules of Procedure, as approved by the Council, provide for majority voting but the common practice is to reach a consensus.\(^{28}\) Abstention is common, but not the negative vote. The result is the quest for an internal consensus which often

\(^{28}\) For example, the opinion on the Commission’s proposal for a Common Agricultural Policy (CAP) was adopted by 73 votes in favour, 19 abstaining.
reflects in very general opinions unable to alter or influence the proposals.\textsuperscript{29}

The ESC is a weak link and the weak institution in the policy-making of the EC, nevertheless, with increasing activities of the pressure groups, it may influence drafting of proposals in a few cases.

As the Commission makes its formal proposal and submits it to the Council, the real bargaining process and the dialogue starts. The legislative process was so constituted by the Rome Treaty that the Commission's right was balanced by the Council's right on adopting the policy. However, over the years this balance has tilted in favour of the Council by three "extra-Treaty" creations: (i) the Committee of the Permanent Representatives (known by its French acronym Coreper; (ii) the Regulating and Management Committees; and (iii) European Council.

**The Committee of the Permanent Representatives (Coreper):** The Treaty of Rome provided that the Council could establish a "Committee composed of representatives of the Member States."\textsuperscript{30} But as pointed out by Noel, "the decision to set up permanent delegations to the Community is purely a national one, and it was at an intergovernmental meeting that the

\textsuperscript{29} Evenduring discussion of the CAP, where COPA was the most influential pressure group, the ESC gave formal opinion only on rice, a product not included in 1960 proposal. For the details on ESC opinions see, EEC, Economic and Social Committee, Section Special Agriculture, *General Report* (English Edition), Brussels: July 1960.

\textsuperscript{30} See, Art. 151(2) of the Treaty of Rome
Ministers of Foreign Affairs concurred and co-ordinated the national measures which each of them was to have his government enact.\textsuperscript{31}

Subsequently when the Coreper was set up as early as in 1958 by the standing order of the Council in January, it was fully institutionalized.\textsuperscript{32} It was given a rank lower than those of the Ministers and was composed of the permanent representatives and their deputies of the Member States. Coreper's main function is to prepare the work of the Council and to carry out the tasks assigned to it by the Council. Moreover, it participates directly in the works of the Community institutions and maintains a liaison between national governments and the Community with a mutual supply of information. Not surprisingly, it had become a key player in the overall decision making process of the Community.

Very soon, the work of the Coreper expanded so much that it split horizontally into two levels: Coreper I composed of the deputies of the permanent representatives and Coreper II composed of the Permanent Representatives themselves. Coreper I usually deals with internal EC matters which are of routine procedural and technical characters, while the Coreper II deals with significant political issues. If Coreper II reaches unanimous agreement on a proposal, it is listed under part A of the Council's agenda and adopted by the


\textsuperscript{32} The decision was reached at the first session of the Council, see, EEC, Council of Ministers Rules of Procedures, Art, 16.
Council without a discussion and if it fails to reach a unanimity, the proposal goes to part B and is debated by the Council.

Thus, the Coreper has been firmly established as an extra Treaty body between the Commission and the Council and it has been recognized that, "during this pre-Council phase the role of the Brussels-based officials is important, since they are the true spokesmen of their governments at the negotiation table." Moreover, in the over all policy-making in the EC which is not just characterized by the co-operation at the various levels, but also by the conjunction between the Community and the national interest as well as between various national interests, the Coreper represents a stage of confrontation. Paul Tayor notes, "policy-making in the European Communities become crucially dependent upon the co-ordination of the position of the national actors through their permanent delegations in Brussels."

But he also notes subsequently, "there were two stages of confrontation in the Committee of Permanent Representatives, at the administrative level, and in the Council of Ministers, at the political level." And this is because, as noted by Stanley Henig,


36 Ibid, p. 99
Coreper is really the second tap controlling the work of the decision-making machinery. It determines whether proposals can go straight back to the Ministers, by seeking to isolate the major problems and disagreements and instituting studies by various of the working groups which operate under its aegis.\textsuperscript{37}

The spreading influence of the Coreper has been of much concern of the various scholars. Lindberg, as early as in 1963, has observed that, in practice the distinction between the Commission's responsibility of proposal and the Council's responsibility of decision has become blurred. A vast bureaucratic system is developing, involving thousands of national and community officials in a continuous decision-making process,\textsuperscript{38} And, "the decision-making role of the Council has obviously been diffused.\textsuperscript{39}

Not every authority agrees with the description of the Coreper being a "shadow-executive" or a "third-executive". The noted scholar on the EC, Emile Noel has argued that the Coreper decisions on point 'A' agenda is natural. "It is natural in any government body that minor questions should be settled by the administrations provided the political power is in a position to take them up at any time, as is certainly the case."\textsuperscript{40}

While it is true that the Coreper has tilted the balance of the legislative process in the favour of the Council, perhaps what Noel opines is true, "of the

\textsuperscript{37} Stanley Henig, "The European Community's Bicephalous Political Authority" Lodge(ed) The Institutions and Politics of the EC, n. 21, p.16.

\textsuperscript{38} Lindberg, The Political Dynamics, n.13, p.62

\textsuperscript{39} Ibid, p.65

\textsuperscript{40} Noel, "The Committee of Permanent Representatives," n. 31, p. 250.
stage of Community development corresponding to the Rome Treaties, the creation of a body such as the Committee of Permanent Representatives was not only necessary but inevitable.\textsuperscript{41}

**The European Council**: The summit meetings of the European Community's leaders was decided to be institutionalized and regularized by a decision reached in the December 1974 meeting of the Heads of States and/or Governments in Paris. It was decided that this Council would meet three times a year with the foreign ministers and, will act as initiators and coordinators.\textsuperscript{42} The President and one of the Vice-Presidents of the Commission would also participate in it. The first European Council, subsequently, was being held in March 1975 in Dublin.

The creation of the European Council had a profound effect on the overall decision-making policy of the Community. First, the fact that it has a higher political position than any other institution of the Community, hence, the possibility of it being a centre of higher appeal is always present. Secondly, because many of the key EC issues have originated in this Council and not in the Commission,\textsuperscript{43} the Commission's right to initiate is considerably diluted.

\begin{itemize}
\item \textsuperscript{41} *Ibid*, p. 251.
\item \textsuperscript{43} The "Communiques" issued by the European Council, often become the base of the Commission's Proposals.
\end{itemize}
Moreover, the power and prestige of the Presidency of the European Council has functioned as a limitation to the authority and influence of the Commission.

It is true that the European Council has not contributed to the increase in the formal and institutional powers of the Council of Ministers directly, but the fact that both are inter-governmental bodies representing national interests has tilted the balance in favor of the Council. Henig has noted, "the Council of Ministers has extended itself vertically-upwards to the European Council and downwards to Coreper."\(^{44}\)

The implementation of the conclusions reached in the European Council and the increasing intervention of this Council into the affairs of the Community caused much concern in a short span of time. The Commission was constantly found to depend upon the governments to execute its work. The Spierenburg Committee, set up by the Commission\(^ {45}\) and the Committee of the Three Wise Men set up by the Council,\(^ {46}\) both criticized the Commission for losing its direction in initiating proposals and moving slowly in starting the legislative process.

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However, no effective solution could be found and the establishment of the European Council was increasingly viewed as an inevitable development. Nevertheless, in March 1986 it was agreed that it would meet twice a year instead of three times a year, so that its intervention in the Community affairs could be limited.

**Regulatory and Management Committee:** The Rome Treaty gives the Commission the authority "to exercise the powers conferred on it for the implementation of the rules laid down by the Council." 47 This way, the Treaty has tried to achieve a balance between the Council's right of adopting the Community's policy and the Commission's right of implementing it.

During January 1962 when the Common Agriculture Policy, as proposed by the Commission 48 was being adopted by the Council, the Commission proposed that it should be made responsible for its implementation. The Germans wanted that all the decisions be taken by the Council. Although the German position received no support from other Member States, they were not ready to give the leading role to the Commission. 49 Finally, it was agreed upon that the Commission could have the primary responsibility to implement

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the CAP when adopted by the Council but in many cases, it must consult the Management Committees constituted for each product.

The Commission's proposal does not require a unanimous vote but rather could be accepted or rejected by a qualified majority.\textsuperscript{50} If rejected, the proposal goes as an appeal to the Council which could reject it.

Like the Coreper, the Management Committees which are intergovernmental in character have been created between the Commission and the Council, though it restricts the Commission's authority at a later stage of the legislation making process, that is, after the Council has adopted the Commission's proposal.

The Regulatory Committee which was set up by the Council is the most effective check on the Commission because the Commission must have its approval to implement the Council's decisions.\textsuperscript{51} It was used initially in the management of the Common Customs Tariff, then subsequently enlarged its scope to the management and adoption of common standards and environment legislations etc.\textsuperscript{52} If the Committee disapproves or reaches no decision, the Council may modify the proposal or adopt a new plan within three months. If the Council fails to act, the Commission may adopt and implement its original

\textsuperscript{50} European Community, Commission, \textit{Bulletin} No. 2 (Luxembourg: Feb 1962).

\textsuperscript{51} See, TC Hartley, \textit{The Foundation of European Community Law}.

\textsuperscript{52} Emile Noel, \textit{Working Together: The Institutions of the European Community}, (Luxembourg: Office for official Publication of the EC, 1988) p. 20.
plan. The decision in the Council is reached by a qualified majority but in a few cases if the Council rejects the Commission plan by a simple majority, the Commission must submit a new proposal.

There is a third Committee too: the Advisory Committees, but since its powers are exclusively advisory and have no binding effects, these Committees usually do not affect the Commission's implementing authority.

Although, it has been argued that the delegation of the Commission's authorities to these Committees facilitates the implementation of certain policies, it is also true that they can work as blocking points in the overall decision-making process and can slow down the supranational integration process initiated by the Commission.\textsuperscript{53}

Besides these three institutional developments in the history of the Community, one "accord"-the Luxembourg Accord of January 1966 has curtailed the supranational process of the Commissions severely and has upset the decision-making process as envisaged in the Rome Treaty. The 'accord' has been discussed in the previous chapter. It will suffice to mention that the "accord" which was issued as a press communiqué and has never formed a part of the Community law, has prevented the transition to qualified majority voting and has deprived the Commission of its right to initiate progressive integrative Community policies. This was possible because of the fact that, "the

\textsuperscript{53} More so, when the Council has refused to delegate important management functions to the Commission whereas the Treaty has explicitly provided it. See the Art 205 of the Treaty of Rome.
style of decision-making came to focus upon building a consensus among governments rather than upon building an adequate majority in the Council.\textsuperscript{54}

Although the frequency of decisions reached by unanimous votes lessened during early 1980s and the Council increasingly relied upon qualified majority,\textsuperscript{55} the Luxembourg Accord remained a durable reality in the EC legislative process.

**Role of the European Parliament**

The European Parliament (EP), under the Rome Treaty did not enjoy the policy-making powers the national parliaments have. It was largely an advisory body, having little influence on the overall decision making process of the Community. Since the very beginning its members were not satisfied with these nominal powers and continuously pressed for enlarging its sphere of influence.

This was evident during the first five years of the working of the Community. Lindberg points out, "The Assembly has sought to expand its participation in the policy making process by asking the Commission to consult

\textsuperscript{54} Paul Taylor. *The Limits of European Integration*, n.35, p.20

\textsuperscript{55} Between 1966 and 1979, the Council adopted by qualified majority vote approximately 45 proposals whereas between 1980 and 1984 the number was more than 90.
it before making proposals to the Council.\textsuperscript{56} For example, the Commission did not formally seek the opinion of the then European Parliament Assembly (EPA) in November 1959 when it prepared the draft resolution of the Common Agriculture Policy.\textsuperscript{57} But the EPA through its Agriculture Committee tried to exercise some control over these proposals. It debated the various reports and subsequently adopted eight reports in March 1960.\textsuperscript{58} In October, it held a heated, lively plenary debate and passed the resolution amending target prices of food grains as proposed by the Commission.

This however, had little impact on the Commission which refused to oblige the EPA and the Council did not formally consult the EPA until January 1961.\textsuperscript{59} Then again its opinion was significantly different from that of the Commission's as contained in three reports.

But again the Commission refused to oblige. Finally, the resolution adopted by the EPA contained some compromises on its behalf.\textsuperscript{60}

\textsuperscript{56} Lindberg, \textit{The Political Dynamics of Eurpean Economic Integration}, n.13 p. 87

\textsuperscript{57} See, Art 43, Treaty of Rome, No Consultion to the Parliament directly is required before the Commission submits its draft proposal to the Council although the various Parliamentary Committees are consulted along with consultation with the ESC.

\textsuperscript{58} See, European Parliamentary Assembly various reports 1959-61 (Brussels: Office for the Official Publications of the EEC, 1959-61).


This shows the continuous attempts of the Parliament to influence the overall decision-making process and play the role of a broker, although without much significant success as pointed out by Henig, "Parliament's formal role is to control the avowedly supranational executive body; but this latter does not make Community decisions, which only emerge out of a complex process of negotiation between governments with the Brussels institutions in a brokerage role."  

Clearly, the need to improve the Parliament's status was a must. The Paris Summit of the Heads of States and/or Governments in December 1974 decided to have the direct elections to the EP and the two treaties of 1970 and 1975 amending certain budgetary provisions gave it a co-legislative power in the non-compulsory part of the EC budget. The mode of exercising this power by the EP has already been discussed in the last chapter.

The consultative function of the EP consequently improved. But not significantly. Peter Dankert, the President of the EP pointed out in 1982, "under the present Treaties, the EP is consulted on all proposals before they are adopted by the Council. Although this consultative function has been formally improved by the introduction of joint consultation procedures, in

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practice, things regularly turn out differently."

This is not difficult to understand. The EP's opinions are not binding and the Council has developed ways to circumvent even seeking it. Dankert again expressed his auguish, "The European Parliament can no longer accept a situation in which the Commission first seeks through informal channels the Council's opinion on the contents of individual proposals which it does not refer to Parliament until they have been practically adjusted."  

The first direct election to the EP was treated as the major event towards giving it the due legitimacy, and making it a real legislative body. It was expected that the Parliament's quest for making the Commission and the Council more accomodatable and itself acquiring more influence in the decision making would be realized. Authorities have pointed out that:

As a democratically elected body, the new European Parliament possesses a political legitimacy that the former, appointed Parliament never had. By itself, this does not automatically give it a more influential role in decision-making at the European level, but it certainly strengthens the Parliament's potential to do so.  

64 Ibid., p.11.  
The Parliament tried to realize its quest for more power through exploiting this potential and not through the formal amendment to the Treaties. Juliet Lodge, the eminent authority on the Community has pointed out, "The first elected Parliament was quick to expoit its autonomous powers and to exploit its own rules of procedure to enable it to adopt reports on its own initiative rather than simply in response to a Commission draft-proposal submitted to it for an opinion". 66

In 1980 the EP demanded wide-ranging consultation on preliminary draft decisions and sought the Commission to engage the Parliament while using Art. 149 of the Treaty. 67 It won a point when the European Court of Justice annulled the isoglucose regulation which the Council had passed before taking the EP's opinion. 68 The periodic review of the Council's decisions says that under Rule 36 it can postpone its opinion until the Commission states its view on any amendment the Parliament has proposed.

To influence its legislative role vis-a-vis the Commission, it has adopted additional tactics. The EP can draft its own resolution on common concerns

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67 Art 149 permits the Commission to amend its draft proposal any time in the process before the Council has taken a decision on it.

68 Case 138/79 and 139/79, Roquette V Comal and Maizena V. Council (1980) European Court Report, 3333
and can ask the Commission to introduce appropriate proposals. The EP and the Committee of the Three have advocated that the Commission should explain the reasons, if it fails to do so. Thus it tried to initiate 'own initiative' to seek a role in the legislative process, initially denied to it.

It is clear that the devices invented and used by the EP to control the Commission and the Council are weak. Nevertheless, it constantly seeks to improve its relation with the Council without having a confrontation with it. In 1982 it invoked Art 175 of the Treaty for the first time against the Council's failure to act on the Common Transport Policy but that was a rare phenomenon. More often, it has engaged in the 'conciliation procedure' with the Council, especially with regard to their differences on the budget. The Parliament wants it to be extended to other important matters as a means to participate in the legislative process.

However, the overall progress report of the European Parliament to enhance its role in the legislative process of the Community was not

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satisfactory and the EP was aware of it. As a result, the 'Crocodile Club', founded by Altiero Spinelli and Felice Ippolito took up the initiative and a committee was set up in 1981 to investigate the institutional matters and amendments to the Rome Treaty. The result of its recommendation was termed as the European Union Draft Treaty (or EUT) which shall be discussed in the next chapter in detail. It suffices to say that it was the result of the EP's quest for power and influence that forced the EUT to recommend the co-legislative power of initiation and deliberation of the proposals.\(^{73}\)

**Decision-Making Process: A Resume**

The highly interdependent decision-making process of the European Community is complex and constantly evolving. It is a very complex process and sometimes difficult to understand, hence, as a conclusion it would be worth describing it in the following steps:

1) The Commission feels the need to initiate a policy proposal because of the Treaty requirements or because of pressure by governments and/or groups;

2) The preamble to the proposal contains the statement of general aims and objectives and intentions in the particular area of policy. Here the

Commission has wide consultations with representatives of national and European interest groups, with experts, with members of Coreper, with European Parliament's Committees, and with Economic and Social Committee;

3) The Commission (the Director-Generals) prepares a formal proposal and consults the ESC and Parliament's Committees again;

4) The formal proposal so prepared is submitted to the Council which in turn submits it to study groups and to the Coreper;

5) The study groups usually consist of bureaucrats who take instructions and consultations from national bureaucrats and ministers. Besides, the national parliaments and interest groups also exert pressure and try to influence the draft proposal;

6) The Coreper plays a major role which in its formal deliberations evaluates the acceptability of the proposals. Constant touch with the Commission is kept and all differences are sorted out at this level;

7) Meanwhile, the proposal goes to the European Parliament to obtain its 'opinion';

8) The various amendments etc. are carried out to the proposal by the EP or by the Council with the agreement of the Commission;

9) The Coreper puts the proposal either in Part 'A' or in Part 'B' of the Council's agenda;
10) If put in Part 'A' the Council passes it without any debate, otherwise it is debated and then passed by qualified majority or unanimously. The outcome is the 'Act' of the Community.

These ten steps describe the complex process of decision-making in the EC in gradual though in simple manner, whereas the actual decision-making process is rather complex and highly inter-dependent as shown in the previous chapter.

The institutional development of the Community has not been balanced and progressive as envisaged in the Treaty. This in turn affected the decision-making process which instead of gradually becoming supranational, remained inter-governmental in substance. The result was the slowing down of the integration process along with diminishing hope of a political union in Europe. Clearly, a major reform of the EC institutions was badly needed and the efforts were continuing in this direction, more especially after the first direct elections to the European Parliament in 1979.

As a result the Single European Act (SEA) was signed in 1986 and came into force in 1987, seeking to reform the Council-Commission, the EP-Commission and the EP-Council relations, although the first was the area most emphasized.

The Single European Act will be the area of discussion in the next chapter.