

Handwritten: Hold Negot
by Government and Politics of the EU
Pilgrimage, 2008

Chapter 2

The Creation of the European Community

The European Coal and Steel Community
From the ECSC to the EEC
The EEC and Euratom Treaties
Concluding Remarks



The European Coal and Steel Community

Much of the early impetus behind the first of the European Communities, the ECSC, was provided by two Frenchmen. Jean Monnet, who had pioneered France's successful post-war experiment with indicative economic planning, provided much of the technical and administrative initiative and behind-the-scenes drive. Robert Schuman, the French Foreign Minister from 1948 to early 1953, acted as the political advocate. Both were ardent supporters of European unity, both believed that the OEEC and the Council of Europe – where anyone could be exempted from a decision – could not provide the necessary impetus, and both came to the conclusion that, in Monnet's words, 'A start would have to be made by doing something both more practical and more ambitious. National sovereignty would have to be tackled more boldly and on a narrower front' (Monnet, 1978: 274).

Many of those who were attracted to the ECSC saw it in very restrictive terms: as an organisation that might further certain limited and carefully defined purposes. Certainly it would not have been established had it not offered to potential member states – in particular its two main pillars, France and West Germany – the possibility that it might serve to satisfy specific and pressing national interests and needs. But for some, including Monnet and Schuman, the project was much more ambitious and long-term. When announcing the plan in May 1950, Schuman – in what subsequently became known as the Schuman Declaration – was quite explicit that the proposals were intended to be but the first step in the realisation of a vision of a united Europe that would have Franco-German reconciliation at its heart. But, he warned, 'Europe will not be made all at once, or according to a single plan. It will be built through concrete

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The German Chancellor, the Bundestag in June 19

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The Schuman proposals provide a basis for the building of a new Europe through the concrete achievement of a supranational regime within a limited but controlling area of economic effort. ... The indispensable first principle of these proposals is the abnegation of sovereignty in a limited but decisive field (Monnet, 1978: 316).

The German Chancellor, Konrad Adenauer, agreed with this. Addressing the Bundestag in June 1950 he stated:

Let me make a point of declaring in so many words and in full agreement, not only with the French Government but also with M. Jean Monnet, that the importance of this project is above all political and not economic (quoted in *ibid.*: 319–20).

Schuman made it clear in his Declaration that whilst he hoped other countries would also participate, France and West Germany would proceed with the plan in any event (West Germany having already agreed privately in principle). Italy, Belgium, Luxembourg and the Netherlands took up the invitation, and in April 1951 the six countries signed the Treaty of Paris, which established the ECSC for a period of fifty years from the entry into force of the ECSC Treaty. The ECSC duly came into operation in July 1952 and lasted until the expiry of the Treaty in July 2002, when ECSC responsibilities and activities were transferred to the European Community.

The ECSC Treaty broke new ground in two principal ways. First, its policy aims were extremely ambitious, entailing not just the creation of a free trade area, but also laying the foundations for a common market in what at the time were some of the basic materials of any industrialised society: coal, coke, iron ore, steel and scrap. This, it was hoped, would ensure orderly supplies to all member states, produce a rational expansion and modernisation of production, and improve the conditions and lifestyles of those working in the industries in question. Second, it was the first of the European inter-state organisations to possess significant supranational characteristics. These could be found in the new central institutions, which had the power, amongst other things, to: see to the abolition and prohibition of internal tariff barriers, state subsidies and special charges, and restrictive practices; fix prices under certain conditions; harmonise external commercial policy, for example by setting minimum and maximum customs duties on coal and steel imports from third countries; and impose levies on coal and steel production to finance the ECSC's activities. Four main institutions were created.

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(1) *The High Authority* was set up 'To ensure that the objectives set out in this Treaty are attained in accordance with the provisions thereof' (Article 8 ECSC Treaty). To enable it to perform its tasks the High Authority could issue, either on its own initiative or after receiving the assent of the Council of Ministers: decisions (which were to be binding in all respects in the member states); recommendations (which were to be binding in their objectives); and opinions (which were not to have binding force). Matters upon which the High Authority was granted decision-making autonomy included the prohibition of subsidies and aids, decisions on whether or not agreements between undertakings were permissible, action against restrictive practices, the promotion of research, and the control of prices under certain conditions. It could impose fines on those who disregarded its decisions.

The High Authority thus had a formidable array of powers at its disposal and this, when taken in conjunction with its membership, gave it a clear supranational character. There were to be nine members, including at least one from each member state, and, crucially, all were to be 'completely independent in the performance of their duties'. In other words, no one would be, or should regard themselves as being, a national delegate or representative.

In a number of respects the High Authority's powers were stronger than those which were to be given to the High Authority's equivalent, the Commission, under the Treaties of Rome. This meant that after the institutions of the three Communities were merged in 1967, the Commission – which assumed the High Authority's powers – had rather more room for independent manoeuvre when acting under the Treaty of Paris than when acting under the Treaties of Rome. In practice, however, it was not always possible for these greater powers to be used to the full: from the earliest days of the ECSC, political realities dictated that the High Authority/Commission must be sensitive to governmental opinions and policies.

(2) *The Council of Ministers* was set up mainly as a result of the Benelux countries' concern that if the High Authority had too much power and there was no forum through which the states could exercise some control, the ECSC might be too Franco-German dominated. Ministers from the national governments were to constitute the membership of the Council, with each state having one representative.

According to Article 26 of the ECSC Treaty, 'The Council shall exercise its powers in the cases provided for and in the manner set out in this Treaty, in particular in order to harmonise the actions of the High Authority and that of the Governments, which are responsible for the general economic policies of their countries'. More specifically, the Treaty

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the objectives set out in provisions thereof' (Article 103). The High Authority could not exercise its powers without the assent of the Council in all respects in the matter. The Council was to be binding in their decisions (with the exception of the binding force). Matters of decision-making autonomy were not possible, action against the control of prices and the control of prices in those who disregarded

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gave the Council formal control over some, but far from all, of the High Authority's actions: the Council had, for instance, to give its assent to the declaration of a manifest crisis which opened the door to production quotas. Decision-making procedures in the Council were to depend on the matter under consideration: sometimes a unanimous vote would be required, sometimes a qualified majority, sometimes a simple majority.

Practice subsequently showed the Council to be not altogether consistent in the manner in which it exercised its role under the ECSC Treaty. On the one hand, a general reluctance of the states to lose too much power over their domestic industries normally resulted in the Council seeking to take most major decisions itself. Since decision-making in the Council customarily proceeded on the basis of consensus, and since the states were often unable to agree when difficult decisions were called for, this frequently led to very weak, or indeed even to an absence of, decision-making. On the other hand, when practicalities and political convenience combined to suggest a less Council-centred decision-making approach, as they did with steel from the late 1970s, then the Council was prepared to allow the High Authority/Commission a considerable measure of independence.

(3) *The Common Assembly's* role was to provide a democratic input into ECSC decision-making. In practice it can hardly be said to have done so in the early years: members were not elected but were chosen by national parliaments, and the Assembly's powers – notwithstanding an ability to pass a motion of censure on the High Authority – were essentially only advisory. However, the expansion of the Assembly's remit under the Rome Treaties to cover all three Communities, plus developments from the 1970s such as the introduction of direct elections and more streamlined procedures, increasingly made for a more effective Assembly (or European Parliament as it was now called).

(4) *The Court of Justice* was created to settle conflicts between the states, between the organs of the Community, and between the states and the organs. Its judgements were to be enforceable within the territory of the member states. In similar fashion to the Assembly, but not the High Authority or Council of Ministers which remained separate until 1967, the Court assumed responsibility for all three Communities when the EEC and Euratom Treaties entered into force in 1958.

In addition to these four main institutions a Consultative Committee, made up of producers, workers and other interested parties, was also created by the ECSC Treaty. The role of the Committee was to be purely advisory.

* * *

In its early years the ECSC was judged to be an economic success. Customs tariffs and quotas were abolished, progress was made on the removal of non-tariff barriers to trade, the restructuring of the industries was assisted, politicians and civil servants from the member states became accustomed to working with one another and, above all, output and inter-state trade rapidly increased (although many economists would now query whether the increases were *because* of the ECSC). As a result, the ECSC helped to pave the way for further integration.

However, the success of the early years was soon checked. In 1958–9, when cheap oil imports and a fall in energy consumption combined to produce an overcapacity in coal production, the ECSC was faced with its first major crisis – and failed the test. The member states rejected the High Authority's proposals for a Community-wide solution and sought their own, uncoordinated, protective measures. The coal crisis thus revealed that the High Authority was not as powerful as many had believed and was not in a position to impose a general policy on the states if they were determined to resist.

This relative weakness of the High Authority/Commission to press policies right through is one of the principal reasons why truly integrated West European coal and steel industries, in which prices and distributive decisions are a consequence of an open and free market, have not fully emerged. Many barriers to intra-EU trade still remain. Some of these, such as restrictive practices and national subsidies, the High Authority and then the Commission have tried to remove, but with only limited success. Others, particularly in the steel sector, have been formulated and utilised by the Commission itself as its task has switched from encouraging expansion to managing contraction.

But arguably the major problem with the ECSC was that as coal and steel declined in importance in relation to other energy sources, what increasingly was required was not so much policies for coal and steel in isolation, but a coordinated and effective Community energy policy. National differences have prevented such a policy being developed, although there has been progress in recent years.

From the ECSC to the EEC

The perceived success of the ECSC in its early years provided an impetus for further integration. Another institutional development of the 1950s also played an important role in paving the way for the creation of the two additional European Communities that were to be created in 1957. This was the projected European Defence Community (EDC).

In the early 1950s, again following the outbreak of the Korean War, military strategists saw the need for a European defence matter. This was a problem which was not a member state's problem, as Germany, not ready for German rearmament, was not willing to re-arm, and restricted conditions then applied. In these circumstances, the High Authority launched proposals in October 1950. In announcing his plan to the French government, Pleven 'proposes the creation of a European Army under the High Authority' (Pleven's statement is reproduced in 1965–9). By the end of 1951, the High Authority's proposal for the structure of the EDC was to be similar to that of the Council of Ministers, an advisory body.

In May 1952 a draft EDC Treaty was proposed and the European Political Community associated with it, were not accepted by France and Italy, and in July 1954 the French rejected the EDC by 319 votes. A number of reasons for this: concern that the French government would lose its military forces; doubts about the strength of the European Community participating; and a feeling that the death of Stalin, the EDC was no longer necessary. The EDC was first proposed.

Following the collapse of the EDC, a less demanding approach was taken. West Germany's contribution to the EDC in the form of a revival and extension of the European Coal and Steel Community economic, social and cultural cooperation agreement signed in 1948 by the High Authority, was agreed at a conference in London in 1952. It was agreed that the new arrangement would be the European Union (WEU). It was loosely structured, essentially

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In the early 1950s, against the background of the Cold War and the outbreak of the Korean War, many Western politicians and military strategists saw the need for greater Western European cooperation in defence matters. This would involve the integration of West Germany – which was not a member of NATO – into the Western Alliance. The problem was that some European countries, especially France, were not yet ready for German rearmament, whilst West Germany itself, though willing to re-arm, was not willing to do so on the basis of the tightly controlled and restricted conditions that other countries appeared to have in mind for it. In these circumstances the French Prime Minister, René Pleven, launched proposals in October 1950 which offered a possible way forward. In announcing his plan to the National Assembly he stated that the French government ‘proposes the creation, for our common defence, of a European Army under the political institutions of a united Europe’ (Pleven’s statement is reproduced in Harryvan and van der Harst, 1997: 65-9). By the end of 1951 the six governments involved in the establishment of the ECSC had agreed to establish an EDC. Its institutional structure was to be similar to the ECSC: a Joint Defence Commission, a Council of Ministers, an advisory Assembly and a Court of Justice.

In May 1952 a draft EDC Treaty was signed, but in the event the EDC and the European Political Community, which increasingly came to be associated with it, were not established. Ratification problems arose in France and Italy, and in August 1954 the French National Assembly rejected the EDC by 319 votes to 264 with 43 abstentions. There were a number of reasons for this: continuing unease about German rearmament; concern that the French government would not have sole control of its military forces; doubts about the efficiency of an integrated force; disquiet that the strongest European military power (the United Kingdom) was not participating; and a feeling that, with the end of the Korean War and the death of Stalin, the EDC was not as necessary as it had seemed when it was first proposed.

Following the collapse of the EDC project, an alternative and altogether less demanding approach was taken to the still outstanding question of West Germany’s contribution to the defence of the West. This took the form of a revival and extension of the Brussels Treaty ‘for collaboration in economic, social and cultural matters and for collective defence’ that had been signed in 1948 by the three Benelux countries, France and the UK. At a conference in London in the autumn of 1954 West Germany and Italy agreed to accede to the Brussels Treaty and all seven countries agreed that the new arrangements should be incorporated into a Western European Union (WEU). The WEU came into effect in May 1955 as a loosely structured, essentially consultative, primarily defence-orientated

organisation that, amongst other things, permitted West German rearmament subject to various constraints. It also enabled West Germany to become a member of NATO.

The failure of the EDC, especially when set alongside the 'success' of the WEU, highlighted the difficulties involved in pressing ahead too quickly with integrationist proposals. In particular, it showed that quasi-federalist approaches in politically sensitive areas would meet with resistance. But, at the same time, the fact that such an ambitious scheme as the EDC had come so close to adoption demonstrated that alternative initiatives, especially if they were based on the original Schuman view that political union could be best achieved through economic integration, might well be successful. It was partly with this in mind that the Foreign Ministers of the ECSC six met at Messina in Sicily in June 1955 to discuss proposals by the three Benelux countries for further economic integration. At Messina the Ministers agreed on a resolution that included the following:

The governments ... believe the moment has come to go a step further towards the construction of Europe. In their opinion this step should first of all be taken in the economic field.

They consider that the further progress must be towards the setting up of a united Europe by the development of common institutions, the gradual merging of national economies, the creation of a common market, and the gradual harmonization of their social policies.

Such a policy appears to them to be indispensable if Europe's position in the world is to be maintained, her influence restored, and the standard of living of her population progressively raised (the Resolution is reproduced in Salmon and Nicoll, 1997: 59-61).

To give effect to the Messina Resolution, a committee of governmental representatives and experts was established under the chairmanship of the Belgian Foreign Minister, Paul-Henri Spaak. The UK was invited to participate and did so until November 1955, but then withdrew when it became apparent that its hopes of limiting developments to the establishment of a loose free trade area were not acceptable to the six. In April 1956 the Foreign Ministers accepted the report of the Spaak Committee and used it as the basis for negotiations that in 1957 produced the two Treaties of Rome: the more important of these treaties established the European Economic Community (EEC) and the other the European Atomic Energy Community (Euratom):

Both before and after April 1956 the negotiations between the six governments were extensive and intense. At the end of the negotiations it can be said that, in broad terms, provisions were made in the treaties for those areas upon which the governments were able to reach agreement, but

where there were division: negotiations and were either referred to only in a general rules on trade, but only guidelines for agricultural policy.

The inclusion in the EEC policy reflected a series of compromises between the two strongest countries that Germany was likely to open up markets of the proposed common elsewhere. This took a number of years to protect agriculture from foreign competition. The population still earned a living from atomic energy Community, independence in energy; and France's overseas dependencies.

Eventually the negotiations for two treaties were signed. Or with ratification: the French against, and the Italian Communists. The treaties came

The EEC and Euratom

The policy concerns of the

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where there were divisions matters were largely left aside for further negotiations and were either omitted from the treaties altogether or were referred to only in a general way. So the EEC Treaty set out fairly clear rules on trade, but only guiding principles were laid down for social and agricultural policy.

The inclusion in the EEC Treaty of topics such as social and agricultural policy reflected a series of compromises among the six countries, especially between the two strongest ones – France and West Germany. France feared that Germany was likely to become the main beneficiary of the more open markets of the proposed customs union and so looked for compensation elsewhere. This took a number of forms, most notably: insisting on special protection for agriculture – French farmers had historically been well protected from foreign competition and around one-fifth of the French population still earned a living from the land; pressing the case of an atomic energy Community, which would help guarantee France greater independence in energy; and seeking privileged relations with the six for France's overseas dependencies.

Eventually the negotiations were completed, and on 25 March 1957 the two treaties were signed. Only in France and Italy were there any problems with ratification: the French Chamber of Deputies voted 342 for and 239 against, and the Italian Chamber of Deputies voted 311 for and 144 against. In both countries the largest opposition bloc comprised the communists. The treaties came into effect on 1 January 1958.

The EEC and Euratom Treaties

The policy concerns of the EEC Treaty

Of the two Rome Treaties the EEC Treaty was by far the most important. Article 2 of the Treaty laid down the following broad objectives:

The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the states belonging to it.

Many of the subsequent Treaty articles were concerned with following up these broad objectives with fuller, though still often rather general, guidelines for policy development. These policy guidelines can be grouped under two broad headings.

Policy guidelines concerned with the establishment of a common market

The common market was to be based on the following:

- (1) The removal of all tariffs and quantitative restrictions on internal trade. This would make the Community a free trade area.
- (2) The erection of a Common External Tariff (CET). This would mean that goods entering the Community would do so on the same basis no matter what their point of entry. No member state would therefore be in a position to gain a competitive advantage by, say, reducing the external tariffs on vital raw materials. The CET would take the Community beyond a mere free trade area and make it a customs union. It would also serve as the basis for the development of a Common Commercial Policy (CCP).
- (3) The prohibition of a range of practices having as their effect the distortion or prevention of competition between the member states.
- (4) Measures to promote not only the free movement of goods between the member states but also the free movement of persons, services and capital.

*Policy guidelines concerned with making the Community more than just a common market**

Making it exactly what, however, was left unclear, as it had to be given the uncertainties, disagreements and compromises that formed the background to the signing of the Treaty. There was certainly the implication of a movement towards some sort of general economic integration and references were made to the 'coordination' of economic and monetary policies, but they were vague and implicitly long-term. Such references as there were to specific sectoral policies – as, for example, with the provisions for 'the adoption of a common policy in the sphere of agriculture', and the statement that the objectives of the Treaty 'shall ... be pursued by Member States within the framework of a common transport policy' – were couched in somewhat general terms.

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The EEC Treaty was thus very different in character from the constitutions of nation states. Whereas the latter have little, if anything, to say about policy, the EEC Treaty had policy as its main concern. The nature of that concern was such that many have suggested that the policy framework indicated and outlined in the Treaty was guided by a clear philosophy or ideology: that of free-market, liberal, non-interventionist capitalism. Unquestionably there is much in this view: on the one hand the market mechanism and the need to prevent abuses to competition were accorded a

high priority; on the other hand joint activities and intergovernmental based purposes. But the competition itself was seen as management from the centre for non-market policies: in fact, for example, which was given because of (mainly French) interests be exposed to a totally free market was intended to help soften the proposed common transport made for aids 'if they meet the represent reimbursement for in the concept of a public sector dependent on the future economic policy development, there was Democratic and Social Democracy an immediate abandonment of remorseless and inevitable capitalism.

The policy concerns of the

The policy concerns of the EEC Treaty in the atomic energy field. Chapter as promotion of research, disbursement of supplies, and a nuclear common market with the EEC Treaty, differed in the force of many of the provisions down by exceptions and limitations. An agency was established with the task of the supply of ores, scarce from inside the Community in certain circumstances in which state intervention. Commission approval was of a pooling and sharing of information greatly weakened – largely a result of the need for secrecy where national security was concerned.

The institutional provisions.

The ECSC Treaty served as a model for the Euratom Treaties, but with many differences.

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Following:

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high priority; on the other hand there were few references to ways in which joint activities and interventions should be promoted for non-market-based purposes. But the case should not be overstated. First, because competition itself was seen as requiring considerable intervention and management from the centre. Second, because there were some provisions for non-market policies: in the proposed common policy for agriculture, for example, which was given a special place in the Treaty precisely because of (mainly French) fears of what would happen should agriculture be exposed to a totally free market; in the proposed social policy, which was intended to help soften unacceptable market consequences; and in the proposed common transport policy where specific allowance was to be made for aids 'if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service'. Third, because the Treaty was highly dependent on the future cooperation of the member states for successful policy development, there was never any question – given the Christian Democratic and Social Democratic principles of most EC governments – of an immediate abandonment of national economic controls and a remorseless and inevitable drive towards uninhibited free market capitalism.

The policy concerns of the Euratom Treaty

The policy concerns of the Euratom Treaty were naturally confined to the atomic energy field. Chapters of the Treaty covered such areas of activity as promotion of research, dissemination of information, health and safety, supplies, and a nuclear common market. However, and even more than with the EEC Treaty, differences between the states on key points resulted in the force of many of the provisions of these chapters being watered down by exceptions and loopholes. For example, under Article 52 an agency was established with 'exclusive right to conclude contracts relating to the supply of ores, scarce materials and special fissile materials coming from inside the Community or from outside'. Article 66, however, set out circumstances in which states could buy on the world markets provided Commission approval was obtained. Similarly, Treaty provisions aimed at a pooling and sharing of technical information and knowledge were greatly weakened – largely at French insistence – by provisions allowing for secrecy where national security was involved.

The institutional provisions of the treaties

The ECSC Treaty served as the institutional model for the EEC and Euratom Treaties, but with modifications which had as their effect a tilting

away from supranationalism towards intergovernmentalism. As with the ECSC, both the EEC and Euratom were to have four principal institutions:

- (1) An appointed *Commission* would assume the role exercised by the High Authority under the ECSC. That is, it would be the principal policy initiator, it would have some decision-making powers of its own, and it would carry certain responsibilities for policy implementation. But it would have less power than the High Authority to impose decisions on member states.
- (2) A *Council of Ministers*, with greater powers than its equivalent under the ECSC, would be the principal decision-making body. Circumstances in which it must take its decisions unanimously, and circumstances in which majority and qualified majority votes were permissible, were specified.
- (3) An *Assembly* would exercise advisory and (limited) supervisory powers. Initially it would be composed of delegates from national parliaments, but after appropriate arrangements were made it was to be elected 'by direct universal suffrage in accordance with a uniform procedure in all Member States'.
- (4) A *Court of Justice* was charged with the duty of ensuring that 'in the interpretation and application of this Treaty the law is observed'.

A Convention, which was also signed on 25 March 1957, specified that the Assembly and the Court of Justice should be common to all three Communities.

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These institutional arrangements were rather more intergovernmental in character than those who dreamed of political integration would have liked. In particular, the Council of Ministers was judged to have been given too much power and there was also disappointment that most of the key decisions in the Council would have to be made unanimously. However, there was hope for the future in that there were grounds for believing that the system could, and probably would, serve as a launching pad for a creeping supranationalism. One of these grounds was provision in the EEC Treaty for increased use of majority voting in the Council as the Community became established. Another was the expectation that the Assembly would soon be elected by direct suffrage and that its authority would thereby be increased. And a third was the seemingly reasonable assumption that if the Community proved to be a success the member states would become less concerned about their national rights and would increasingly cede greater powers to the central institutions.

Concluding Remarks

The Treaty of Paris and the Treaties of the three European Communities marked major steps for state relations. They did so by integrating specific and core areas, embodying a degree of supranationalism they established for the first time.

Insofar as it was the first in the history of European integration, however, the EEC Treaty has on its wide policy base that has been constructed.

Though they laid down guidelines for, certain matters, they were not as straitjackets with respect to the development of the Communities. Rather, they provided a framework within which things would be expected to develop as decision-makers so chose.

Attention is, therefore, drawn to the integration since the Rome Treaty.

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Concluding Remarks

The Treaty of Paris and the two Treaties of Rome are thus the Founding Treaties of the three European Communities. At the time of their signings they marked major steps forward in the development of post-war interstate relations. They did so by laying the bases for signatory states to integrate specific and core areas of their economic activities and by embodying a degree of supranationalism in the decision-making arrangements they established for the new Communities.

Insofar as it was the first treaty, the Treaty of Paris holds a special place in the history of European integration. In terms of long-term impact, however, the EEC Treaty has been the most important in that it has been on its wide policy base that much of European integration since 1958 has been constructed.

Though they laid down reasonably clear guidelines on, and requirements for, certain matters, the Founding Treaties were not intended to act as straitjackets with respect to the future shape and development of the Communities. Rather, they provided frameworks within which certain things would be expected to happen and other things could happen if decision-makers so chose.

Attention is, therefore, now turned to the development of European integration since the Rome Treaties came into force in January 1958.