

MULTI- LEVEL GOVERNANCE IN EUROPEAN UNION

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CERTIFICATE

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ABBREVIATIONS

| | | |
|---------|---|--|
| AEBR | : | Association of European Border Regions |
| AER | : | Association of European Regions |
| APEC | : | Asia Pacific Economic Co operation |
| ASEAN | : | Association of South East Asian Nations |
| BENELUX | : | Belgium, Netherlands and Luxembourg |
| BM | : | Blocking Majority |
| CARDS | : | Community Assistance for Reconstruction, Development and Stabilisation |
| CBC | : | Cross Border Cooperation |
| CBR | : | Cross Border Regions |
| CDU | : | <i>(Christlich Demokratische Union)</i> , Christian Democratic Union |
| CEECs | : | Central East European Union |
| CEMAT | : | European Conference of Ministers Responsible for Spatial Planning |
| CENTO | : | Central Treaty Organisation |
| COAST | : | Coordinated Action for Seaside Towns |
| CoR | : | Committee of Regions |
| COREPER | : | Committee of Permanent Representation |
| CPMR | : | Conference of Peripheral Regions |
| CSD | : | Committee on Spatial Development |
| CSF | : | Community Support Framework (Structural Funds) |
| CSU | : | <i>(Christliche Soziale Union)</i> , Christian Social Union |
| DATAR | : | <i>Délégation à l'aménagement du territoire et à l' action régionale</i> |
| DG | : | Directorate General of European Commission |
| EBRC | : | East Border Regions Committee |
| EC | : | European Community |
| EC | : | European Commission |
| ECJ | : | European Court of Justice |
| ECOSOC | : | Economic and Social Council |
| ECSC | : | European Coal and Steel Community |
| ECU | : | European Currency Unit |
| EEC | : | European Economic Community |
| EFTA | : | European Free Trade Area |
| EMU | : | European Monetary Union |
| EP | : | European Parliament |
| EPC | : | European Political Cooperation |
| ERDF | : | European Regional Development Fund |

| | | |
|-------|---|---|
| ERT | : | European Round Table Conference |
| ESC | : | Economic and Social Committee |
| ESDP | : | European Spatial Development Plan |
| ESPON | : | European Spatial Planning Observatory Network et.al and others |
| EU | : | European Union |
| GAC | : | General Affairs Council |
| GATT | : | General Agreement on Trade and Tariffs |
| ICBAN | : | Irish Central Border Networks |
| IGC | : | Intergovernmental Conference |
| JHA | : | Justice and Home Affairs |
| LACE | : | Linkage Assistance and Cooperation |
| MEDA | : | Financial and technical measures to accompany the reform of economic and social structures in the framework of the Euro-Mediterranean partnership |
| MEP | : | Member of European Parliament |
| MFN | : | Most Favoured Nation |
| NAFTA | : | North American Free Trade Area |
| NATO | : | North Atlantic Treaty Organisation |
| NGOs | : | Non Governmental Organisations |
| PHARE | : | Poland-Hungary Assistance for Economic Reconstruction |
| QMV | : | Qualified Majority Voting |
| RACE | : | European Research Programme in Telecommunication |
| RETI | : | Regions of Industrial Decline |
| SEA | : | Single European Act |
| SEM | : | Single European Market |
| SME | : | Small and Medium Sized Enterprises |
| SNA | : | Sub National Authorities |
| SREZs | : | Sub region Economic Zone |
| TACIS | : | Technical Assistance for Community of Independent States and for the State of Georgia |
| TBT | : | Technical Barriers to Trade |
| TENs | : | Trans European Networks |
| TEU | : | Treaty of European Union |
| ToA | : | Treaty of Amsterdam |
| UK | : | United Kingdom |
| UNICE | : | Union of Industrial and Employers Confederation of Europe |
| USA | : | United States of America |
| WTO | : | World Trade Organisation |

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PREFACE

The European Union is a negotiated order in which supranational, national and sub-national, actors interact with each other to provide good governance and thereby bring policy process dynamics near to the people. It implies that the European Union is not simply a majoritarian democracy. The formal decision-making institutions of the European Union provide opportunities to various actors to effectively participate in both formal and informal negotiations processes. The enmeshing process of national and supranational institutions along with Cross-Border Regionalism has given way to differentiated modes of governance in the European Union which brings both public and private actors together to provide good governance. Underlying the 'New Governance' is the acknowledgement of the increase in diversity and pluralism in the European Union. The central message is that governance is not synonymous to traditional government activities of legislation, regulation and public administration. Today states at the supranational level are involved in effective joint problem solving of various transnational problems, which is being replaced thereby giving salience to the notion of multi-level bargaining. Governance is thus centred on the self-help system in which actors are oriented towards the upgradation of common interests, the commitment to a collective good rather than enhancing one's own position in a bargain. Throughout the different phases of policy-making the arena of policy making shifts between national to supranational levels. These arenas are in turn linked by means of transnational networks. Within these transnational networks hierarchy and subordination give way to multiple, overlapping negotiating arenas. This has, in turn, changed the role of member states from authoritative allocation and regulation from above to the role of partner and mediator in governance. Multiplicity of actors in these transnational networks in turn creates problem of

democratic accountability within the European Union. The dissertation thus concentrates on following aspects:

- to define; assess the concept of multi – level governance;
- to recognize the growing diversity in the policy-making process in the European Union and to establish the significance of soft decision-making tools such as flexibility norm as embodied in the Treaties of Amsterdam and the Nice and also the “Open Coordination” method to overcome problem of democratic deficit within European Union; and
- to examine the prospects of Cross-Border Regionalism in the European Union in relation to participation of sub-regions in EU decision making process.

Such a system of interest mediation and policy formulation neither implies demise of nation state nor regards European Union as a state in itself. European Union is a *sui generis* political system with attributes of emerging federation. In the European Union, regional development context the national and sub-national links has created a structure of dense vertical and horizontal networks across the regions. Each actor in regional development contributes valuable resources and, simultaneously might also sometimes constraints actions of others.

Chapter One of this dissertation explains the concept of multi-level governance, its origin, features and various dimensions. This chapter provides a comprehensive overview of the issues involved in multi-level governance. It indicates that the boundaries between the state and society have been crossed in order to provide a better standard of living to its citizens. European welfare states have fused their instruments for regulatory and distributive process defined as fusion by Wolfgang Wessels. This concept is different from Alan Milward’s concept of pooled sovereignty. Alan Milward belongs to the school of Liberal inter governmentalism. This school of thought differs from Multi level Governance in

the following aspect: they argue that Community institutions have strengthened the power of national governments in several important aspects *viz.* (a) by increasing the efficiency of interstate bargaining and (b) by strengthening the autonomy of national political leader's *vis-à-vis* various societal groups within the polity. Inter-governmentalism sees the nation-state as the critical intermediary between Commission and sub-national regions. Multi-level governance on the other hand indicates that European Union policy process takes place at several different levels from local to supranational. It draws attention to negotiations as the key process and the network as the key concept.

Chapter Two advances the notion of Cross-border Regionalism as a result of increased inter-regional competition and post Fordist changes in the organisation and location of production which requires a regional economy which is capable of continuous innovation. Cross Border Regionalism is the result of combination of local initiatives, supportive measures from states and European Union machinery. The Council of Europe, the European Conference of Minister Responsible for Spatial Planning (CEMAT), the Association of European Border Regions, and various regional authorities along with European Commission under Community Initiative(C I) have been deeply involved in promoting multi level institutionalism.

Crossborder initiatives have their own limitations in the context of European Union. Firstly, they are characterised by administrative complexity, public sector dominance and local dependence on co-operation incentives. Secondly, the cooperation between public agencies, universities and to lesser extent, non-profit organisations have been generally successful in relatively straight forward projects of clear but limited focus like environmental protection, physical and transportation infrastructure. Thirdly, private-sector networking and investment, as well as, effective cross-border coordination of land-use plans and urban development, remain particularly elusive. It has been found that nationally-

focused investment behaviour and inter-firm networking are difficult to change. As far as co-operation in urban planning is concerned, local patriotism has resisted most attempts to regionalize land use and growth management policies concerned with in so far commercial development.

Chapter Three explains features of European institutions and Multi Level Governance and also highlights problem of democratic deficit. Even before the revision of the Treaties there was an incremental expansion of the scope of integration as more and more policy areas became directly or indirectly connected to the Community. But this was not the strategy of Commission derived from its institutional self interest or the pro integration rulings of European Court of Justice that contributed to deepening integration. Instead the member states themselves considered joint problem solving to be more attractive than preserving their national autonomy. After, Maastricht member states found it difficult to conduct their own policies separately. As a consequence, governments accepted further transfer of authority to the Community to increase their problem solving capacity. Over the years thus Community institutions have become strong not in the sense of being insulated from the reach of member states. Rather, they gain strength from being so closely integrated in the whole process of the exchange of information, negotiation and bargaining such that policy-making in European Union has been producing consensual decisions. These various modes of policy making along with flexibility norm as embodied in recent treaties gives salience to differentiated integration in European Union. Flexibility is not synonym for multi-speed integration or concentric circles model or *à-la-carte* model since it does not imply that governments have to catch up with the vanguard group or otherwise they might be excluded. The Amsterdam Treaty made flexible integration possible only in regard to those areas which were already part of European Union competences. As a result it could be used to deepen integration in existing areas of European Union policy; closer cooperation provision though could not be used to

extend the range of European Union competences. In fact, the Amsterdam Treaty made the first formal recognition of the Luxembourg Compromise by inserting unanimity provisions necessary in case of initiatives in Pillar One and Three of the European Union. These provisions thus had restrained the utility and normative virtue of flexibility norm. It is also regarded as essential to deal with democratic deficit in European Union. Democratic Deficit is defined in terms of hostile public opinion in some member states, the domination of delegated expert opinion in European Union's institutions and the absence of cohesive political community in the European Union.

The significance of this study is not restricted to the European Union since international regimes such as WTO, human rights, rules and regulations of various regional organizations today have altered the role of the nation state from being a regulator to a partner. Today the Government is different from governance issue. International realm is not only composed of nation state rather civil society and market forces which are also refashioning international relations in much significant way. The need to comply with extra-territorial binding allocation of various international and regional organisations is thus not restricted to European Union. In the European Union, it has been institutionalized in a particular way and today affects the life of the people of Europe than any part of the world. Various studies by World Bank, regional Organization such as Organization of African Unity has being promoting research works in the field of multi-level governance. It is a contemporary issue which requires greater research to grasp the changing dynamics of governance.

PRIYANKA KUMAR

CHAPTER 1

MULTILEVEL GOVERNANCE IN THE EUROPEAN UNION

I. CONCEPT OF MULTILEVEL GOVERNANCE

1. Meaning of Multi-Level Governance

The concept like multilevel governance or policy networks indicate an emerging consensus that the boundaries between the 'domestic' and 'international' spheres as well as between the 'state' and 'society' have been crossed. Wolfgang Wessel's fusion hypothesis¹ holds that European states are no longer capable of satisfying the rising demands and expectations of their citizens on the national level. As a result the European welfare states have joined their resources and fused their instruments for regulatory and distributive action. Wessel's argument resembles Milward that European integration process is driven by the needs to satisfy the welfare demands of their citizens. The process of pooling sovereignty is interpreted by Milward as process of rescuing the nation state while of the other hand Wessels point to the process of networks.² The Milward argument (state centric approach) is built around the perception that post war west European governments were faced with twin dilemmas of growing interdependence and increased societal demands and disaffection of the economic hardship in the 1930s and the wartime austerity in 1940s. The policy programmes adopted during this period were designed for the economic reconstruction of European states. Out of necessity, some policy areas were best managed through international bargains. Integration became a means through which certain sorts of policy programmes could be delivered. The idea of integration as a progressive transfer of power away from the state managed by supranational elites was given little credence.³

¹ Wolfgang Wessels, "An Ever Closer Fusion? A Dynamic Macro-political View on Integration Processes", *Journal of Common Market Studies*, Vol.35 (2), June 1997, pp.274. He defines an ever closer fusion as a merger of public resources at several state levels for which the outside world i.e. the average citizens but also many experts, cannot trace the accountability as responsibilities for specific policies are diffused.

² Ben Rosamond, *Theories of European Integration* (New York: Palgrave, 2000) pp.138.

³ *Ibid*, p. 139.

Wolfgang Wessel's fusion hypothesis grows out of a concern to search for mid-range theory in context of EU. The fusion hypothesis rejects both the ideas associated with neo-functionalism that integration is matter of linear progress to a predestined goal and the realist assumption that integration is destined to collapse. According to fusion hypothesis, the member states seek integration as a way to solve problems emanating both from citizen demands in domestic politics and imperatives set by global interdependence. The fusion hypothesis develops its analysis in terms of emerging regulatory macro-states such as European Union.

According to Ben Rosamond, Wolfgang Wessel's analysis has two important implications – firstly, as some analysts of consociation see the fusion hypothesis as an explanation of EU's democratic shortfalls in terms of national elites. Secondly, Wessel's argument resembles Fritz Scharpf discussion of joint decision trap. Fritz Scharpf draws analogy between Germany and EU to explain irreversible nature of integration and its associated institutionalization. His approach was state centric and offered a rather pessimistic view of European integration since member states that were propelled by the attractiveness of joint solution to the problems are in turn not likely to surrender their veto power thereby making the decision making difficult.⁴

According to, Wolfgang Wessels role of national governments and administration does not imply a subservient role of EU institutions. States are the masters of the treaties but they are also transforming themselves in the very process. The EU institutions in this process turn into actors in their own right if competencies fall partly into the competence of the European Community and in part within that of the member states thereby ensuring close cooperation between the member states and the Community institutions. This legal interpretation of a dual level set up is fundamental feature of the merger process in which functional, political and territorial spillovers are defined in a revised and updated version are of major relevance.⁵

⁴ *Ibid*, p. 141.

⁵ See, Wolfgang Wessels, "An Ever Closer Fusion? A Dynamic Macro-political View on Integration Processes", *Journal of Common Market Studies*, Vol.35, no.2, June 1997, pp. 279.

To describe this process of fusion, Wolfgang Wessels identified five indicators such as reproduction of binding decisions, the scope of public policies, transfer of competencies, institutional and procedural patterns, as well as the involvement and influence by the intermediary groups in policy process. From the period of 1960s to 1990s there is a considerable growth of the quasi-legislative and administrative output, which is quite striking. These decisions add up to an *acquis Communautaire* that has considerable relevance for political, administrative and intermediary actors. The EU system also produces additional outputs of so called soft-law such as declaration by the Council or decisions taken in the second and third Pillars which are not subject to control by the Court but have nevertheless some kind of binding character.⁶

This form of European regionalism has become institutionalized in the form of growing different formations and meetings at the level of the Council of Ministers, from the number of working parties under the auspices of Council, from the innumerable advisory groups attached to the Commission, the growing number of committees and the creation of agencies. In fact, EU is much more than a collection of intensive intergovernmental regimes. It is *sui generis* or unique thereby making the comparison with other regional organizations difficult.

The Single European Act was the first concrete step towards a comprehensive strategy of Europeanization capable of producing and sustaining a new dynamic equilibrium between the Community, the state and emergent transnational civil society. The real issue was not about sacrificing national sovereignty rather about the institutionalization of new modes of joint decision-making in areas of common concern. The states were by the time prepared to give up an outmoded condition of sovereignty.

⁶ *Ibid*, p. 280.

The most significant measures taken under SEA were:⁷

- i. A number of new policy areas were formally incorporated into the EEC treaty, and the capacity for decision making in these areas was thereby increased. The policy area included environment, research and technological development and economic and social cohesion.
- ii. In the EEC treaty a new legislative cooperation procedure was established. The purpose of the new procedure was to improve the efficiency of decision-making. This legislative procedure was also applied to some social policy matters, in implementing decisions in connection with regional fund and research.
- iii. The European Parliament role and potential influence in the Community also increased via establishment of new 'assent procedure'.
- iv. European Political Cooperation, which had increasingly been practiced since 1970s, but outside the treaty framework, was incorporated.
- v. Meeting of twelve heads of governments in the framework of the European Council, which had been taking place since 1975, was given legal recognition.
- vi. The capacity of the Court of Justice was extended by the provision for the establishment of a new court of first instance.

In second half of the 1980s a number of factors gave salience to the Maastricht process. The internal factors were mostly associated with the stimulus to further integration. The Single European Market (SEM) programme regarded that full benefit of SEM could only be realized if action is taken to eliminate distortion of trade. Secondly, there was growing acceptance, of the need for a Community 'social dimension' which would soften and offset some of the liberal market implication of SEM. Third, the dismantling of border controls in the internal market created pressures for dealing with problems such as cross-border crime, drug trafficking and international terrorism. Fourth, the long existing problem of democratic deficit needed attention. Fifth, the unification of Germany, which formally occurred in October 1990, and increased the potential for German

⁷ For details see, Neill Nugent, *The Government and Politics of the European Union* (London : MacMillan Press, 1989), pp. 49-50.

domination of the Community led many to conclude that it was necessary to advance the integration process so as to try and ensure that the future would see European Germany rather than German Europe.

The twin intergovernmental Conferences (IGC) of 1990/91, culminated in the signing of the TEU in February 1992, laid the foundation of the Maastricht process. The TEU (1993) ushered in following important innovations, which gave salience to collective problem solving and multilevel governance at the European level.⁸

- i. The establishment of the Union citizenship conferring a new set of transnational civil and political rights upon member state nationals.
- ii. The Maastricht treaty included federally inspired principles such as subsidiarity and proportionality.
- iii. It created the Committee of Regions for the representation of the subnational units at EU. Extended QMV voting principle in the Council in the areas of public health, education, consumer protection, Trans-European Networks (TENs), transport, energy and operation of Small and Medium Size Firms (SMEs).
- iv. The Maastricht treaty established a specific timetable for the attainment of Economic and Monetary Union (EMU) and adoption of single currency (Euro).
- v. The Maastricht Treaty provided for the new civil arrangement to regulate interstate relations in areas of policing, visa, asylum, immigration and creation of Common Security and Foreign Policy.

The central arrangement about the TEU was the insistence of states on protecting their own cultural, political and constitutional features. Article F (1) confirmed that the Union shall respect the national identities of member states, whose systems of government are founded on principles of democracy. It implied that increasing the level of European authority should not be at the expense of cultural distinctiveness and its underlying value-system thereby giving concrete shape to the enmeshing process. It is around this *problematique* that a 'new governance agenda' has

⁸ See, Dimitris N. Chrysochoou, *Theorizing European Integration* (London: Sage Publication, 2001), p. 106.

emerged, which recognized considerable limits to both individual and collective executive control. Stemming from increased majoritarianism in the Council thereby lowering the cost of cooperation, by reducing the danger of non decision, the mistrust characterizing central state executives, unintended consequences of institutional change, new competitive pressures generated in liberal democratic polities, the role of interest group organizations and transnational actors in EU policy process intensified the interconnections.⁹

To the 'New Governance Agenda' EU is not a state, but is a unique system of non-hierarchical, regulatory and deliberative governance. This agenda conceptualizes the EU as *sui generis*, explains its development primarily by (new) institutionalism, and suggest that legitimacy is guaranteed through transparent, Pareto-efficient and consensual output. This approach is by no means homogeneous and could not be attributable to any single scholar. It encompasses a variety of perspectives that share some conceptions, assumptions and research strategy. Some of the significant scholars are – Fritz Scharpf, Gary Marks, Liesbet Hooghe, Schmitter, Kohler-Koch, Leibfried, Pierson, Markus Jachtenfuchs, Wolfgang Wessels, T.Borezel, Arthur Benz, Caporaso, Sbragia, Risse-Kappen and Keeler. Various scholars within the ambit of multilevel governance have defined it in a variety of ways. Chris Ansell (2001) define multilevel governance as a process by which an “arm-length” relationship to national and regional governments is established. These agencies themselves tend to be highly decentralized into variety of semi-independent technical institutes and service centers. This ‘differentiated polity’ is not necessarily a disorganized polity. As a result what one sees is a web of vertical and horizontal networks linking the nodes of differentiated polity (many-to-many).¹⁰

John Gerhard Ruggie regards EC as a first multi- perspectival polity to emerge since the advent of modern era. Its creation is a constitutive process whereby each member state defines its own identity and also endogenize the existence of others thereby giving rise to non-territorial ‘regions’. In fact Ruggie aptly points that Holy

⁹ *Ibid*, pp. 101-102

¹⁰ Chris Ansell, “The Network Polity: Regional Development in Western Europe”, www.unc.edu/dept/europe/conferences/mlg/papers,p.322

Roman Empire (1806) a relic of medievalism where system of rule is structured by non exclusive form of territoriality in which authority was both personalized and parcelized and across territorial formations and for which inclusive bases of legitimation prevailed, is actually closer in birth to European Community than Peace of Westphalia.¹¹

William Wallace characterizes EU as a collective political system not simply an intergovernmental regime. Policy making within the EU may be described as post sovereign. It spills across state boundaries penetrating deep into previously domestic aspects of national politics and administration. It embodies the principle of mutual interference in each other's internal affairs, now extending even to mutual inspection of each other's judicial procedures. It depends upon mutual trust, on collective consent to implement European law and regulation through national administration. States are represented by national governments who remain central to the EU policy process, but are no longer the only significant actors.¹² Fritz Scharpf characterizes EU as resting on 'output oriented legitimacy' while lacking 'input oriented legitimacy'. He argues that it provides government for the people but does not represent government by the people. In the absence of political accountability and of a strong sense of collective political identity, 'the legitimacy of politically salient European decisions depends on the effectiveness in achieving the consensual goals'¹³.

2. Theoretical aspects of Multi level Governance Concept

The early phase of European integration studies was characterized by the search to understand the nature of Euro polity and the causes of its development. The period from 1960s saw a lively debate between two theoretical orientations, new-functionalism and intergovernmentalism. After the leading scholar on European integration declared the obsolescence of classical integration theory students of

¹¹ John Gerhard Ruggie, "Territoriality and Beyond: Problematizing modernity in International Relation," *International Organisation*, Volume 47 (1), winter 1993, p.172

¹² See, William Wallace, "Collective Governance: The EU Political Process" in Helen Wallace and William Wallace (eds.) *Policy Making in the European Union* (Oxford : Oxford University Press, 2000), p.520

¹³ *Ibid*, p.533.

European regional integration directed their attention to comparative policy analysis.

The policy-oriented perspective of EU was clearly dominant in the literature of the 1970s and 1980s. Without attempting to claim comprehensive coverage of this period, three issues were continuously present in the debate and led to substantially better understanding of EU system namely-comprehensive treatment of single policies, policy fields and public opinions mainly parties and election reflected in the outstanding works of Weiler.¹⁴ According to him, EU has neither moved in a linear fashion towards centralization, nor has it degenerated into a classical international organization. Weiler claims that the presence of both centralization and stalemate is explained by two institutional mechanisms that balance each other, namely supranational judicial system and decision making based on unanimity. Scharpf starts from same observation arguing that EU has produced sub-optimal outcome because of joint decision traps.¹⁵ These two decades (1970 and 1980) were full of empirical discoveries and yielded theoretical insights upon which present scholarship still builds.

2.1 Problem in Research Agenda since EU is *sui generis* or unique in nature

There was renewed interest in both intergovernmentalism and neo-functionalism due to single market initiative and its accompanying logic in form of functional spillover. Spillover is the most familiar concept associated with neo-functionalism. It refers to the basic process whereby political cooperation is conducted with a specific goal, which requires further expansion. Jeppe Tranholm Mikkelsen argues that there is evidence of three forms of spillovers in the European integration process since the mid-1980s. Functional spillover is apparent in several spheres while, technical and cultivated spillovers occurs in specific areas of cooperation.¹⁶ Neofunctionalist regard EU as an 'institution' *sui generis* in the sense that no other international organisation has reached a similar degree of integration and regional

¹⁴ Markus Jachtenfuchs, "The Governance Approach to European Integration", *Journal of Common Market Studies*, Vol. 39, No.2, p.246.

¹⁵ *Ibid*, p. 248.

¹⁶ Ben Rosamond, *Theories of European Integration* (New York : Palgrave, 2000), p. 100.

cooperation. But this does not imply that we need an integration theory *sui generis* to explain the EU, as some neofunctionalists have argued. For example Schmitter consequently proposes a novel typology of possible EU end-points, and gives them 'new-Latin labels': *Stato/federato*, *Condominio Confederatio* and *Consortio*.¹⁷

The appearance of Moravcsik's powerful critique of the resurgence of neo-functional theorizing post-SEA aimed at restoring the superiority of state-centric approach to explain how European integration proceeds. It is different from earlier state centric account of European integration in relation to three important subfields—regime analysis or role of institutions, negotiation as significant variable and intergovernmentalism rather than giving salience to individual state.¹⁸ Moravcsik's basic point is that SEA arose because of converging preferences of the three most important member states of the EC around versions of neo-liberal political economy. By using Putnam's analogy of the two level games—i.e. state executives are involved in coalition building with domestic groups in the national arena and in (strategic) bargaining with other states at the international level. On the demand side (that is the demand for integration outcomes), national preferences arise in the contexts provided by the domestic politics of the member state. In this context rational state behaviour does not emerge from fixed preferences, but from dynamic political processes.¹⁹ These assumptions represent a departure from classic state centric approach. Moravcsik work on European integration draws on a sustained critique of neo-functionalism (supranational institutionalism) and is obviously influenced by the body of neo-liberal institutionalist like Keohane who gave primary importance to regimes and institutions in the world order. To, Moravcsik, institutions are facilitators of positive sum bargaining and in the context of European Union Community institutions have strengthened the power of national governments by increasing the efficiency of interstate bargaining and by strengthening the autonomy of national political leader's *vis-à-vis* particularistic societal groups within their domestic polity. Like multilevel governance approach

¹⁷ Simon Hix, "The Study of the European Union II 'The new governance agenda' and its rival", *Journal of European Public Policy*, Volume 5:1, March 1998, p. 44.

¹⁸ Dimitris N. Chrysochoou, *Theorizing European Integration* (London: Sage Publication, 2001), p. 105.

¹⁹ Ben Rosamond, *Theories of European Integration* (New York: Palgrave, 2000), p. 132

it does not conceptualize Union in terms of being situated in conventional international organisation and a supranational political Community. Scholars representative both of these schools namely liberal intergovernmentalism and multi level governance have more often not expressed clear view about the end point of EU . According to the state-centric approach it represents highly interactive and densely institutionalized system of 'open states'. While to multi level governance EU is a cooperative state.

Despite significant differences between the two basic approaches to EU, liberal intergovernmentalism and neo-functionalism share important weaknesses on which multi level governance build its theoretical foundation.²⁰ First both neo functionalism and liberal inter governmentalism assume that European integration is fundamentally driven by the instrumental self-interest of the actors where the utility functions are defined in economic terms. Liberal intergovernmentalist assumes that the domestic interest groups cluster around instrumentally and materially defined interest. As a result, liberal intergovernmentalism has little to say about whether actors' interests and preferences are shaped by the EU institutions and integration process. While the neo-functionalist theory does not explain the transition from utility maximizing self-interest to integration based on collective understandings about a common interest. Second, intergovernmentalism and neo-functionalism use the rather traditional distinction between 'low' and 'high' politics according to which it is easier to integrate economic policies rather than foreign policies. On the one hand, executive control over foreign policy depends to a large degree on the nature of political institutions and domestic structures in general. On the other hand, 'high' politics issues such as foreign policy might well become politicized in the domestic spheres similar to 'low' politics. Third, established approaches, it is argued focus our attention upon so called history-making moments such as treaty revisions or major crises and thereby neglects the day today patterns of politics within the EU system. The consequence is that responsibility for integration outcomes is ascribed to either national governments or purposive supranational institutions rather, than to gradual

²⁰ Thomas Risse Kappen, "Exploring the Nature of the Beast: International relations Theory and comparative Policy Analysis Meet the European Union", *Journal of Common Market Studies*, Volume 34, nos.1, March 1996, pp. 55-57

accretion of competence that is associated with the regulatory thicket of European policy-making and in evolving processes of institutional interaction. Similarly consequence of policymaking process is characterized by amongst other things- conflicts of a distributional nature, resource dependencies and various ‘nested games’. Such conflicts embrace variety of interested actors and not just states.

The Manheim University project on ‘Transformation of Governance in the EU’ takes a slightly different track in describing EU as a *sui generis* phenomenon.²¹ Instead of trying new concepts, the aim is to test existing theories from comparative politics and IR perspective. In this method, the study of EU is an important project for all political science, because it bridges the gulf between old-fashioned disciplines of comparative politics and international relations into the complex and unpredictable world of trans-state and non-state governance at the turn of the millennium. For example, EU is often treated as a type of ‘federal’ system, and compared particularly to the United States or Germany. However, this approach does not have to imply that EU is an explicit federation of states. Furthermore, the European Community does not have to fit comfortably into traditional Anglo-American typologies of federal system where the clarity of division of authority between the central government and the constituent units is regarded as the crucial indicator of degree of federalism.²² The new institutionalist rather prefers to use concepts like ‘subsidiarity’ and ‘cooperative federation’. Thus the scholars in the international relations and comparative politics have become increasingly aware that traditional notions of intergovernmentalism or supranationalism fail to capture the essence of EU decision-making.

Thomas Risse Kappen in his article identifies the conditions under which policy making in the EU can be conceptualized in liberal-intergovernmentalist terms and

²¹ Simon Hix, “The Study of the European Union II ‘The new governance agenda’ and its rival”, *Journal of European Public Policy*, Volume 5:1, March 1998, p. 44.

²² See, Simon Hix, “The Study of the European Community: The Challenge to Comparative Politics” in Brent F Nelsen, Alexander CG Stubbs (eds.) *The European Union : Reading the Theory and Practice of European Integration* (Colorado: Lynne Rienner Publisher, 1998) p.329

when this model is no longer sufficient and needs to be explained in terms of interlocking politics. On the basis of which he generates following propositions:²³

- i. The more fragmented and decentralised the political institutions, the stronger the organisation of societal interest representation, and the greater the consensus required in state—society relations, the less capable are national governments to pursue independent and autonomous policies on the EU level.
- ii. The more fragmented and decentralized the political institutions and the stronger the organisation of interest representation in society, the less likely are national governments to behave as unitary actors in the EU policy making process, and the more likely are they to externalize. The lack of domestic consensus in a given policy area onto the EU level.
- iii. The more fragmented the political institutions and the stronger the organisation of societal interest representation, the more likely are transnational policy networks to emerge among EU institutions and political as well as societal actors in the member states, and more likely are these networks to affect EU policies.
- iv. The more particular policy sector has been integrated and the more decisions in this area are governed by majority rule, the more likely it is that the policy-making is characterized by transnational and trans-governmental coalitions among private, subnational, national, and supranational actors rather than intergovernmental bargaining.

2.2 New Institutionalism

The study of political institutions has always been a central pillar of comparative politics. In the 70s the traditional legal formal institutional approaches were abandoned for more sophisticated sociological and behavioural methods. The recent revival of institutional approaches in the political science represents an attempt to counter both behaviouralists emphasis upon political outcomes as the product of aggregated social behaviour and crude emphasis on interplay of actors' interests. Renewal in the study of the institutionalism can be traced back to post-

²³ Thomas Risse Kappen, "Exploring the Nature of the Beast : International relations Theory and comparative Policy Analysis Meet the European Union", *Journal of Common Market Studies*, Volume 34, nos.1, March 1996, pp. 55-57

SEA is marked by renewed institutional dynamism, prompting contemporary scholars to cast doubt on realist state-centric claims. It emphasizes on the autonomous role of supranational institutions in European policy process. This has often led to unintended consequences regarding the growth, influence and competence acquisition of supranational agencies, largely at the expense of national executive which no longer act as gatekeeper. The literature on institutionalism is diverse and certainly does not constitute a single research programme. In the words of Ben Rosamond, "given such diversity disciplinary starting point, it is disingenuous to talk about new institutionalism as a movement".²⁴ There are largely three institutionalism linked together by the renewal of interests in field of European studies, viz. historical institutionalism, rational choice and sociological approaches. There exist a difference between formal and informal institutional approach based on institutions such as beliefs, paradigms, codes, culture and knowledge. The distance between these approaches has narrowed with the development of new institutionalism. Nevertheless, the basic division between rational and sociological institutional theories remains intact. The new governance agenda favours institutionalist/reflective explanation against implicit or explicit rational choice explanation of the European integration process.

Proponents of multilevel governance approach utilize insights from institutionalism to derive subsequent models. For example Pierson, utilizing historical institutionalism develops a three step model for explaining 'lock in path dependency' in case of policy regime. It assumes that actors are less likely to pursue rational instinct than socially defined rules since actors are not perfectly knowledgeable about institutional consequences. The Pierson in this context developed three-step model.²⁵ First, EU member governments are unconcerned with the long-term consequences of decisions because they are forced to focus on short-term re-election. Second, even when they are conscious of long-term results, there are unintended consequences that can only be addressed imperfectly. Third, government preferences change over time as new parties are elected and hence are

²⁴ Ben Rosamond, *Theories of European Integration* (New York : Palgrave, 2000), p. 114.

²⁵ Simon Hix, "The Study of the European Union II 'The new governance agenda' and its rival", *Journal of European Public Policy*, Volume 5:1, March 1998, pp.60-61

'lock in' path dependent policy regime. According to sociological institutionalist approach the emphasis is on the mutual constitution of the institutions and the actors that populate them. Institutions become the mechanisms through which the world is rendered meaningful to social actors. For sociological approach interest and identities are endogenous to the processes of interaction that institutions represent. The central question here is how ideas and discourses become embedded. For example, the emerging 'cultural frames' of individual and corporate actors in the EU produce different 'polity ideas' such as federal state, economic Community, network or intergovernmental regime that shape EU institutional interaction and policy making. Finally both historical and sociological institutionalist approaches can be reconciled with some elements of rational choice analysis. Majone's theory of EU regulation is one of the most well known works in this respect. On the 'supply side', the Commission has an incentive to budget maximize, but it is constrained by the small EU budget and hence opts to maximize its regulatory powers. On the 'demand side', the governments delegate regulatory powers to Commission in order to overcome free rider problem.²⁶

2.3 Network Model

The sources of network model lie in thinking about the way in which biological system adapt, about sociological connections, and about the way in which business is adapting to the modern world. It is the business example that is the main source of inspiration for trying to apply the model of politics. The idea of 'networks governance' has four main components²⁷: First, authority within the system is shared and traditional hierarchies of authority are dispensed. Secondly, the network is based on its 'nodes' or units rather than relying on the dominant centre. Thirdly, it is possible and likely that these different nodes or units will be of different sizes, carry different political weight and have different types of relationship between each other. Finally, the units are 'interdependent' so that no single mode can ignore another in decision-making.

²⁶ Markus Jachtenfuchs, "The Governance Approach to European Integration", *Journal of Common Market Studies*, Vol. 39, No.2, p. 64.

²⁷ See, Vibert Frank, *Europe Simple, Europe Strong : The Future of European Governance* (New York : Polity and Blackwell Press, 2002) pp. 135-36.

The booming literature on network organisation distinguishes networks from markets and hierarchies²⁸. In contrast, there is ample literature on policy networks referring to patterns of interest intermediation, and the relevant benchmarks are pluralism and corporatism. In the formal sense, hierarchy can be described as network in the sense that it can be represented as a set of relationship between nodes. In practice, the term 'network' concept nodes are in relation of "many-to many" social structure.

Network can be distinguished from market. Both markets and network coordinate themselves through mutual adjustment rather than central direction but they differ since incase of market exchanges are discrete and impersonal while network exchange is more diffuse and or more social. Network as mode of interaction between groups needs to be contrasted with pluralism and corporatism. Pluralism sees groups engaged in a competitive struggle for advantage while corporatism envisions a cooperative policy mode. The policy network concept has foot in both the camps. Like corporatism a policy network implies a cooperative mode of governance based on long term exchange that differ from competitive mode of pressure groups tactics implied by pluralism.²⁹

Policy networks are usually understood as venues for pooling and /or exchange of information and resources. They are useful because they give actors access to information and resources that they could not otherwise obtain and they facilitate policy making by reinforcing norms. The most stable form of policy networks is policy Community. On the other hand in some sectors policy outcomes are often less predictable hence they are hypothesized as open issue networks.³⁰

One of the variant of this literature has an ever broader view of network governance: it is characterized by 'consociation' as the organizing principle of political relations on the one hand, and the pursuit of individual interest as the constitutive logic of the

²⁸ Chris Ansell, "The Network Polity : Regional Development in Western Europe", www.unc.edu/dept/europe/conferences/mlg/papers,p.308

²⁹ *Ibid*,p.309

³⁰ Thomas Risse Kappen, "Exploring the Nature of the Beast: International relations Theory and comparative Policy Analysis Meet the European Union", *Journal of Common Market Studies*, Volume 34, nos.1, March 1996, pp. 62-66

polity.³¹ Thus, it is not only an analytical concept but also a political ideology a kind of micro-constitutionalism of the European Union; because it starts from the assumption developed in modern system theory that society is constituted by a number of sub-systems, which largely function according to their own autonomous logic. For efficiency and normative reasons, the autonomy of these sub-systems should be respected. The salient feature of consociational democracy is pillarized society, elite predominance, a cartel of elites, segmental autonomy, proportionality, minority veto and oversized coalitions all of which exists in EU. First, the EC is a territorially pillarized system because individual interaction and loyalty is primarily focused within EU nation-states. Second, elite predominates within their pillars because the national governments control the allocation of resources. Third, the EU decision making process rules (formal and informal) ensures elite accommodation. Fourth, principle of subsidiarity ensures existence of pillarized society and finally, proportionality is ensured in the EU in system of representation. This structure facilitates coalition favouring the Socialist-Christian Democratic tradition.³²

II. FEATURES OF THE MULTILEVEL GOVERNANCE

1. Enmeshing of national and European arenas

The European Union lacks almost all of the resources coercive power, sizeable fiscal resources and a strong bureaucratic arm usually associated with governance. The defining character of the Union as a system of collective governance is rather the enmeshing of national and European arenas. From a legal point of view, the member states still have control over any further loss of sovereignty. However, an expansive logic of integration has been written into the EEC Treaty: the fundamental principle is that the Community may intervene whenever it is necessary to further the development of Common Market. The principle of subsidiarity has been inserted into the treaty of Maastricht to control the tendencies

³¹ Markus Jachtenfuchs, "The Governance Approach to European Integration", *Journal of Common Market Studies*, Vol. 39, No.2, pp. 245- 64.

³² See, Simon Hix , "The Study of the European Community: The Challenge to Comparative Politics" in Brent F Nelsen, Alexander CG Stubs (eds.) *The European Union : Reading the Theory and Practice of European Integration* (Colorado: Lynne Rienner Publisher, 1998) p.332

towards a centralization of power at Community level. This however, is open to varied interpretations.³³

Community institutions in this process are not strong in the sense of being insulated from nation-state rather from being so closely integrated in the whole process of the exchange of information, negotiation and bargaining that finally produce policy. After Maastricht, scholarly interest is now growing in the effects that political and legal integration has on national governance. There are compelling empirical evidence that state interference has not completely vanished. For example some better off EU countries, such as Federal Republic of Germany and Netherlands, which were comparatively less plagued by declining industries, high rates of unemployment or other structural problems, have increased spending despite EU law which assumes that Common Market would cut public spending because state aid to private firms run counter to EU law.³⁴

According to Kohler Koch the losing of formal authority is not synonymous with losing the actual capacity to act and to pursue individual political preferences. Second, integration is not a zero-sum redistribution of powers between the EU and member states. It is not just the well-known assumption that pooling sovereignty facilitates joint problem solving and thereby enhances the action capacity of states. Integration relates to the fact that political actors are drawn into a new game of politics and policies. They are induced to redefine their strategies.³⁵

This enmeshing of national and European arenas has been neither smooth nor linear. Rather it has been partial, patchy and contested and Union's authority resources differ from policy to policy. There is considerable conflict about just how much power the Union should exercise in different policy sectors. The inclusion of the principle of subsidiarity in TEU sharpened the debate about sharing of policy competence between the national and EU level of governance.

³³ Brigid Laffan, Rory O' Donnell and Michael Smith *Europe's Experimental Union : Rethinking Integration* (London & New York : Routledge Publication, 2000), p. 74.

³⁴ Beate Kohler Koch, "Catching up with change : the transformation of governance in European Union", *Journal of Europe Public Policy*, Volume 3: 3 September 1996, p. 364.

³⁵ *Ibid*, p. 360

There is considerable conflict about just how much power the Union should exercise in different policy sectors and the procedural rules that should govern it.

2. Negotiations being central process

The European Union is not patterned on any blueprint for a workable system of government. Unlike the US constitution or the Basic Law of Federal Republic of Germany, the Treaty of Rome did not try to settle fundamental questions of governance according to some overall plan based on principles such as protection of minorities, justice, equality or political stability. This is not to deny that European integration has taken place within an ongoing debate among alternative conceptions of the European polity. But these conceptions have never dictated the process of integration. They are used as normative guidelines for future development or to describe what has already taken place.³⁶

The European Union is the outcome of formal treaties setting out institutional competencies in a legal framework. But these treaties are not like the founding constitutions of existing democracies. The treaties are simply agreements among member states to achieve specific ends by creating particular institutions at the European level. The Union's institutional design, based on Commission, Council of Ministers, European Parliament, the European Court of Justice and Court of Auditors do not reflect the usual separation of executive and legislative powers found at national level.

Instead of a classical 'organic' separation of powers into three different institutions, there is a 'functional' separation of powers across several institutions with no strong hierarchies within each governmental power. For example during the execution of policy in the comitology system, the Commission is more powerful under advisory and management procedures, whereas the Council is more powerful under regulatory and safeguard procedures. The Commission, the European Parliament and the Court of Justice have most autonomy from national

³⁶ Simon Hix, "The Study of the European Union II 'The new governance agenda' and its rival", *Journal of European Public Policy*, Volume 5:1, March 1998, p. 40.

governments and hence represent the supranational institutions of the policy process.³⁷

The role of each institution in this European Union's policy process is based on the treaty provisions, code of practice, and informal politics. Policy output also emerges not only from a process of inter-institutional bargaining at the EU level among the member states. In the decision making stage, informal contacts, networks and norms continue to define policy options, provide information and expertise to legislators in the Council and the Parliament, and ultimately shape political outcomes.

3. Conception of EU as Regulatory State

The concept of a regulatory state has been applied to industrial societies for many years. Grandomenico Majone has led the argument that regulation has become the appropriate contemporary mode of governance, both for individual West European governments facing constraints on the conduct of their economic policy and for collective policy management through the institutions of the EU, principally the European Commission and European Court of Justice.³⁸

The regulatory state is a rule making state, with an attachment to rule of law and normally, a predilection for judicial or quasi-judicial solutions. Both regulation and intervention are regarded as opposite of each other however are not necessarily antithetical concepts, since all states intervene in the economy; what count is rather how the government intervenes and for what purpose.

The state, which is generally regarded as most closely approaching the regulatory model, is USA. Although the regulatory model has been so much associated with the US, it has also become common in European countries. In European Union UK and Germany are regarded as regulatory states. However automatic association between the prevalence of regulation and a particular model of capitalism cannot be made explicit.³⁹

³⁷ *Ibid*, p. 40

³⁸ Francis McGowan and Helen Wallace, "Towards a European Regulatory State:", *Journal of European Public Policy*, Volume 3: 4, December 1996, p. 561

³⁹ *Ibid*, p. 539

Regulation mechanism at EU has permeated countries that have quite different traditions of governance in terms of the role that regulation play vis-à-vis other policy approaches, of the priorities of regulation, and of the interests normally served by regulation. European regulatory initiatives not only exist in the single market programme but in other areas such as the environment. The process of re regulation at European level has in many cases overcome the traditional national lobbies which have blocked reform in the past, implying perhaps that European regulation affords greater scope for influence to some groups and some consideration that are normally less influential at national level. However, the EU dimension does not simple translates into a perfect convergence of member states' policies and policy styles. On the contrary there are persisting divergences reflected in implementation gap between policies agreed in the EU and policies carried out by national authorities.⁴⁰

There are four main reasons for the importance of 'regulatory politics' in the EU.⁴¹ First, regulatory policies are not costly to the regulators, at least in relative terms; the economic burden falls on the agents whose behaviour is being regulated and on the member states that must implement and enforce the regulation. Second, the Rome Treaty was largely a blueprint for integration consisting of undistorted competition in a free market, which necessitated the abolition of host of barriers to economic exchange. Third, multinational export oriented firms have a performance for European rather than national regulation as this allows them to avoid the costs of diverse national regulations. In some cases, firms are trying to avoid more stringent national regulation by calling for European regulation. Fourth, technological development or regulatory developments in non-European markets can heighten the demand for European regulation.

Economic integration confronts national system of regulation not only with increasing international competition in markets for goods and services, but also

⁴⁰ Markus Jachtenfuchs, "The Governance Approach to European Integration", *Journal of Common Market Studies*, Volume 39, No. 2, p. 353.

⁴¹ Brigid Laffan, Rory O' Donnell and Michael Smith *Europe's Experimental Union : Rethinking Integration* (London & New York : Routledge Publication, 2000), p. 91.

with the increasing mobility of financial assets and firms, and of certain types of highly skilled labour, on which the economic viability of regions depends. The implication is that investors and producers may avoid burdensome national regulations and taxes, and that consumers may avail themselves of product produced under less costly regulatory and tax regimes. The domination of regulation has three important consequences for governance in the Union. First, regulation requires a high degree of administrative and technical discretion and hence it privileges administrative power over political power. Second, the predominance of regulatory instrument tends to make the effects of policies less transparent. Third, it makes winners and losers less visible.⁴²

4. Promotes Trans-nationalism

Promotion of trans-nationalism is associated with process of subnational mobilization in the process of decision-making at European level. In the last twenty years or so, the strategies and institutions of regional development in Western Europe have undergone a fundamental shift. After World War II, national governments became increasingly concerned about the regional development. They developed national regional distributive policies that sought to compensate for the regional inequalities by providing industrial and infrastructural subsidies to disadvantaged regions. Although local governments were often directly or indirectly involved, the major actors in regional development were national administrative agencies. In 1970s the fiscal crises and a major process of industrial restructuring promoted a significant reorientation of regional development strategies and institutions. The effects of this transformation ushered process of devolution and decentralization within European states while a process of Europeanisation of regional development strategies at supranational level. The process of devolution is strengthened by the role of Commission via Structural Funds thereby challenging the role of state as 'gatekeeper'.⁴³ Finally, the growing intensity of the European Union's policy process and the expansion in the policy remit of the Union has greatly enhanced the salience of the Brussels arena of politics. The extension of political space from the domestic to the European Union

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⁴² Francis McGowan and Helen Wallace, "Towards a European regulatory State", *Journal of European Public Policy*, Vol. 3: 4, December, 1996, pp. 560-562.

⁴³ Chris Ansell, "The Network Polity : Regional Development in Western Europe", www.unc.edu/dept/europe/conferences/mig/papers, p. 312

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created additional channels of representation and mobilization, which has been a distinct feature of the dynamic process of integration since 1980s. In addition to the traditional Euro-groups, private firms and professional lobbies have mushroomed. Interest representation is characterized by a predominance of producer groups in which individual firms now play far more pervasive role. The Commission itself has created and fund some of these networks notably are the European Network of Women and the European Network of One Parent Families. The Union budget is increasingly used to promote links and networks between different societal actors, regions within the member states. The Community's R&D programmes which began in 1980s have spread extensive inter-industry and transnational networks.

5. Differentiated Integration

To accommodate diversity from the early stages, the European Communities have adopted to methods such as constructing package deals, side payments, partial derogations and transition periods. To ease adjustments and manage the range of interests and preferences of nation states Community law directive was designed to allow for a high level of national discretion.⁴⁴ The process of differentiated integration became concrete with the Maastricht process. In the Treaty of Maastricht, the three pillar system was established and European integration was officially an explicitly opened to differentiation. However the Maastricht Treaty did not set out any rules for the use of flexibility as a tool for day-to-day policy making.

According to Alexander Stubb, flexibility comes in many different guises.⁴⁵ Multi speed models, *a la Carte*, concentric circles are three forms of flexible integration. Multi-speed models conceive the EU as a system of several tiers, in which member governments are differentiated not by lack of common vision but by ability to integrate at the same pace. Thus, on policy-by-policy basis, certain member governments press ahead, and the rest commit to catch up later. In the concentric

⁴⁴ Brigid Laffan, Rory O' Donnell and Michael Smith *Europe's Experimental Union: Rethinking Integration* (London & New York: Routledge Publication, 2000), p. 89.

⁴⁵ Alexander C.G Stubb, "A Categorization of Differentiated Integration", *Journal of Common Market Studies*, volume34(2),1996,pp.284- 285

models, member governments are divided into discrete bands circling around a core group of the countries. In each band are member governments that are able or willing to accept the relevant degree of integration, but not more. In this model, the EU set of policies is divided into certain categories, and member governments have to choose which package they are willing or able to accept. Governments may well fail to catch up with the vanguard group, either through deliberate choice or long-term inability to meet entrance criteria. Finally the *a la carte* model allows governments to pick and choose from the set of EU policies like so many items on a menu. In this is model there is no implication that governments will catch up with the vanguard group, although such an eventuality is not excluded. In some policy areas, governments could lead the Union while in other sphere they could be far behind. Looking below the surface of integration it is clear that flexibility is necessary for the EU, without it, integration would never have made any substantial progress. In this respect both Nice and Amsterdam treaties introduce closer cooperation as a viable positive policy making device to further integration though only in specific non-controversial areas.

Finally, to liberal intergovernmentalist flexibility is perceived as a part of an intergovernmental master plan to claw back sovereignty of member states. However to scholars of multi level governance it is the product of the need to marry national sovereignty to the functional demands of the system which member governments themselves created to ensure greater democracy and participation. Both at Amsterdam and Nice flexibility norm simply reflected a typical elite bargain. In these treaties 'closer cooperation' is a managerial device for day to day operation rather than an organizing principle for the EU. Hence both at Amsterdam and Nice treaties member states failed to make the necessary links with democratic reforms and hence they merely obliged themselves to revisit the issue in the next IGC.⁴⁶

6. Multilevel Governance implies non majoritarian governance

As stated earlier in this chapter Fritz Scharpf characterizes EU as resting on 'output oriented legitimacy' while lacking 'input oriented legitimacy'. He argues that

⁴⁶ *Ibid*, p. 110.

European Union provides government for the people but does not represent government by the people. In the absence of political accountability and of a strong sense of collective political identity, the legitimacy of politically salient European decisions depends on the effectiveness in achieving the consensual goals. This form of policy making involved greater participation of people who are affected by the decisions formulated at European level in the form of policy networks. Policy networks is characterized as integrated hybrid structures of political governance with the distinct capacity for mixing different combination of bureaucracy, market, Community and corporatist traditions. It has given rise to four type of interest mediation at European level namely statist cluster, issue network , traditional policy Community and corporatist policy Community involving sub national actors in different ways thereby redefining democracy in new way.⁴⁷

The discourse of western democracies reflects a growing sense of dissatisfaction with traditional democracy. States that are members of the European Union have broken sharply with the classical tradition of state sovereignty. Sovereignty is considered to be fused in the sense that, in many areas states' legal authority in case of internal and external affairs are shared with the Community thereby authorizing actions through procedures avoiding national vetoes at European level do not exist.⁴⁸ EU is considered as polycentric because its institutions and competencies exist alongside national governments and local authorities. The legitimacy of such democratic regimes rests not only on their simple acceptance as regimes, but also on the evaluation of their policy outcomes and their openness to citizen participation. Problems of legitimacy at EU differ from nation-state requirement. Until the Maastricht ratification crisis it is common to assume that the

⁴⁷ Statist cluster is form of policy network where interest group either do not exist or are not paid attention since there are no significant public private actors in the networks. The traditional policy Community is characterised by stable membership and where private actors participate without actual veto. In issue network interaction is between the state and societal actors who may easily join or leave the network and in corporatist policy network where interest groups actually share some state authority. In this network few interest groups play a decisive role. For Greater details see, Gerda Falkner , "Policy Networks in a Multi-Level System: Convergence Towards Moderate Diversity?", Klaus H. Goetz and Simon Hix(eds.) *Europeanised Politics?: European Integration and National Political System* (London: Frank Cass,2001),pp. 102-103

⁴⁸ Robert O.Keohane, "Ironies Of Sovereignty: The EU And The US" *Journal of Common Market Studies, Volume 40(3), p.748*

EU faced fewer and lighter legitimation requirements than the state. Where the legitimacy of state power was considered to be complex and multidimensional (requiring performance, democracy and identity), European Union's legitimacy was regarded as simple and one dimensional in nature (the efficient production of useful policy outputs would be enough). Where the state has to earn its own legitimacy, the Union was considered to be indirectly legitimized by its member states on the principle that a body that is composed of legitimate governments is itself legitimate.⁴⁹ However in contrast to indirect legitimation model one can argue that relationship of the Union and its member states are often 'negative' rather 'positive sum'. The shifting of the blame on to EU institutions, the displacement of national legitimation problems into the European arena without matching resources and the cartelization of the interface between state and Union by bureaucratic elites are well-documented source of delegitimation. Also, EU functions are not simply based on Pareto-improving actions. The EU is involved in public goods provision as varied as market regulation, macroeconomic stabilization, environmental protection and internal and external security. It is arguable that these functions do not in themselves require the democratic legitimation of the Union power, since they could be performed in Pareto improving fashion that involved no choice between citizen's values. The difficulty however is that the EU is very much a reallocative polity even if it does so by rule making and risk regulation.⁵⁰

The European Union, integration process has itself changed, the role of national democracies and ultimate rule making authority in a way that renders indirect legitimation of European Union's powers inadequate. There are three reasons for being skeptical about the process. First, national democracies are unequal in their ability to revise the terms of the Union's agency. Second, path dependent lock in effects may limit the supervisory powers of national democracies by narrowing exit options from specific policies, institutional mechanism or membership. Third, governments are likely to side with the institution against domestic realm.⁵¹

⁴⁹ Christopher Lord and David Beetham, "Legitimizing the EU: Is there a Post parliamentary Basis' for its Legitimation?" *Journal of Common Market Studies*, Volume 39, nos. 3, p. 445

⁵⁰ *Ibid*, p. 449.

⁵¹ *ibid*, p. 500.

This so-called 'democratic deficit' in the EU has always been an issue. In order to overcome this problem the European Parliament's power have been greatly extended in the legislative process vis-à-vis the Council and second, over the exercise of the executive powers (in the investiture of the Commission President). This way European election would have an impact on the formation of 'public policy' and the 'formation of government'. But as the new governance analysis points out this strategy is flawed.

In absence of demos to legitimize majority rule or executive who could be elected, EU decision making can only be legitimate if it is non majoritarian in nature.⁵² If a majoritarian institution such as parliament makes regulation, bargaining is between rival legislative coalition and the outcome is inherently redistributive/zero sum in the interest of majority, against the interest of the minority. However by delegating regulatory policy to an independent institution which is required to act in the public interest outcome will be positive sum. And this can be supplemented by transparency *via* media and parliamentary scrutiny and judicial review of the regulation. It favours legitimacy through problem solving, efficiency, adequate representation of affected interests representation, consensus and transparency.

The EU does not have a political executive that can claim direct political legitimacy, nor a body that gives political direction. Regardless of the power of the European Parliament, European elections are still not fought on European issues because people still treat them as 'second order national contest'. Consequently at present there is no democratic mandate for a European Government and resources are redistributed through EU legislation primarily by the Commission and regulatory agencies. Thus consequently it implies that models of democracy developed in the national context cannot be easily transferred to EU. The solution is *sui generis* model of representation and accountability. Scholars like Weiler advocate placing the whole EU decision making process especially comitology on the internet or as pointed out by Frank Vibert that EU citizenship should be

⁵² Alex Warleigh, "Towards Network Democracy? The Potential of Flexible Integration", in Fella M. Farel and M. Newman (eds.) *European Union in 21st Century* (London: Sage Publication, 2002),p.105

developed on the basis of civil rights and obligation.⁵³ Alex Warleigh also points towards the importance of Ombudsman and Committee of Regions (CoR) in ushering democracy.⁵⁴

In this respect the most significant changes are related to two lesser bodies, Ombudsman and committee of Regions. The Ombudsman's access to information, power and status will be improved as both concession to Scandinavian bloc and an expression of the member states intention to modernise Union governance. CoR could be given increased resources in order to bring the EU message to the citizen. It might also have gained a special institutional status, which allows it the role of co-guardian of subsidiarity with the Commission, although it would still be a consultative body regarding legislative proposals. With the launch of the civil dialogue project as a part of the preparation for the next IGC in 2004, there may well be greater public and NGO awareness and participation in the debate surrounding, European integration. Further, the 'partnership principle' would be extended to areas other than regional/structural policy in field of consumer section and public health.⁵⁵

III. DIMENSIONS OF MULTI-LEVEL GOVERNANCE

1. Features of Multi-Level Governance in the European Union

The core of the multilevel governance consist of negotiation system which links the different actors - states, European institutions, national and subnational in form of multilateral pattern of interaction in which actors finds themselves in the position of veto players.⁵⁶The multilevel governance approach refutes the contention of state centric approaches that national governments dominates the

⁵³ Frank Vibert, *Europe Simple, Europe Strong: The Future of European Governance* (New York: Polity and Blackwell Publisher, 2001), p.166

⁵⁴ Alex Warleigh, "Towards Network Democracy? The Potential of Flexible Integration", in Fella M. Farel and M. Newman (eds.) *European Union in 21st Century* (London: Sage Publication, 2002),p. 113

⁵⁵ Ibid,p.114

⁵⁶ Veto player's theory takes into account the collective actor's power to block decision, the divergence of interest between veto players and their abilities to agree on a policy creates problem of accountability. For greater details see, Arthur Benz, "Restoring Accountability in Multilevel Governance", ECPR Joint Session Workshop; www.essen.ac.uk/ecpr/jointsessions/grenoble/papers/WS5,p9

decision making process at European level. The state centric approaches entail three conditions: first, each state should maintain its sovereignty in the process of collective decision-making. Second, national governments by virtue of European Council and the Council of Ministers should be able to impose their collective preference on the other European institutions. Third, national governments control the access of subnational groups within the European arena. Multilateral negotiations on the other hand are burdened with a higher level of conflicts because many different interests have to be considered. The probability that distributive issues will arise is much more likely. However, the German – style of joint decision making system should be viewed as a specific sub-set of systems of negotiation occurring under specific conditions. In particular, it assumes that the only actors involved are executives, which are controlled by parliament and are thus subject to logic of party competition. Moreover in this set-up, no actor enjoys a leading role and nobody can exit from the negotiation arena.⁵⁷

Decision-making in European Union, involves a great variety of actors, and not just executives and some actors like European Commission clearly plays a privileged and entrepreneurial role. While in many instances there is also a need for consensual agreements with no exit-option these patterns are complemented by more flexible arrangements of cooperation involving more than just the executive branches. More importantly, the EU is composed of several, differently organized negotiating arenas across more than two levels. The inherent tensions arising from the conflicting operating logics of different arenas and level creates instability.⁵⁸ At the same time, this instability triggers and drives restructuring processes, which can prevent deadlock.⁵⁹ Actors in established system of joint decision-making will seek to limit access of new parties. But pressure for participation exercised by

⁵⁷ See Gary Marks, Liesbet Hooghe, Kermit Blank, "European Integration from the 1980s: State-Centric V. Multilevel Governance", *Journal of Common Market Studies*, Vol. 3, No. 3, September 1994, p. 346.

⁵⁸ See, Arthur Benz, "Multilevel Governance in the European Union," (translated), in Markus Jachtenfuschs and Beate Kohler-Koch (eds.), *Europaeische Integration* (Opladen: Leske and Budrich, 2002), pp. 9-10.

⁵⁹ See, Arthur Benz and Burkard Eberlein, "The Europeanization of Regional Policies: patterns of multi-level governance", *Journal of European Public Policy*, Volume 6(2), June 1999, p. 332.

externalized third parties might destabilize the established pattern of joint decision-making and be a force of change.⁶⁰ Thus negotiations in multilevel governance are characterized as mixed motive games in which agreement is possible even when actors show a minimum willingness to cooperate.⁶¹

The logic of policy making in the multilevel governance is also determined by structural coupling of arenas.⁶² For example in the parliamentary system European multilevel negotiations are closely coupled to party competition in the national parliamentary arena because of the government's responsibility to parliament. In fact, national actors who do not participate in European policy-making have an external veto position. The dilemma of multi level governance is much more active if parliaments can credibly threaten to apply veto powers. Among the member states of the EU, merely the Danish Folketing and Austrian Nationalrat have formal rights to issue binding propositions on EU matters to their government. As external veto players, national parliaments are not exposed to the mixed-motive situation of the European negotiations process. The loyalty of the majority in parliament may give the government sufficient leeway to balance national interests with European concern. In the parliamentary arena, majority and opposition parties compete to get the support of electors and this competition influences the behaviour of members of parliament. In fact, national actors have obtained an external veto position which acts as a fixed constraint and is met subject to strategic interaction in the negotiation process. However in practice members of national parliaments realise the dilemma of binding proposals and vetoes in multilevel governance and thus formulate statements that define goals in broad terms and give their government a wide scope.

Besides this structure of interaction, the kind and the extent of conflict depend upon the policy. Regulatory policies reduce the autonomy of the state by setting

⁶⁰ See, Arthur Benz and Burkard Eberlein, "Regions in European governance: The Logic of Multi-level Interaction", *RSC Working Paper*, No 98/31, p. 3.

⁶¹ See, Arthur Benz, "Multilevel Governance in the European Union" (translated), in Markus Jachtenfuchs and Beate Kohler-Koch (eds.), *Europäische Integration* (Opladen: Leske and Budrich, 2002), pp. 19.

⁶² For greater details see, "The Europeanization of regional policies: patterns of multi-level governance", *Journal of European Public Policy*, Volume 6(2), June 1999, p. 333.

standards of policy making or binding rules and thus trigger disputes, because the fundamental interests of individual governments to preserve their domain are concerned.⁶³ Distributive policies on the other hand create disputes pertaining to redistribution of resources among groups and areas.⁶⁴

2. Agenda setting and decision- making process in the European Union

The agenda for European policy is set in networks which include European and national administrations and which work independently of national party competition. Private interest groups participate in these networks, but they are represented by experts, who have a strong interest in finding solutions to the problem. The negotiating style practiced in these networks is more often seen as arguing than bargaining.⁶⁵

In case of regulatory policies relevant policies develop out of national regulatory competition this generates a need for coordination which requires European regulation. The sheer possibility of harmonizing regulatory policy in EU basically affects the states, which have achieved a high level of regulation.⁶⁶ The European Commission holds the right to initiate policies in the Council of Ministers and EP. This includes the right to amend or withdraw to its proposals at any stage in the process.

2.1 European Commission

From multilevel governance perspective the European Commission has significant autonomous influence over the agenda.⁶⁷ Although it is sole initiator of the legislation, it is not the only player in policy formulation. There exist many constraints: first, the European Council has immense prestige and legitimacy. It

⁶³ Arthur Benz, "Multilevel Governance in the European Union" (translated), in Markus Jachtenfuchs and Beate Kohler -Koch (eds.), *Europäische Integration* (Opladen: Leske and Budrich, 2002), p.4

⁶⁴ *Ibid*, p.8

⁶⁵ *Ibid*, pp.19-20

⁶⁶ Markus Jachtenfuchs, "The governance Approach to European Integration", *Journal of Common Market Studies*, Volume 39, No.2, June 2001, p. 252.

⁶⁷ Liesbet Hooghe and Gary Marks, *Multilevel Governance in European Union* (London: Rowman and Littlefield, 2001), p. 16.

defines general policy mandates rather than specific policy proposals. European Council mandates have proven to be a flexible basis for the Commission to build legislations programmes; second, Council of Minister and European Parliament can request the Commission to produce proposals, although they can't draft proposals themselves. The Council can even circumvent the Commission's formal monopoly of legislature proposal by issuing the common opinions, resolution agreement and recommendation. Third, the Commission is always on the look out for information and political support. It has developed an extensive informal machinery of advisory committees and working groups for consultations. As a think tank the Commission has responsibility for investigating the feasibility of new EU policies, which require expertise opinions.

2.2 European Parliament

The empowerment of an autonomous and directly elected Parliament over the past two decades presents a fundamental problem - Is European Parliament an agent designed by national governments to realise their preferences or is it a crucial actor in decision-making process? According to Liesbet Hooghe, development of European Parliament cannot be explained as a functional response on the part of national governments to problems of intergovernmental bargaining. On the contrary, the European Parliament is better explained in terms of the response of national governments to domestic pressure or for greater democratic accountability.

The cooperation procedure introduced in Maastricht Treaty allowed the European Commission to set the agenda. European Parliament could decide to take up or drop amendments from either the Council or Parliament, a power that made it a broker between the two institutions. The Council could not decide legislation without the support of either the Commission or European Parliament unless it was unanimous.

Under the co-decision procedure the European Parliament can veto council legislative proposals. A conciliation committee, consisting of representatives from both institutions with a representative of the Commission as broker, tries to strike a compromise if Parliament and Council are deadlocked. The Commission retains

important agenda setting powers, through its broker role is weaker than under the cooperation procedure. Under both the procedures the Council is locked in a complex relationship of cooperation and contestation with the two other institutions. At Nice, participation right of European Parliament has been extended in form of consultation, cooperation and co-decision in case of assent in 66% of all TEC, 97% of all TEU matters and 25% in TEC articles. Thus giving it same power as others enhances legal status of European Parliament.

2.3 Council of Ministers

The Council of Ministers shares decision-making authority with other European institutions. Over the last three decades, EP has been transformed from a decorative institution to a directly elected co-legislator the individual and collective control of national government within the Council has diminished because it lacks information, expertise and the coordination to act quickly formal decision rules in the Council of Ministers often help the Commission focus discussion or broker compromise. According to the State centric approaches national governments sacrifice some independent control by participating in collective decision making' - they more than compensate for this by their increased ability to achieve the policy outcomes. Second, majoritarianism in the Council of Ministers increases the state sovereignty.⁶⁸ However multi-level governance approach argue contrary. Ever since the single European Act and Maastricht treaty qualified majority voting is the rule in most of the policy areas.

2.4 Growing influence of sub-national actors in decision-making process

Regional governments are now longer constrained to diadic political relations with national state actors, but interact with variety of actor in diverse arenas. Local and regional governments from several member states have set up independent offices in Brussels. In Austria, Belgium and Germany, regional governments participate directly in the deliberations within the Council of Ministers and subnational governments are represented in highly visible committee of Regions established in

⁶⁸ *Ibid*, p. 13.

Maastricht Treaty.⁶⁹ According to a Commission report, some 3,000 interest groups and lobbies employing about 10,000 people were based in Brussels. Among these are 500 "Euro-groups" and some 150 offices in Brussels representing regional and local authorities. Most groups target their lobbying activity at the European Commission and the European Parliament, for these are perceived to be more accessible than secretive Council. The Commission's ability to create new advisory committees has helped it reach out to new constituencies.⁷⁰

To assist in the interest aggregation process, the Commission has at its disposal a large network of advisory committees. The *raison d'être* of the advisory committees is to give the Commission an opportunity to iron out potential opposition to a policy proposal, while at the same time supplementing its own knowledge and expertise in the area under consideration. There are also complaints of preferential insider-type access and those largely excluded from the formulation process.⁷¹ To resolve some of these potential problems, the Commission has in recent years sought gradually to develop a more systematized form of consultation.

2.5 Institutional Balance

Over the years, major treaty reforms and the pattern of interaction in European integration have resulted in a process of 'fusion' by which national and Community actors merged resources in joint institutions and complex procedures. The period from 1958-87 was characterized by legislative gridlock in the Council. In this period the Council was an ineffective collective institution, with the system of national vetoes protecting the sovereignty of member states. The unanimity-voting requirement in the Council mitigated the legislative power of the Commission as the small volume of legislation produced by the Council gave the Commission scant opportunities to exercise its bureaucratic discretion. In contrast, legislative gridlock in the Council facilitated Court activism because only treaty

⁶⁹ See, Gary Marks, Liesbet Hooghe and Kermit Blank, "European Integration from 1980s: State Centric V. Multilevel Governance", *Journal of Common Market Studies*, Vol. 34(3), September, 1996, p. 359.

⁷⁰ Liesbet Hooghe and Gary Marks, *Multilevel Governance in European Union* (London: Rowman and Littlefield, 2001), p.15.

⁷¹ See, Michelle Cini, "Process and procedure: decision-making and the Commission", in *The European Commission Leadership, organisation and culture in the EU administration*. (Manchester and New York: Manchester University Press, 1997), p. 149.

revisions could rein in the Court. By SEA however Court's discretion to interpret secondary legislation was curtailed. The change in Council voting rules gave the Commission agenda-setting power. In the Maastricht and Amsterdam treaties, the Parliament became a powerful legislator. The Parliament in a bicameral legislature has increased the probability of gridlock between it and the Council. Consequently, the discretionary space available to the Commission to implement policy and to the Court to adjudicate disputes has increased.⁷²

At Nice, this trend is strengthened. The aggregate set of amendments and revision of the legal constitution has increased the overall number of rules governing the preparation, making and implementation of decisions Wolfgang Wessels identify 16 different decision making modalities for the Council and 11 for European Parliament. Overall there are 38 combinations of possible voting modalities in the Council and participation opportunities of the EP, out of which 22 are legislative in nature. The survey conducted links only two of the decision-making bodies. If one adds the powers and functions of the Commission and the Court of Justice, as well as of treaty based committees, the picture becomes more complex.⁷³

2.6 Implementation

Implementation of EU policies is constrained by choices made in the legislative stage; it is thus perceived to be of secondary importance. Classical views about institutional balance simply stress that, in theory, the implementation of EU policies remains in the hands of national administration.⁷⁴ The role of Commission as a manager and administrator empower it to turn the treaty commitments and secondary legislation into workable policy or programme of action. Its role involves planning and programming within guidelines and framework established by member-states. The task is generally delegated to national or subnational government, department and agencies. However, only a tiny proportion of the

⁷² See, George Tsebelis and Geoffery Garrett, "The Institutional Foundation of Intergovernmentalism and Supranationalism in the European Union", *International Organisation*, Volume 55(2), Spring 2001, pp. 357-358.

⁷³ Wolfgang Wessels, Nice Results: "The Millennium IGC in the EU's Evolution", *Journal of Common Market Studies*, Volume 36, nos. 2, June 2001, p. 218.

⁷⁴ See, Renaud Dehousse, "Misfits: EU Law and the Transformation of European Governance", *The Jean Monnet Program 2/02*, p. 1.

Commission's decisions are unilateral. In 1980s, with the institutionalization of comitology, the Council and the individual national governments have become intimately involved. Today, these committees form network like structures with no accountability. These committees are viewed as a mere control device and are deprived of their own decision-making powers and the final word rest either with the Commission or with the Council. Second, these Committees are widely seen as the instrument of principal agent relationship between Council and the Commission.

During the Delors years, the Commission made no secret of its loathing for comitology. For its part, the European parliament has repeatedly declared its aversion to a system that it perceived to be an undue restriction of the Commission's regulatory power. The member states frequently insisted on imposing stricter procedures, notwithstanding their own commitment to favour advisory Committees. Despite very strict non-delegation doctrine in practice EU institutions in practice do appear to stick to a very strict non-delegation doctrine, they have been contented to adopt a far more relaxed attitude for the need for technical expertise.⁷⁵

2.7 European Court of Justice

State centrist have agreed that European legal order and effective European Court of Justice are essential to state cooperation the ECJ adjudicate incomplete contracting problems by applying general interstate bargains to future contingencies. In this view the ECJ is considered as an agent of member states. ECJ certainly laid the foundation for an integrated European polity by the means of impressive body or case law; however it depends upon the other actors to force issues on the European political agenda. The institutions of European Union certainly reversed the course set by the Court by changing the law or altering the treatise.

⁷⁵ In Meroni doctrine, the Court Of Justice clearly indicate that a system in which decisions may be subordinated to approval of the High Authority , as was envisaged in article 8 and 9 of decision 14/65 ECSC, cannot be the last say remains with the High Authority. For greater details see, *ibid*,p.23

3. Redistributive policy dynamics in context of Multilevel Governance

EU involvement in regional policy has, in the past, been justified by four main arguments viz. it reduce the scope for costly and inefficient 'competitive outbidding' for mobile investments between nations and regions; there is a 'common interest' argument that depressed regions benefit nobody and that major disparities are unacceptable; there is 'dynamic' argument that regional disparities may be a barrier to further integration, and finally, it is concentrated where it is needed most thereby making single market project a success.

3.1 Features of multilevel governance in case of redistributive policy

Budgetary policy – making in the Union rests on 'history-making decision', which is taken periodically since 1988. It takes place on a cycle that parallels the multi-year cycle of the structural plans drawn up for each participating country and bargaining is conducted against the backdrop of negotiations on the financial package drawn up by the Commission for overall spending. The underlying logic of this game is simple, pitting contributor against beneficiaries, but no rigid cleavage has developed since the relative position of countries varies across time. Most importantly, Germany has acquired an extremely poor territory.⁷⁶ Second, cohesion policy is made up of distinct redistributive components, each of which poses different sets of winners and losers. Hence, coalitions on overall spending for cohesion policy are fractured when it comes to spending for particular objectives; finally, many on the political left press for egalitarian policies within their own countries extend their arguments for greater equality to the European Union as a whole.

The management of the budget engages many layers of government from the Commission to Central, regional, and local governmental agencies in the member states. The Commission has the responsibility for establishing the draft budget each year, and for proposal which aim to shape the 'grand bargain.' The Commission has traditionally been an advocate of bigger EU budget but has been forced to pay more attention to managing expenditure of budget. Also, it plays the

⁷⁶ See, Liesbet Hooghe, "A House with Differing Views: The European Commission and Cohesion Policy", in Neill Nugent (ed.) *At the Heart of the Union: Studies of the European Commission* (New York: St. Martin, 1997), p. 92.

role of honest broker in budgetary battles, charged by the member governments with drafting reports on sensitive issues such as 'own resources and net flow to member state.'⁷⁷

Actors who cannot simply be equated with institutions such as the Council and the Commission or with the member states shape cohesion policy. There exists various division during the process of policy making within EU institutions and member states, as well as between them.⁷⁸ For example the cohesion has been highly contested in the Commission. The original blueprint laid down in the 1988 structural funds was largely the work of small committed group around President Jacques Delors who had masterminded the reform and subsequently took responsibility for the coordination between three funds and defended a strict application of partnership. On the other hand, the funding agencies particularly DGXVIC regional policies wanted a more flexible sub national involvement. It could not happen at the same speed throughout the European Union since administrative set up of member state countries differs considerably. Hence by the end of 1992, the latter line had prevailed and DGXXII was abolished. Within the Commission actors favouring an integrationist conception of cohesion policy lost to those favouring more flexible and decentralized cohesion policy.⁷⁹

EU cohesion policy does not simply bring three inter-dependent actors together in a policy networks; in fact network structures creates two different roles for each actor. The regions in their operation can now potentially mobilize Commission support against their own national governments, and vice versa. But crucially regions can and do also mobilize their national governments against the Commission and vice versa. The overall pattern of three levels of actors engaged in policy networks is of cooperation, but of constantly shifting alliances, followed

⁷⁷ Brigid Laffan and Michael Shackleton, "The Budget: Who Gets What, When and How", in Helen Wallace and William Wallace (eds.) *Policy Making in the European Union*, (Oxford: Oxford University Press, 2000), p. 217.

⁷⁸ Liesbet Hooghe, "EU Cohesion Policy and Competing Models of European Capitalism," *Journal of Common Market Studies*, Volume 36, No. 4, September 1998, p. 446.

⁷⁹ See Liesbet Hooghe, "A House with Differing Views: The European Commission and Cohesion Policy" in Neill Nugent (ed.), *At the Heart of the Union Studies of the European Commission* (New York: St. Martin, 1997), p. 96.

by successful EU-subnational alliances, within the same region.⁸⁰ For the Commission, regional connections bring new sources of information and political support for its programmes. Information flowing from regions makes the Commission less directly dependent on national governments. On the other hand various sub-national actors and regional officials see partnership with the Commission as prestigious and legitimating subnational power. Ethnic regions have sought links with Brussels in order to legitimize their existence. Expectations for political influence have been raised among subnational actors in countries where they are presently weak, such as in Greece, Ireland and where they are politically entrenched, as in France, Belgium and Germany. The Commission has diversified the use of structural funds resources to develop links with richer regions.

3.2 Brief History of Cohesion Policy Overtime

In the past 15 years, the EU structural funds have developed from a simple mechanism for the transfer of funds between states into a complex process of negotiation between supranational, national and subnational authorities. Europe's poorer regions successfully demanded a doubling of the funds as a condition of their acceptance of deeper integration. The Commission role has increased in four ways:⁸¹ the technical criteria as the formal determinants of regional eligibility for the EU aid greatly enhanced the Commission's influence. Now political deals have to be justified in technical terms. EU regional aid will be matched by national funds, and could not be used in replacement of it; there will be new emphasis on the programmatic coherence of EU aid to a given region; and the Commission would distribute more funds directly.

From 1989 to 1993 structural programmes were formulated in three distinct stages: first, national governments devised broad regional development plans; second, national government and the Commission negotiated these plans into Community Support Framework (CSFs) programme; third, national government and

⁸⁰ See, Christopher K. Ansell, Craig A. Parson, Keith A. Darden, "Dual Networks In European Regional Development Policy", *Journal of Common Market Studies*, Vol. 35, 1995, p. 350.

⁸¹ Brigid Laffan and Michael Shackleton, "The Budget: Who Gets What, When and How," in Helen Wallace and William Wallace (eds.), *Policy Making in the European Union* (Oxford: Oxford University Press, 2000), p. 218.

Commission together with subnational representatives created partnerships to devise specific program. Community framework specific programme proposals though are devised by the national governments, are confronted with immovable Commission–region alliance. For example, in 1992 British local authorities communicated to DG XVI head Bruce Millan that national government left them unable to finance new projects. While there is no elected regional government in the UK, the Coal Communities Campaign stepped forward to support publicly Commission action and condemn Whitehall.⁸²

Under 1993 and 1999 reforms, structural funds have been streamlined. The number of objectives has reduced to three while Community initiatives in 1993-99 was 9% while in 2000-06 is reduced to 5%. Some see it as a retreat, but the Commission argues that it is the advancement of principle of Concentration.⁸³

The changing dynamics of cohesion policy brings to fore the struggle between neo-liberals and supporters of regulated capitalism and within regulated capitalism alliance seemed ruptured. It brings to fore rift between the camps of regulatory capitalism. The cohesion countries and the less developed regions insist that cohesion policy should ignore most of Europe's population and concentrate on Europe's lagging regions. On the other hand, Commission cohesion services outside the Regional Policy Directorate General and rich northern states insist on concentrating structural funds in areas with high unemployment and deprivation.⁸⁴

In 1997, more than 50,000 people from across the continent gathered in Amsterdam at the culmination of a series of transnational marches against unemployment, job insecurity and social exclusion since the employment chapter of Amsterdam Treaty converge the European labour markets and welfare system

⁸² See, Christopher K. Ansell, Craig A. Parsons, Keith A. Darden, "Dual Networks in European Regional Development Policy", *Journal of Common Market Studies*, Vol. 35, 1995, p. 365.

⁸³ According to the principle of concentration, the Commission sought to impose consistent geographical and functional criteria on their management and thereby to concentrate spending on the most needy regions and states. For details see, David Allen, "Cohesion and the Structural Funds: Transfer and Trade offs", Helen Wallace and William Wallace (eds.) *Policy Making and European Union*, (Oxford: Oxford University Press, 2000), p. 257.

⁸⁴ Liesbet Hooghe, "EU Cohesion Policy and Competing Models of European Capitalism", *Journal of Common Market Studies*, Volume 36, Nos. 4, September 1998, p.458

around the notion of 'flexibility' and 'workfare'. According to Liesbet Hooghe, the new emerging definition of cohesion policy in the terms of employment is significant. It departs from the initial ambition of Cohesion proponents, who hoped to lay the basis for a Union where supranational level would set priorities and where public authority would be the gatekeeper between society and markets. Even the staunchest defender of a European employment agenda emphasize that the main competence for employment should remain at national level.

CONCLUSION

Multilevel governance approach believes that there is the transformation of politics and government taking place at the European level into multi-level, non-hierarchical, deliberative and apolitical form of governance. However, the new governance agenda is problematic. First, since traditional politics and government do exist in the EU. Second, as the EU develops a stable and familiar institutional environment and pattern of interest articulation and interaction then rational choice explanation is increasingly becoming important. Third, transparent, efficient and consensual outputs are only one side of legitimacy. The other side of competition over inputs is ignored by new governance approach.

CHAPTER – 2

CROSS -BORDER REGIONALISM IN EU: A MULTILEVEL PERSPECTIVE

I. CONCEPT OF CROSS BORDER REGIONALISM

A. Meaning of Cross border regionalism

Cross border regionalism has gained increasing prominence in policy and academic discourses. A Cross Border Region (CBR) is a territorial unit that comprises contiguous sub- national units from two or more national states. CBR needs to be distinguished from inter-regional and trans-national cooperation. Cross border regionalism can be defined as direct neighbourly cooperation in all areas of life between regional and local authorities along the border and involving all actors. It is more organized than both inter-regional and trans-national cooperation because of a longer tradition (regional/local) and is interlinked within the framework of the Association of European Border Regions (AEBR) while “interregional” refers to the co- operation between regional and local authorities mostly in a single sector (not in all areas of life) and with selected actors. It links various organization involved in the process of interregional cooperation within the framework of Assembly of European Regions. This form of cooperation is not advanced because of a shorter tradition than cross border regionalism. Transnational cooperation on the other hand refers to cooperation between countries (sometimes allowing regions to participate with regard to subjects related to their jurisdiction). Its inter linkage is rarely organized and are limited within the framework of international organization itself for example in case European Union the linkage between Council of Europe and Nordic Council.¹

James Scott defines Cross border regionalism as a spatially integrated form of political cooperation and problem solving that transcend the limits of nationally

¹ For details see, *Guide to community initiatives* (Brussels : European Commission, 2000) pp. 24-26.

based administrative practice and attempts to create a sense of cohesiveness, interdependence and common interest across national boundaries. It signifies emergence for some like Ivo-Duchacek's 'substantial paradiplomacy' on a large scale and in very different geographical context.² It is much more than a response to new territorial (network) logic of economic activity or to a globalised market. It is also a product of interdependence and the limited response capabilities of nation-states and international organization to address common global problems. It is driven by the desire to develop new, more comprehensive and effective form of collective action or governance in protecting the environment, safeguarding peaceful existence and promoting economic development. Furthermore, the demand for governance and governability in these areas is steadily increasing. An important aspect of network based cooperation is the new planning forms in which social and political mobilization and policy discourse are emphasized. As a result, the establishment of a planning process as regional dialogue, together with strategies to reconcile and coordinate diverse interests would also appear to offer considerable promise for developing trans-boundary alliances between cities and regions. Often forgotten, however, is the contextual environment for alliance-building across national borders since not only are financial incentives and legal framework important but also the actors themselves must have the capacity to promote a discursive policy development process.³

According to Markus Perkmann, CBC has to be seen as an aggregate outcome of various relatively decentralized processes of institution building with strong involvement by non-local actors. Cross Border initiatives cannot be assumed to have single and coherent objectives. It rather comprise of multiplicity of actors operating in an institutional context of opportunities and constrain that is not predominantly of their own making. As a consequence of their actions, the institutional settings itself undergoes continuous changes resulting in irreversible and historically specific trajectory.⁴

² See, James Scott, "Comprehending Transboundary Regionalism: Developing an Analytical Domain for Comparative Research," in *www.irs.net.de/berichte-3pdf*, pp . 1-3.

³ *Ibid*, p.12

⁴ See, Markus Perkmann, "Euroregions: Institutional Entrepreneurship in the European Union," (eds) Markus Perkmann and Ngai-Ling Sum, *Globalisation, Regionalisation and cross Border Regions* (New York: Macmillan Publication, 2002), pp. 104-105.

Although CBC institutions exist as policy networks, the nature of the policy problem is by no means well defined from the outset. There exist a circular relationship between actors and institutions. The CBC governance is in fact helping to create new opportunities for actors that might change the strategic landscape both in border areas as well as on a European and global level.⁵

Cross border regions are far from being regions in the conventional juridico-political sense. For they are not formal administrative units subordinate to a national state bureaucracy, nor do they normally have mechanisms that allow for binding popular representation. CBRs are therefore not governed in a conventional, territorial sense. Many and irregular structures operate in a network – like manner at two levels – micro-level and meso-level.⁶ On the meso-level, - governance involves cooperative relationships between public and other bodies that share certain interests, such as coping with environmental interdependences or creating cross-border economic spaces. These networks often emerge in response to the failure of central-state authorities to address local and regional problems thereby providing elite actors opportunities to exploit the situation. On the micro level, the integration of cross border spaces depends upon the proliferation and / or re-activation of social and / or economic relationships.⁷ For example Sum argues that cross-border coordination in ‘Greater China’ depends upon opportunity structures generated by selective opening of the Chinese border that favoured the emergence and re-enforcement of cross-border ethnic network structures to production and later to consumption patterns.⁸

There exists wide range of CBRs differing shape, size largely depend upon the regional organization shaping them. On the one hand, there are institutionalized

⁵ See, Markus Perkmann, "Building Governance Institutions Across European Borders", *Regional Studies*, volume 33(7), pp . 660-661.

⁶ See, Markus Perkmann and Ngai-Ling Sum, "Globalization, Regionalisation and Cross-Border Regions. Scales, Discourse and governance", (eds) Perkmann Markus and Ngai-Ling Sum *Globalization, Regionalisation and Cross-Border Regions* (New York : Palgrave Publication, 2002), pp .14-15.

⁷ *Ibid*, p. 18.

⁸ See, Ngai Ling Sum " Politics of Identities and Making of the ‘Greater China’ sub region in the Post Cold War Era", in (eds) Glenn Hook and Ian Kearns, *Subregionalism and World Order* (London: Macmillan Press, 1999), pp. 200-201

'Euroregions' and on the other hand are growth triangles in East Asia covering considerable part of their respective territory and may even include the entire country. CBRs can be differentiated on the basis of their respective border regimes. In the open border scenario, for example, the rationale for cross-border cooperation is provided by the continuing erosion of border barriers and the steady convergence of political and economic conditions in the regions involved. This scenario can be illustrated from the situation on the borders between adjoining EU member states. In contrast, a persisting border scenario prevails where borders are opened only selectively to allow for specific transactions while the friction of these borders is maintained or even increased for other transactions. In these situations, the rationale for cross border cooperation will be based on the persistence of the differences between the nation-state territories.

Second, CBR differs in relation to the role of central state policy. For example, Mexican government declared a narrow strip of Mexican territory adjacent to US border as the special economic zone. In China the central government declares southern China as special economic zone while on the other hand in most European cases initiatives come either from supranational institution or local and regional authorities.⁹ Hence Glenn Hooks and Ian Kearns prefer to use 'sub regionalism' rather than cross border regions/ism to explain this phenomenon.¹⁰ According to Hooks and Ian Kearns sub regional projects arose in context of end of Cold War when demise of ideological confrontation paved the way for new scales and scalar activities to gain momentum. Although national scale constituted in post war period as the basis for organizing economic, political and social relations have been demoted no other scale has gained primacy. During the Cold War, space as a source of identity was suffocated beneath the weight of bilateralism. The spatiality and regionalism in form of North Atlantic Treaty Organization (NATO), Central Treaty Organization (CENTO) were defined in

⁹ See, Glenn Hook and Ian Kearns "Introduction", in (eds) Glenn Hook and Ian Kearns, *Subregionalism and World Order* (London: Macmillan Press, 1999), p. 6.

¹⁰ See, Markus Perkmann and Ngai-Ling Sum, "Globalization, Regionalisation and Cross-Border Regions. Scales, Discourse and governance", (eds) Perkmann Markus and Ngai-Ling Sum *Globalization, Regionalisation and Cross-Border Regions* (New York : Palgrave Publication, 2002), pp. 6-7.

terms of ideology. Presently this bilateralism has given the way to multilateralism where state is not a unilateral actor in the management of economy.

The rise of multilateralism directed by triad of Europe, the United States and Japan seeks to justify universalizing value of capitalism although the absence of countervailing power creates vacuums thereby heightening competitions and conflicts between new scales.¹¹ This trend towards diversification takes two forms (a) in the form of structure of overlapping sub-regions and micro-regions, (b) the other being more chaotic organization, involving myriad of networks. This new scalar activity reflects limits to the relocation of sunset and residual industries for cheap labour hence conflicts develop among sub-regions.¹² For example China's micro-regions compete with a sub-regional body, Association of South East Asian Nations (ASEAN) for investment while in turn ASEAN have turned to Vietnam contributing to its infrastructural, manufacturing and service sectors. There also exists opposition to the emergence of growth triangles in terms of distribution of benefits on racial and ethnic lines. The rise of growth triangle among Johor, Singapore and Riau has heightened tension between communal groups in which Chinese Malaysians appear to benefit disproportionately from their relationship with Chinese Singaporeans.¹³

There are at least nine ways in which CBRs have emerged. They do not have equal weight and are the result of simultaneous combination of factors and / or their sequencing.¹⁴ First, CBRs may result from recent selective re-inforcement of obscure and liminal form of economic and political organization that have long existed on the borders of states, even if disapproved by their respective national states. These include grey or black market economic activities. For example grey

¹¹ See, Bjorn Hettne, "Globalization and the New regionalism : The Second Great Transformation", (eds) Bjorn Hettne and Andras Osvaldo Sunkel, *Globalism and the New Regionalism* (London and New York : Palgrave, 1999) p. 9.

¹² *Ibid*, p. 15.

¹³ See, James H. Mittelman, "Rethinking the 'New Regionalism' in the context of globalization", in (eds) Bjorn Hettne and Andras Osvaldo Sunkel, *Globalism and the New Regionalism* (London and New York: Palgrave, 1999) pp . 47-48.

¹⁴ See, Bob Jessop, "The Political Economy of scale", (eds) Markus Perkmann and Nagai-Ling Sum, *Globalization Regionalisation and Cross Border Regions* (New York : Macmillan Press, 2002), pp . 38-42.

markets at the border of EU with Eastern and Central Europe. Second, CBRs may involve a resurgence of suppressed historical economic spaces following the end of cold war and collapse of the Iron Curtain such regions are linked to shared resources on borders (river, lakes, coasts, forests) or the resurgence of old trade routes and connections inherited from pre colonial empires. Third, cross border regions may emerge as a result of spillover from the metropolitan hinterlands and / or the development of complementary towns on either side of a shared border. Fourth, CBRs may arise from the creation of new functional economic spaces where there are complementary resources, common problems or a shared peripheral status prompting a need of cooperation on issues such as the environment or transport infrastructure. Fifth, CBRs may be promoted by national states in the hope of restabilizing the national scale and enabling national economies to compete more effectively. Sixthly, It might be the direct result of promotion by supranational body such as European Union. Seventhly, CBRs may be a reaction to uneven development linked with region building processes. For example, in case of European Union the growth of the Blue Banana triggered the Atlantic Arc project to promote peripheral EU regions facing the Atlantic. Eighth, cross border regions may emerge as a part of nation-building projects. For example cooperation exist between ethnic Catalan on the border between Spain and France to develop their region. Ninth, CBRs are primarily an elite based project which is a result of career and institution building initiatives as political entrepreneur exploit opportunities created by the crisis of the national scale.¹⁵

B. General characteristics of cross border regionalism

1) Result of end of cold war and rise of new regionalism. According to James H. Mittleman, regionalism in the 1990s is not to be considered a movement towards territorially based autarkies as it was during the 1930s. Within the domain of neo-regionalism state and different forms of regions interact with each other in order to regulate capital flows. It leads to creation of sub regional economic zones known as SREZs transcending – political boundaries but need not involve entire national

¹⁵ See, James Scott "Inducing Co-operation Can Euroregions Functions As Bridges Between Complex Boundaries?" in www.indepsocres.spb.ru/scott_e.htm , p.6

economies rather intersect only the border areas of national economies.¹⁶ The best established SERZ is the Greater South China Economic Zone. In case of ASEAN, the Johor-Singapore-Riau growth triangle seeks to take advantage of Singapore's highly skilled human capital and developed infrastructure, Johor's land and low cost labour. Drawing together a city state, peninsular Malaysia and island in Indonesia this region constitute a subregion within larger subregion of Asia Pacific Economic Cooperation (APEC).¹⁷

2) Sub-regional projects are multidimensional in nature: Cross border regionalism is multidimensional in nature revolving around awareness and focus upon extent to which the politics of identity can be linked to political economy. The term Cross Border Co-operation (CBC) needs to be distinguished from higher level of regionalism and lower forms of micro-regionalism.¹⁸ By higher level regionalism one refers to regionalist projects like EU and APEC while lower level of regionalism refers to process of decentralization organized by state within their own domain- they might though act as a facilitator in terms of cross border cooperation measures. Sub regionalist project deals with various issues such as environment, spatial planning and security issues. In case of CBC initiatives, it is striking that security itself is no longer defined simply in terms of military threats from neighbouring areas. It refers to whole new range of issues such as transnational security concerns such as drug trafficking and terrorism. Each of these represents kind of new challenge to the authority of state.¹⁹

3) It embodies new spatial planning projects: After a relatively long period of sustained economic growth during the post war era, the global capitalist system again entered a period of protracted crises at the beginning of the 1970s. In a quite unprecedented combination of economic ills, output stagnated, inflation soared and unemployment rose dramatically in developed regions of world leading to new

¹⁶ See, James H. Mittelman, "Rethinking the 'New Regionalism' in the context of globalization", in (eds) Bjorn Hettne and Andras Osvaldo Sunkel, *Globalism and the New Regionalism* (London and New York : Pargrave), p. 28.

¹⁷ *Ibid*, 28

¹⁸ See, Glenn Hook and Ian Kearns, "Introduction", in (eds) Glenn Hook and Ian Kearns, *Subregionalism and World Order* (London : Macmillan Press), pp. 1-2.

¹⁹ See, Glenn Hook and Ian Kearns, "Conclusion", in (eds) Glenn Hook and Ian Kearns, *Subregionalism and world order &* (London : Macmillan Press, 1999), p. 254.

international division of labour.²⁰ It embodies the idea that economic growth in an economy is innovation driven. Thus because of high productivity in technically leading branches, the exchange rate of a technically leading country becomes so high that its labour in less productive branches became too expensive vis-à-vis labour in production sites whose international labour costs are not determined by such high technology branches located either in core peripheries or in south to attract foreign direct investment by improving both physical and labour resources of the region.²¹

Region according to new liberal orthodoxy has its own attributes thereby promoting endogenous development due to following reasons:

- regions have their own elected government which could pursue regional as distinct from national priorities;
- it has a well developed set of regional institutions and partnership between the regional authorities and the private sector;
- a good physical and social infrastructure provides training, skilled and reliable workforce;
- regional specialization creates for niche markets and inter firm linkages which maximize the value added within the region.

4) Cross Border regionalism is fundamentally an elite led process: It is often used in its own right to outmaneuver and stifles popular apposition to the kind of politics and neo-liberal economy which it represents. The lack of popular support and interest in the sub-regional projects reflects an ever more fundamental aspect of its nature.²² For example in European Union networks of elites though appears to be united by common interests at the same time their particular interests or at least those they represent are very different. "Elites" does not necessarily refer to

²⁰ See, Erik Swyngedouw, "Neither Global nor Local "Glocalisation And the Politics of Scale", in Kevin R. Cox, *Spaces of Globalisation Reasserting the Power of the Local* (New York and London: Guilford Press, 1997), p. 750.

²¹ See, Michael Storper, "Territories, Flows, and Hierarchies in the Global Economy" in Kevin R. Cox, *Spaces of globalisation. Reasserting the Power of the local* (New York and London: Guilford Press, 1997), p. 26. For the concept of economic growth based on Innovation see William R. Thompson, "Long Waves, Technological Innovation and relative decline" in *International Organisation* 44(2), spring 1990.

²² See, Glenn Hook and Ian Kearns, "Conclusion", in (eds) Glenn Hook and Ian Kearns, *Subregionalism and world order &* (London : Macmillan Press, 1999), pp . 256.

an economically or socially privileged class but rather to motivated actors involved in the development of trans- boundary co-operation. Elite are thus cognizant of the necessity to negotiate and engage in dialogue; they are the ones who have to escape the prisoner's dilemma in dealing with problems that transcend their jurisdictional borders or areas of competence.²³ Significantly in European Union private sector involvement in investment in core periphery is quite limited which includes land use plans and urban development. Even in culturally homogenous border regions such as North Belgium and South Holland cooperation incentives proved insufficient in changing national orientation of firm networking. As far as cooperation in urban planning is concerned, local patriotism has resisted most attempts to regionalize land use plans as far as it affects housing, industrial and commercial development of the local population. On the other hand, main focus of cross border regionalism in North America is economic development.²⁴

5) Issue of Identity formation and Cross border regionalism: The process of rescaling and scalar articulation introduces new scalar discourse/imaginaries around which the new projects are constructed and institutions are consolidated. Joachim K. Blatter provides a compelling example of such process. He explores the spatial discursive (re)invention of Cascadia as a region that joins the Canadian province of British Columbia and US states of Washington and Oregon. He examines this process of rescaling as an entrepreneurial re-imagining of the region despite the absence of significant economic complementarities between the two territories.²⁵ On the other hand it is also true that absence of regional identity does not prevent cooperation in context of socio-economic imbalances on the both sides. For example, the idea behind the Franco-German cross-border institutions in 1970s was initiated to solve the tax problem posed by the cross border flow of French workers into Switzerland, and not to develop or assert a trans-boundary regional

²³ See, James Scott "Inducing Co-operation can Euroregions Functions As Bridges Between Complex Boundaries", in www.indepsocres.spb.ru/scott_e.htm, p.10

²⁴ See James Scott, "European and North American Contexts for cross-border Regionlisation", in *Regional studies*, Volume 33(7), p. 609-610.

²⁵ See, Joachim K. Blatter, "Debordering the world of States : Towards a Multi-level system in Europe and a Multi-Polity system in North America? Insight from Border Regions", *European Journal of International Relations*, Volume 7(2), p. 193.

identity.²⁶ The issue of identity though is significant since it becomes a resource in competing for foreign direct investment.²⁷ Today cross border territories are not linked to a single collective identity as various problems and acquired social habits of different groups paves the way to differentiated means of their mobilization around different identities. This variegated form of mobilization brings to fore the issue of limited institutional capacity and acute issue of legitimacy. It has been aptly highlighted by Sum in relation to the formation of common regional identity between parts of southern China, Hong Kong and Taiwan In this case possibility of a new regional identity struggles along at least two other possible definition of what the recent wave of cooperation represent. On the one hand, the central authorities in china see cooperation as an opportunity to Chinese nationhood. On the other hand, the western influenced Taiwanese in conjunction with US and along the residue of British colonial rule in Hong Kong wish to construct sub regionalism in the area as a lever to open up the rest of China to western and liberalizing influence.²⁸

6) Multilevel perspective and Cross border regionalism. It embodies multilevel perspective in relation to three significant aspects: (a) sovereignty and changing role of state; (b) technocratic process and (c) structural coupling. Multilevel governance advocates the view of “Europe of region” in which principle of partnership and subsidiarity in vogue does not imply rise of region-state rather simply imply change in the role of the state.²⁹ The emergence of CBRs is a deliberate attempts (including those of central government) to insert development

²⁶ See, Jean Philippe Leresche and Guy Saez, "Political Frontier Regimes: Towards Cross Border Governance", in Perkmann Markus and Ngai Ling Sum, *Globalization, Regionalization and cross border Regions* (New York: Palgrave Publication, 2002), p. 91.

²⁷ See, Michael Storper, "Territories, Flows, and Hierarchies in the Global Economy" in Kevin R.Cox, *Spaces of Globalisation. Reasserting the Power of the Local* (New York and London : Guilford Press, 1997), p. 20.

²⁸ See, Nagai Ling Sum "Identity Formation in Greater China", in (eds) Glenn Hook and Ian Kearns, *Subregionalism and World Order* (London: Macmillan Press, 1999),p.198

²⁹ Gary Marks constructed hypothesis under which states voluntarily give some powers to subnational and supranational authorities. (a) Government leaders actively seek to shift responsibility for some set of decisions to subnational or supranational actors; (b) Government leader some concern outweighs their resistance. (c) Government leaders are unable to check or reverse dispersal of authority to sub-national or supranational institutions. For greater details see Gary Marks, "An actor-centred Approach to Multilevel Governance", Charlie Jeffery (ed.) *The Regional Dimension of the European Union : Towards a third level in Europe?* (London: Frank Cass, 1997). pp. 20-38.

pockets on favourable terms into the changing global division of labour. In case of Europe, the process of regional cross-border institution building shows quite typical modern features of institutions with a rather clear cut geographic basis and multi-sectoral goals and task.³⁰ In case of North America regional cross-border cooperation follows much more the logic of spaces of flow – but the new, quite fluid institutions in respect of geographical space and time are not strong enough to play a significant role in policy conflict with distributive consequences across the national border. In these cases the old territorial identities and loyalties prevail. In case of APEC countries CBC initiatives are regulated and financed by the Central Governments. This thus reinforces the view that Nation-states are here to stay but are dependent on supranational entities such as EU, NAFTA and APEC for regulation of cross border initiatives.³¹ In case of European Union, CBC is characterized by ever increasing linkages and interlacing between levels and arenas of policy making. The growth of interlacing is said to imply two sets of negative consequences. First, opaqueness of decision-making and a consequent lack of political accountability, contributes to the famous democratic deficit. Second, it can result in creeping stalemate or deadlock captured by the model of joint decision trap developed by Fritz Scharpf. However, Scharpf himself explained later that German style of joint decision making should be viewed as a specific subset of systems of negotiations. In particular, it assumed that only actors involved are executives which are controlled by their Parliament and are subject to party competition. There are two means routes to prevent deadlock – first one consists of hierarchical sequential ordering of arenas where upper level decision work as corridors for lower level decision making and second one is in the form of flexible disassociation or decoupling of external relations from intraorganisational bargaining during decision making. The strategy of isolating the membership of the organization or “decoupling” who may enjoy overlapping membership since these agents which perform interorganizational or inter-arena linkages and

³⁰ Joachim K. Blatter, "Debordering the World of States: Towards a Multi-level system in Europe and a Multi-party system in North America? Insight from border regions", *European Journal of International Relations*, volume 7(2), pp. 199-201.

³¹ *Ibid*, 201.

coordination between simultaneously operating arenas of negotiation helps to overcome deadlock and is termed as process of dynamic restructuring.³²

In case of CBC INTERREG related governance structures in particular show a pronounced vertical structure. They operate as multi-level network involving virtually all levels of public administration from local, district, regional, central state of European level, but they also maintain horizontal links formalized in the monitoring and steering committees. Within the different authorities CBC matters are not dealt by specialized administrative units. For higher level bureaucracy, INTERREG forms part of wider policy field of structural funds policies. CBC in the 'horizontal' way involves large member of departments as well as the structural funds managers.³³ By contrast, the local CBC structures tend to be organized as horizontal networks not transgressing the local level, involving inter-municipal relationship both on each side of the border separately as well as on the cross border basis. The process of dynamic structuring involves creation of commission, connections, coalitions and consociations to facilitate decision making.³⁴

II. EUROPEAN INTEGRATION AND CROSS BORDER REGIONALISM

A. History of Cross border Regionalism

In European Union only few states have long historic borders with their neighbours such as between Spain and Portugal. During the last three centuries state border construction in Baltic and Balkans artificially separated the ethnic groups which gave rise to many wars including first and Second World War. The fear of military

³² Arthur Benz and Burkard Eberlein, "Regions in European Governance: The Logic of Multi-level Interaction", www.iue.it/RSC/WP-TEXTS/98_31.html, pp. 3-5.

³³ Markus Perkmann, "Building Governance Institutions across European Borders", *Regional Studies*, Volume 37(7), pp. 659-660.

³⁴ Commission are formally created by an international treaty which clearly define their specified tasks, competencies and geographic scope. They are characterised by a scientific, technical or judicial approach in order to 'depoliticize' cross border disputes; connections refer to instruments created to reduce transaction costs. Typical actors forming connections are planners and developers. Coalitions refer to shared system of belief that holds together allies. Consociations comprise of leading regional politicians who formalize Cross Border identity by facilitating ties by creating and presenting symbolic identity such as flags, maps and names of region. Joachim K. Blatter, "Debordering the World of States: Towards a Multi-level system in Europe and a Multi-party system in North America? Insight from border regions", *European Journal of International Relations*, volume 7(2), pp. 186-190.

aggression resulted in the development of extremely sparsely populated border areas. Economic activity, commerce and population have tended to dwindle away from borders to the centre of national states. Transport routes often used to run parallel to the national borders mainly for military reasons. The border areas bestowed with rich raw material emerged as important centers of industrial activities. This increased population and wealth in these important centers of industrial activities in frontier regions. Thus shortly after the Second World War numerous European border areas got together in order to discuss the dismantling of the border barriers and facilitating cross border cooperation to overcome peripheral status of border regions.³⁵

Both the need for trans-frontier cooperation and the obstacles to it from internal and international law have been the subject of many studies by a number of European organizations. The Council of Europe has gone furthest in this domain. In 1980, after lengthy and rigorous studies, the council members agreed to a standard framework for agreements between the local authorities for transfrontier cooperation. The European Outline Agreement on Transfrontier Agreements between Local Authorities adopted by the Ministerial Committee of the Council of the Europe in 1980s was the result of ten year's work in this field. As early as 1966 the consultative assembly had suggested the need for an agreement of this kind. This study heavily drew its lessons from US/Canada Treaty of 1909 which facilitated cross border cooperation.³⁶

The Madrid Convention on Trans-frontier Cooperation originally drafted model agreements suitable for many different countries, levels of cooperation and areas of joint action. These models were grouped in two categories, one set for international agreements and the other for contracts between the local authorities. In both the cases the 'models' were very flexible. Convention on Transfrontier cooperation between Territorial Communities or Authorities was finally adopted in 1981 (and

³⁵ See, Seven Tagil, "The Question of Border Regions in Western Europe: An Historical Background", in (ed.) Malcolm Anderson, *Frontier Regions In Western Europe* (London : Frankcass, 1983) p. 31.

³⁶ See, Pierre-Marie Dupuy, "Legal Aspects of Tranfrontier Regional Cooperation", (ed.) Malcolm Anderson, *Frontier Regions In Western Europe* (London: Frank Cass, 1983) p. 59-60.

subsequent protocols). Ratified by more than 25 countries (April 2000). In the main part of the Convention the contracting parties commit themselves (within the framework of their national laws) to number of tasks: resolving legal, administrative and technical difficulties of cross border cooperation (Article 4); considering the possibility of providing regional and local authorities with special facilities in order to engage in cross border cooperation (Article 5) and supplying relevant information to other contracting parties (Article 6), to their own regional and local authorities (Article 7) and to council of Europe (Article (8)). The additional protocol of the Madrid convention calls for the set up of permanent cooperation bodies as public and private law. However even today dilemma generated by the loci principle remains unresolved.³⁷ Despite this limitation, Madrid convention did lay the legal groundwork for increased cooperation and made possible ratification of several bilateral treaties such as Belgium Netherlands and Luxembourg convention (signed in 1986), German-Dutch Cross-border Treaty (signed in 1991), Vienna Agreement between Italy and Austria (signed in January 1993).³⁸

Bilateral or trilateral agreements between national governments have been concluded to establish special structures for inter-governmental cooperation such as ad hoc working bodies or joint institutions, some of which were established in 1960s and 1970s. The overall objective of inter-state commissions is to improve cross border cooperation in the field of spatial planning. Other type of agreements have been concluded at national level which establish specific organizations with a focus on a specific area of cooperation, e.g. the setting up of a commission for the establishment of a joint natural park (Luxembourg/Germany in 1969), Germany/Belgium (1971).³⁹

³⁷ See, European Outline Convention on *Transfrontier Cooperation between Territorial Communities or Authorities* (Strasbourg: Council of Europe, 1989)

³⁸ For details see, *Guide to Community Initiatives* (Brussels: European Commission, 2000) p. 98.

³⁹ See, Pierre Marie Dupuy, "Legal Aspect of Transfrontier Regional cooperation", (ed.), Malcom Anderson, *Frontier Regions in Western Europe* (London: Frank Cass, 1983), p. 54.

In decentralized states, sub-national units can sometimes participate in cooperation with representatives of central bodies. In Unitary states legal agreements involving local or regional bodies normally requires approval of national level. Sometimes conclusion of treaties at a national level and adjustment in the national legislation has created the conducive conditions for the establishment of closer cooperation ties between regional and local authorities which do not require prior inter-state agreement as a pre-requisite for concluding initiatives between the local governments as long as it does not interfere with state powers and their international commitments.⁴⁰ There are also various working agreements concluded between regional and local authorities such as *communate de Travail des Pyriness* leading to the formation of associations such as *Zweckverbande*; which do not have international legal base but tends to establish a working structure in various field of activities.⁴¹

First genuine cross border structure to be established in 1958 in form of Euroregio followed by establishment of other Euroregios – Rhein Waal, Maas ;Nord and Ems – Dollart which were formally joined together in form of Oeresund Council(established in 1969 and supplemented by the Oeserund contact in 1974). Both bodies later merged into Oersund Committee in 1993 under Nordic Council Agreement. The end of cold war and subsequent launch of INTERREG programme expanded and deepened cooperation across national border in Europe.⁴²

B. Structural Fund and Cross Border Initiatives

In case of cross-border cooperation, the following types of regions can be distinguished: (a) land and maritime border regions within the European Union in Objective 1 regions located on the internal or external borders of the European Union; (b) land and maritime border regions within the European Union with a more developed economy but facing special problems (objective 2 and 3 regions);

⁴⁰ For details see, *Guide to Community Initiatives* (Brussels : European Commission, 2000), p. 121 .

⁴¹ *Ibid*, p. 122.

⁴² For further details see, *Institutional Aspect of Cross Border Cooperation* (Brussels: AEBR publication, 1999) pp.40-42.

(c) borders of candidate countries and on the new future external borders of the European Union.

Land border regions which are generally regarded as “less advanced” tend to correspond to those classified as objective 1 under the EU’s structural policy. It includes the least developed rural regions characterized by a peripheral location in the national economy and the EU. The priorities of the border regions have been following:

- (a) Improvement of the transport and communication infrastructure in and between border regions, as the basis for sustained cross border cooperation and related new economic activities.
- (b) Improved exploitation of region specific development potential (regional cross-border operational programmes).
- (c) diversification of activities in rural areas to prevent further de-population;
- (d) Improving the quality of life.
- (e) Promoting cross-border networks.
- (f) Solving environmental problems especially in rural areas.
- (g) Cross border urban and rural development policy.
- (h) Realising cross border forms of organization.⁴³

Objective two regions are those with structural problems whose economic and social adjustment is to be promoted under Article 2 of the Structural Fund Regulation, and whose share of population or surface area is significant. In particular they include regions experiencing socio-economic change in industry and services, underdeveloped rural areas, problem distinct in cities, and regions, which are dependent on fishing. The most advanced border regions comprise all other internal borders and by far the bulk of the total border population within the European Union. Their main characteristic feature is that in most of these border regions (of the original 6 member European community); in these refer to spaces where cross-border cooperation began earlier than the rest of Europe.⁴⁴

⁴³ For details see, *Guide to community initiatives* (Brussels : European Commission, 2000), p. 28

⁴⁴ *Ibid*, p. 29

For the border regions within these categories following priorities are set.

- (a) Gradual elimination of their peripheral position in the European Single Market, inter alia by getting rid of infrastructural bottlenecks and overcoming long distance,
- (b) Improving the quality of education (including universities) and employment possibilities for young people and women,
- (c) Improving the relatively poorly developed cooperation networks,
- (d) Building and extending social amenities (despite relatively high costs) by using cross border trading areas.
- (e) Improving cross-border cooperation between small and medium sized enterprises (where old industrial relationships have collapsed, and despite the EU, single market new ones are not taking shape).
- (f) Solving structural problems of the labour market.
- (g) Solving environmental problems caused by traditional economic structures and conservation of the environment, nature and cultural heritage printer also differ in relation different border regions.⁴⁵

On the external borders of EU following criteria is used to distinguish different categories of border regions: (a) regions bordering on EFTA countries (Norway and Switzerland); (b) border regions lying next to candidate countries (Estonia, Poland, the Czech Republic, Hungary, Slovenia, Bulgaria); border regions lying next to other less developed countries (eg. Albania, the Russian Federation, and Morocco); (c) Regions bordering EFTA countries have the following priorities: environmentally friendly infrastructure (priority to railways, shifting the transport), working together in the tourism sector, cooperation between small and medium sized enterprises, promotion of cultural relations; focused joint measures to protect mountain regions, for example to prevent further depopulation and promotion of economic development and human resources.⁴⁶

On the external borders to central and Eastern Europe, the focus is more on : (a) building up democracies and administrative structures, upgrading infrastructure

⁴⁵ *Ibid*, p. 30

⁴⁶ *Ibid*, p. 31

and opening new border crossings, (b) improving transport and communication networks; (c) economic development, eliminating economic disparities on both sides of the border, (d) improving environmental protection in all areas of life; greater participation in future through INTERREG programmes and their management, (e) doing a better job of combining EU resources with those of PHARE CBC and TACIS CBC.⁴⁷

On the external borders of Greece, the focus is increasingly on: (a) developing local and region-specific capabilities; (b) developing cross-border transport, infrastructure, in particular quickly opening additional border crossings; (c) genuine cross border projects; (d) examining specific cross-border environmental issues and (e) greater regional and local participation in INTERREG/PHARE CBC procedures.⁴⁸ In addition, the following apply specifically to cross border cooperation on the border between Finland/Norway and Russia: (a) eliminating the major disparities in the standard of living and in political and administrative structures; (b) solving legal and ownership questions as a precondition for long-term cooperation; (c) gradually developing economic links which previously were almost absent; (d) overcoming psychological barriers by imparting established knowledge regarding CBC.⁴⁹

Maritime cross border cooperation initiatives are found both on the internal and external borders of EU. Cross border initiatives include various stages of development from objective I regions to regions without objective status under the European Structural Funds. Only certain maritime border regions are eligible for INTERREG assistance (four maritime programmes under INTERREG I and 17 maritime programmes under INTERREG IIA) the Nordic countries have a particularly long tradition of cooperation on maritime boundaries. The priorities for the maritime border regions include the following main aspects : (a) general upgrading of the transport links, particularly in Objective I regions to overcome

⁴⁷ For greater details see, On the Review of the Guidelines for implementation of the PHARE programme in candidate countries for the period 2000-2006 in application of article 8 of Regulation 396/89 (Brussels commission of the European Communities, 2002), pp.9-10

⁴⁸ *Ibid*, p. 11.

⁴⁹ For details see, *Practical Guide to Community Initiatives* (Brussels: European Commission, 2000) p. 33.

access difficulties; (b) the “gateway” function as stimulus and transit link to international markets; (c) filling the gaps in transport infrastructure and communication network to other parts of territory, and (d) environmental management; (e) strengthening the cross-border regions as an economic unit by means strong historic and cultural ties.

In case of internal maritime border programmes there are important differences which can basically be grouped together geographically. In case of Northern group (Fyn Kern, Stromostholstein, Oresund, Aland and Kvarken – Mittskandia) have permanent regional / local cross-border structures, which have been responsible for practically all technical aspects of developing and managing INTERREG II A programme. In contrasts Southern European Programmes (Greece, Italy, Corsica Sardinia, Tuscany) are totally underdeveloped in terms of cross border institutional arrangements the three Western European Programme (Ireland-Wales, Marche and Kent-Nord Pas-de-Calais) are an intermediate of Cross border initiative where specific cross-border programmes management arrangements have been made for the purpose of INTERREG. These arrangements do not involve common structures, instead it consist of the coordinated work of competent central and regional/ local government and social partners from both side of borders. Under INTERREG II A there are no cross border structures and procedures for external maritime programmes. The only exception is the Swedish/Norwegian component of the Kvarken/Mottskandia programme where the Kvarken council has responsibility for programme management. However, this is mixed type of programme encompassing both internal and external new EU borders and both land and sea.

B. European Union Initiatives and Strategies

Since 1990 the European Union has provided financial support for the cross border cooperation through number of initiatives, programmes and projects. The first of the instruments was the community Initiative INTERREG which was launched in 1990-93. They represented a diverse package in terms of size and institutional arrangement falling broadly into two categories. The first category represents a bottom-up approach. The programme was designed for existing cross border structures such as Euro-regions. The development and management of these

programmes was done by the Euro-regions in partnership with member state authorities and the programme was of a regional/local scale. The second category represented a top-bottom approach in which programmes were compiled by national authorities without active involvement of cross border structures. The creation of cross border structures was envisaged in the INTERREG guidelines as the basic aim where such structures were absent. Various new cross border structures were established with the assistance of LACE, including the working communities such as Galicia Norte and Extremadura/Alentejo. The management of programmes under this category is carried out by national authorities with limited cross borders coordination in some countries like Spain and Portugal and greater coordination in other countries.⁵⁰

INTERREG II covers the period from 1994-99 and represents a considerable expansion in comparison with INTERREG I in terms of number of programmes and geographical coverage largely due to extension of number of programmes concerning external border (24) and large group of maritime programme concerning both internal and external Borders.⁵¹ A major new development concerning external EU borders was the establishment of the PHARE CBC programme concerning the border regions of Central European countries. PHARE programme is modeled on INTERREG; share same time horizon covering fifteen national borders through seventeen programmes. The total allocation of EU funds to PHARE programme exceeds 1,000 ECU. Other less developed EU instruments supporting cross border cooperation including TACIS CBC (for some of the border regions of countries of the ex-soviet union) and programme for Mediterranean non-member countries, and the new programmes for western Balkans. Since 1990s the EU has also provided financial support for AEBR's LACE projects, which provides advisory support and promotes the exchange of good practice and networking between border regions.⁵²

⁵⁰ See, *Institutional Aspect of Cross Border Cooperation* (Brussels; European Commission Publication, 1999), p. 22.

⁵¹ For further details see, *Interact 2000-2006: Community Initiative Programme* (Brussels: European Commission Publication, 2002, pp. 11-13.

⁵² Ibid, pp. 58-59.

The evaluation of INTERREG II revealed following shortcomings⁵³: (a) in many cases the INTERREG II failed to generate cross border cooperation between border regions since infrastructure and economic development in border countries continue to follow national lines of development project as determined by the needs of core growth areas. As a result, these projects have had no significant impact on both sides of the border; (b) the border regions at the EU's external borders have to overcome the greatest obstacles during the implementation of INTERREG. This is due to their peripheral location, long separation from their western neighbours and continuing major differences despite political changes to administrative structures. Furthermore in Central and Eastern Europe the PHARE – programmes aimed at supporting cooperation under cross-border projects which began in 1994 and with very different funding mechanism. As a result, implementation and coordination of different Cross border initiative programmes has become difficult due to complex array of different legal and financial instruments, including, on the hand the ERDF and on the other, PHARE, TACIS, CARDS and MEDA.⁵⁴ The second cohesion report stressed the need to join the various instruments for more meaningful outcome.⁵⁵ The INTERREG III, which covers the programming period for 2000-2006, and has a total budget of € 4,875 billion is made up of three stands and interact programme to improve overall cohesion of INTERREG in order to overcome above mentioned drawbacks.⁵⁶

Strand A comprises cross border cooperation between adjacent regions and supports projects in the field of socio-economic development, planning, culture, infrastructure. and related fields. It is anticipated that during the current

⁵³ See, Tacis Regional Co-operation: Strategic Consideration 2002-2006 and Indicative Programme 2002-2003 (Brussels: European Commission Publication, 2002), p. 19-20.

⁵⁴ PHARE programme covers following countries-Bulgaria, The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Federal Republic of Yugoslavia. CARDS covers Macedonia, Albania, Bosnia, Herzegovina and Croatia. TACIS programme covers Kazakhstan, Moldavia, Russia, Tajikistan, Turkmenistan Ukraine and Uzbekistan while MEDA covers Euro-Mediterranean partnership programme. For details see, www.Si.ha\brussels\guide2001/funding-section-01.html, p.1

⁵⁵ For further details see, *Cooperation and integration among the regions of Europe: Working Document of the Commission services*, www.europa.eu.int/workshop3_en.pdf, p. 2.

⁵⁶ For greater details see, *Interact 2000-2006: Community Initiative Programme* (Brussels: European Commission Publication, 2002) p. 21-23.

programming (200 to 206) period, 53 programmes will be launched. The pool of experience in the cross border cooperation which has emerged from these activities, including the work carried within the framework of LACE. A pool of experience in cross border cooperation has emerged which is dispersed among various stakeholder all over Europe. Therefore, an initiative designed to link these stakeholders and to connect them to other initiatives within INTERREG is a challenge for INTERREG III. **Strand B** promotes transnational cooperation between national, regional and local authorities with the aim of achieving better integration within the Union through the formation of large groups of European regions. In the previous INTERREG programme 12 transnational programmes were set up under 4 Articles of 10-Pilot Action programmes. During the current programming. 12 INTERREG IIIB programmes are to be launched. **Strand C** promotes interregional cooperation and to improve the effectiveness of the regional development policies through large scale information exchange, cooperation projects and sharing experience. Strand C faces challenge to harmonize and adjust the all the four parallel programmes (INTERREG, MEDA, TACIS, PHARE) in order to facilitate inter-regional cooperation projects throughout member-states and regions. Taking these considerations into due notice INTERACT is designed to fill these gaps in a productive way. It however faces following challenges: (a) on the one hand, target groups and their respective needs are very heterogeneous; they operate in different languages and within different national and regional context. On the other hand, the available information is very broad is not systemized and of varying quality. (b) A wide gap between nationally anchored responsibilities for financial control and transnational programme implementation exists throughout Europe. (c) Also, the framework conditions and the degree of institution building differ widely. Thus the new approach of INTERREG III will also challenge existing institutional settings.

INTERREG and related programmes have constituted various structures representing considerable diversity in terms of powers, purpose and capacity. The

following typology summarizes the main characteristics of structures with a multi-purpose orientation are as follows⁵⁷ :

- (i) Euro-regions.
- (ii) Working Communities.
- (iii) Regionalrat and similar bodies.

A number of cross border bodies are known as “Euro-regions”. Although they are not identical in legal form or organization they share certain common characteristics⁵⁸.

- (a) They are permanent.
- (b) Have a separate identity from their members.
- (c) Have their own technical and financial resources.
- (d) Have their own internal decisions making.
- (e) The geographical area of a Euro-region is typically of determined by the extent of socio-economic integration and not solely by administrative units.
- (f) The Euro-regions are not a new tier of local or regional government but an interchange point for existing public and private sector bodies.
- (g) Although they are the main bodies for all regional and local activities of cross border nature, the implementation of most of the actions is carried out by competent authorities according to national procedures. A more detailed list of their characteristics of the Euro-regions is in the table.
- (h) Practically all Euro-regions within the EU have been accorded an important role in INTERREG on both the internal and external EU borders. Their geographical area has been designated as the eligible area for INTERREG IIA purposes and their organization also perform some of the functions required for and implementation of corresponding operational functions.

⁵⁷ See, *Institutional Aspect of Cross Border Cooperation* (Brussels: European Commission Publication, 2002), pp. 12-14.

⁵⁸ See Markus Perkmann, "Building Governance Across European Borders", *Regional studies*, Volume 33(7), p. 658.

- (i) The regional cross-border structures in the Nordic countries have similar structures like Euro-regions especially in relation to the identity capacity and role in INTERREG IIA. There are eight such structures see table. There are associations of local authorities constituted under Nordic agreement, they mainly differ from Euro-regions in terms of much larger area covered by them.⁵⁹

Working communities refers to large number of cases regional or local authorities or other organizations who have agreed to cooperate eg by signing a protocol of cooperation or a legally non-binding agreement. The commonest term used for such structures are "Associations".⁶⁰ Another type of cross border structure is the Regionalrat (regional council) which brings together elected politicians from participating regional authorities from participating regional authorities from participating regional authorities from either side of border. The Regionalrat is supported by thematic working groups. A variety of other names are also used for example EBRC (East Border regions Committee); ICBAN (Irish Central Border Network). The main common features of such structures can be summarized as follows:

- (a) They are permanent in nature.
- (b) They sometime have a separate identity.
- (c) They rarely have separate capacity from the members normally relying on revolving chairmanship and secretariat; and committees working groups of officials representing the members and meeting from time to time, and without substantial resources of its own.
- (d) They rarely have separate decision making from their members, maintaining an inter-organisational form of decision-making, i.e. participants in the committees, working groups etc. of the cross border structures.

There are also cross border bodies which are non-governmental organizations belonging to the private or voluntary sectors. INTERREG programme also creates structures in form of monitoring Committee and Secretariat for dispersal of

⁵⁹ For further details see, *Practical Guide to Community Initiatives* (Brussels: European Commission Publication, 2002, p. 104.

⁶⁰ *Ibid*, p. 105.

structural funds and evaluation of various programmes which have strengthened and consolidated them over a period of time.⁶¹

(d) **Changing dynamics of Capitalism in EU:** There are four basic points that are of particular relevance. First, the conjunctural effects of the 1973-4 oil crisis made Fordist growth model crisis prone. It produces a deep recession, leading to sharp absolute fall in industrial production and output. Following the second round of oil price rises in 1979-80, a recover in national economic growth rates did occur in western Europe partly as a result of growing adoption of new-liberal national economic policies with significant implication for economic and regional development for EU.⁶² The new division of labour entails a radical transformation of production system towards flexible intra firm and inter-firm arrangement which simultaneously combine economies of agglomeration scope and versatility. There is the rise of virtual firms deploying technically sophisticated production methods, have sophisticated design capabilities and posses considerable autonomy in marketing strategy. Many of SMEs in Western Europe is linked to sub contracting and outsourcing strategies of major companies in peripheral location for the purpose of components production while concentrating the core competencies such as R&D in old core areas thereby preventing peripheral regions to have their own learning capabilities essential for growth and development.

Secondly, over the period from 1950s, Western Europe economies experienced an ongoing shift in their sectoral structure. One part of this shift involved a marked expansion of the service sector. In part, the growth of the service sector reflect increased out-sourcing, the introduction of new forms of inter-firm relationship and re-definition of the social division of labour. The increasing importance of service sector has been associated with significant changes in the labour markets. The first there is feminization of the labour market. The employment rate for women has increased markedly and more rapidly than that of men in all countries and majority of regions of EU. The second feature relates to new forms of employment contract, and the growth of part time and casual work. By 1992 over 20% of employment in

⁶¹ *Ibid*, p. 108.

⁶² See, Bastisan Van Apeldoorn, *Transnational Capitalism and the Struggle over European Integration* (London and New York: Routledge, 2002), p. 51.

the EU involved such flexible forms of work. Employers combine strategies of 'numeral flexibility' with those of 'functional flexibility'. Thus much of the expansion of female employment has therefore been on a part-time, temporary or casual basis, with irregular hours or intermittent contract, in poorly paid service sector jobs.⁶³ The third point to be stressed is that there was a significant growth of unemployment in Western Europe as the expansion of labour supply exceeded that of labour demand. Labour productivity consistently grew more rapidly than output so that much of the western Europe experienced 'jobless' or even 'job shedding' growth as companies strove to respond to global competitive challenges.⁶⁴ Fourth it provoked two types of response in Europe, one being the now familiar new-liberal, the other being state capitalist and / or corporatist tradition.⁶⁵ The debate on the variety of capitalism in Europe feeds into different discourses on European socio-economic governance, and these discourses themselves provide an important key to an understanding of present transformation processes in Europe. The British model of liberal economy relies on the self regulating market that only needed states to maintain the order-necessary for the operation of free market economy archaic nature of labour relations.⁶⁶

Ordo-liberalism as espoused by the Freiburg school of economics is based on the philosophy of Ordo Liberalism like Roephe, Guenter Schmoelder focused on orderly framework of rules for the economy and institutional management driven towards price stability this in turn meant respect for the expert and role of objectivity in the public affairs.⁶⁷ In fact the blue print of EMU is based on Ordo liberal principle of coronation theory, according to which monetary Union would be the final stage of European integration process. It would crown a process of

⁶³ See, Ray Hudson, "The Economy of the New Europe: Eradicating Divisions or Creating New Forms of Uneven Development?", in (eds) Ray Hudson and Allan M. Williams, *Divided Europe : Society and Territory* (London : sage Publication, 1999), p. 37.

⁶⁴ *Ibid*, p. 32.

⁶⁵ See, William Bernhard and David Leblang, "Democratic Institutions and Exchange Rate Commitment", *International Organisation*, 53, 1999, p. 72.

⁶⁶ See, "British Political Tradition and EMU : Policy Legacies, beliefs Coordination", in Kenneth Dyson and Kevin Featherstone, *Road to Maastricht: Negotiating EMU* (Oxford : Oxford Press, 1999), p. 566.

⁶⁷ *Ibid*, pp. 271-272.

economic union in which market principle, notably free capital movement, were enshrined. It would also be embedded in a framework of European political union that would strengthen solidarity, especially in budget policy, by endowing the council.⁶⁸ The historical roots of French model go back to at least the 19th century when the bourgeoisie in France, still mainly an agricultural society and laying behind England in the industrialization process, was not yet strong enough to establish hegemony, and it was left to state, centralized and with a relatively large bureaucracy, to enforce order on divided society. The relative weakness of the intermediate level of civil society meant that the role of the state weighed directly upon French economy rather than being mediated by strong institutionalized links between state and society. France endorsed policy of protecting national champion' or their national industries by giving stimulus to overall expansion and enhancement of international competitiveness of targeting industries.⁶⁹

(e) Cause of Cross Border Regionalism in European Union- Consociation of Capitalist and New regionalism in Europe: There were two rival factions of capitalism in EU which can be denoted as 'Globalist' and 'Europeanist'. The former is made up of most mobile and globalised fraction of transnational capital, i.e. global financial institutions as well as industrial global players – export competing firms producing for the world market (primarily German capital).⁷⁰ The European faction, on the other hand, is constituted by large industrial enterprise that, although operating on a transnational enterprise that, although operating on a transnational scale primarily serves the European markets. The section of European industrial capital is predominantly located in the southern European countries such as France and Italy.⁷¹ The new mercantilist project is oriented towards a defensive regionalization strategy that is, the building up of champions as a bulwark against the forces of global competition. It is tied to the project of social protection and industrial capital. In the neo mercantilist project, regionalization becomes a

⁶⁸ *Ibid*, p. 287-288, In fact on November 1975 in the article in Economist "All Saints" Day Manifesto for EMU proposed a new Europe with parallel currency and constant purchasing power based on German Model of growth.

⁶⁹ See, "Global restructuring, transnational capitalism and rival projects for European Order", in Bastian Van Apeldoorn, *Transnational capitalism and the over European Integration*, p. 76-77.

⁷⁰ *Ibid*, p. 81.

⁷¹ *Ibid*, p. 82.

defence against the globalization. The creation of internal market and later EMU was perceived as a launching pad for the former national champion to conquer the world market.⁷²

In 1980s Etienne Davignon the Commissioner of the European Communities for the Internal Market and Industrial Affairs was the catalyst behind the European Roundtable in Industrialists (ERT). The history of European Roundtable of Industrialist begins when Economist issued its obituary for the European Community in response to the Eurosclerosis of 1970s and the European council's failure to take decisive action. In the same year Gyllenhammar started calling for European business to take positive action in formulating industrial strategies for the future and to cooperate on a European level to promote these strategies Gyllenhammar was influenced and supported by the Commission. The European Roundtable combines the elements of a club and a conventional association such as UNICE. Moreover the size of the membership is small, which results in ability to formulate and sustain common position. In its early formation period it was dominated by European capital. It stood for following points⁷³ :

- Promotion of a (French style) European industrial policy.
- Building community sponsored infrastructural project and collaboration programmes in new technology.
- ERT members stressed that business could not do the job alone, that it needed the state to create a unified market, to support business by coordinating efforts and to guard the interest against the dangers of new global competition.

During this period, European capital put forward a different kind of argument for 'Eurosclerosis'. The loss of European international competitiveness was perceived less as a result of labour market rigidity or trade union movement and more a consequence of fragmented European market, the insufficient economies of scale and technological gap vis-à-vis the USA and Japan thereby stressing the need for

⁷² See, Kenneth Dyson and Kevin Featherstone, *the Road to Maastricht: Negotiating EMU* (Oxford: Oxford University Press, 1999) p. 100-102.

⁷³ See, "The Roundtable's changing strategic project and the transnational struggle over European Order", in Bastiaan Van Apeldoorn *Transnational capitalism and the Struggle over European integration* (London and New York: Routledge, 2002), pp. 119-123.

creating fortress Europe.⁷⁴ The fear of fortress Europe soon turned out to be unfounded. Although there was in the 1980s some protectionism for the cars and electronic industries even these limited protectionist policies were gradually dismantled in the course of the 1990s. Both within the ranks of Europe's transnational business elite and at the inter-state level – where pro free trade member states such as the UK, Germany and the Netherlands blocked the outright protectionist proposals. Thus, as the internal barriers came down, no external barriers were erected and the internal market provided as much an opportunity for US and Japanese firms. Added to the liberalization thrust of Europe 1992 the relevant directives by EU advocating non discrimination further integrated European economy within the globalised world.⁷⁵

European Round Table Conference's (ERT) neo-liberal shift was further consolidated with the report "Reshaping Europe" which synthesized the three dominant model of capitalism in what Bastiaan Van Apeldoorn describes as embedded New-Liberalism. The central theme is still that of continuing need for a sustained Europeanization – as a way to enable European industry to compete on a world wide basis and to allow the European economy to develop its full potential. This includes the construction of political union with strong institutions based on firm principles of democratic control, majority ruling, and subsidiarity and with common foreign and security policy. At the same time Roundtable capitalist are vehemently opposed to positive policies in the area of labour market and social policy.⁷⁶ The Embedded new-liberalism addresses the concern of both the former Euro-protectionist and European labour movement and socio-democratic political forces, but this incorporation is done in such a way that these concerns are in the end subordinated to the overriding objective of new-liberal competitiveness.

⁷⁴ See, James H. Mittelman, "Rethinking the 'New Regionalism' in context of Globalization", in (eds) Bjorn Hettne, Andras Inotali and Osvaldo Sunkel, *Globalism and the New Regionalism* (New York: Palgrave, 1999) p. 35.

⁷⁵ See, "The Roundtable's changing strategic project and the transnational struggle over European Order", in Bastiaan Van Apeldoorn *Transnational capitalism and the Struggle over European integration* (London and New York: Routledge, 2002), pp. 131-132.

⁷⁶ See, "Transnational class agency, the risk of 'embedded neo-liberalism' and the evolving European Order", in Bastiaan Van Apeldoorn, *Transnational Capitalism and The struggle over European Integration* (London and New York: Routledge, 2002), pp. 162-163.

In many respect emerging EU model of capitalism seems to resemble more the Ordo-liberal German than Anglo-Saxon new liberal model. The principle of social protection is restricted to national level.⁷⁷

(f) Enlargement of European Union and Cross border regionalism: With the end of cold war, space has opened for new forms of rivalry in Europe and the wider world in particular; there is an obvious and growing conflict between triad for influencing the post-socialist economies. At the same time reunification of Germany shifted the latter's economic centre of gravity eastwards, thereby enabling the Deutschmark bloc to be partially located beyond the immediate framework of European Union, and encouraged the formation of a regional division of labour organized by German, Capital. In this area, the contention between 'high road' path to regional development and 'Low path' advocated by MNCs based on factor price differential has become obvious.⁷⁸

According to the contemporary regional research, the innovative capacity and institutional resources of the regional economies are of strategic importance in determining regional futures. To attain and sustain competitive advantage in the context of globalization, increased interregional competition and post-fordist changes in the organization and location of production requires a regional economy which is capable of continuous innovation.⁷⁹ Many regional researchers today lay emphasis on the regional economy's learning capacity as a fundamental aspect of innovation, and this idea is linked to cooperation between firms and local authorities. Therefore, the institutional resources, i.e. modes of regional economic interactions, regional inter-firm networks, entrepreneurial skills and industrial competence, as well as enterprise support system, are of great importance. On the other hand 'low road' path give significance only to exploitation of factor cost differential.⁸⁰ Exogenous forces in form of spatially selective investment activities

⁷⁷ *Ibid*, p. 182.

⁷⁸ See, Stefan Kratke, "Regional Integration or Fragmentation? The German-Polish Border Region in a New Europe", *Regional Studies*, Volume 33 (7), p. 632.

⁷⁹ *Ibid*, p. 633.

⁸⁰ *Ibid*, p. 634

of transnational firms are contributing to this unequal endogenous potential of the regions in East and Central Europe reinforced by following factors:

- (i) Problem of Lexicographical technology trajectory cannot be ruled out. These countries could face a low technology poverty trap that can be only overcome if some import protection for the sake of technological catching up were granted as if massive government R&D subsidies were allowed. This in turn violates rules of GATT/WTO. Decades of national planning and government interference make identification of future fields of comparative advantage difficult.⁸¹
- (ii) Economic restructuring in post Soviet economies falls on the candidate countries promoting asymmetrical relations between EU and east European countries. The EU monitors the progress of the applicant countries in catching up with the western part on the basis of Copenhagen criteria for accession. The EU insists that applicant countries adopt the entire existing set of laws and rules, the so-called *acquis communautaire* prior to accession. The body of European law that the applicant states are obliged to adopt comprises 80,000 pages of principles and legislation, and is constantly growing.⁸²
- (iii) For these laws to function properly, it is necessary to create an efficient national administrative system designed to ensure smooth transposition and implementation of European Laws, a distant prospect at present. But even if the laws are formally adopted and the necessary administrative infrastructure put in place, laws function differently depending on the local legal culture. There exists problem of European laws being largely

⁸¹ In contrast to technologically leading countries, firms in follower countries find it easier to identify profitable learning trajectories. Facing GATT/WTO rules, which prohibits dumping, the follower countries could have special problems associated with what can be dubbed "lexicographical technology trajectory". It assumes that in order to move from low level of technology to higher level one has to follow a lexicographical order in which at least one element does not represent a comparative advantage. Hence firms would suffer losses and inclined to practice dumping if there are economies of scale; they could also be conflicts with GATT/WTO rules. For greater details see, Paul J.J. Welfens "The EU Facing Economic Opening-up in Eastern Europe : Problems, Issues and Policy Options," in R. Tilly and J.J. Paul Welfens (eds) *European Economic Integration as a challenge to Industry and government* (Herdilber, and New York: Springer, 1995), p. 117.

⁸² See, Jan Zielonka, "How New Enlarged borders Will Reshape the European Union", *Journal of Common Market Studies*, Volume 39(3), September 2001, p. 513.

'imposed' from outside with little regard for local habits, traditions, preferences and resources, both human and material. As a consequence, what looks like voluntary adoption or imitation of western models, in case such as of PHARE is in fact an exercise in opportunistic mimicry.⁸³

- (iv) The ethnic composition of the applicant states is different from the current member states with important implications for cohesion of these countries and EU itself. In Latvia and Estonia the Russia-speaking minority exceeds 30% percent of the population and the official minority policy is quite confrontational. In four countries (Slovakia, Bulgaria, Romania and Lithuania) minorities comprise upto 25 per cent of population and the official policy towards them oscillate between open hostility and temporary accommodation. Four other countries (Poland, the Czech Republic, Slovenia and Hungary) have minority populations not exceeding 10% of the total population. Most of EU member states do not have similar types of ethnic minorities within their borders, but in contrast to Eastern Europe they are faced with large numbers of immigrants, which results in a specific type of multiculturalism.⁸⁴
- (v) PHARE programme and TACIS neglect these aspects their role is restricted to preventing "Europe-deepening and widening shocks" respectively thereby opening economies of these countries to European Union on the basis of trade-liberalization without a similar move in sectors such as agriculture, textile, steel and clothing where the comparative advantage of these countries be. The current situation of suspended liberalization suggests that it is result of sectoral rather than national pressures.⁸⁵
- (vi) The Accession Partnership provides the basis for programming PHARE national programmes, as well as cross border Co-operation cross border assistance will be continued in accordance with the Commission Regulation No. 2760/98. Cross border cooperation on the frontiers of EU and PHARE candidate countries and between adjacent candidate countries is considered

⁸³ *Ibid*, p. 513.

⁸⁴ *Ibid*, p. 514.

⁸⁵ See, Pier Carlo Padoan and Marcello Pericoli, "The Single Market and Eastern Europe: Specialization Patterns and Prospects for Integration", *Economic Systems* Volume 17 (4), December 1993, p. 287.

important for greater convergence with EU Member states and to prepare candidate countries for future participation in INTERREG programme. During the period of 2000-2006 PHARE support is focusing on two main priorities, Institution building, is defined as the process of helping the candidate countries to develop structures, human resources and management skills needed for capitalist transformation and incase of Investment it assumes two forms (a) strengthening regulatory infrastructure; (b) Investment in Economic and social cohesion to cope with competitive pressures and market forces within EU thereby helping to resist deepening and widening shocks.⁸⁶

(vii) TACIS on the other hand is based on bilateral national approach promoting inter-state, inter-regional and cross-border cooperation between the partner states, between the partner states and the EU and between the partner states and central and Eastern Europe. "The regulation identified networks, environment and justice and home affairs as the priority areas" where activities at multi-country level are deemed to be the most appropriate – The promotion of the cross border cooperation concerns assisting border regions to overcome their specific development problems, avoiding a major economic dividing line, ensuring the well-functioning of the border with regard to movement of people, goods, service capital, preventing illegal economic activities reducing trans boundary environmental risks and pollution.⁸⁷

(viii) All these regions despite various programme initiatives by EU can incorporate themselves into the line of highly competitive European region economies. Quite a number of them are being transformed simply in the direction of regional branch plant economies i.e. into areas with specialization in low level production functions and low wage export processing industries. However, other frontier regions might be incorporated by European transnational firms into global production

⁸⁶ See, *On the Review of the Guidelines For implementation of the PHARE Programme in candidate countries for the period 2000-2006 in application of article 8 of Regulation 3906/89* (Brussels, European Commission Publication, 2002), p. 5.

⁸⁷ See, *TACIS Regional Cooperation: Strategic Considerations 2002-2006 and Indicative Programme 2002-2003* (Brussels, European Commission, 2003) pp. 5-6.

process in form revalorized regional production complex with an enhanced position in the firm's locational networks thereby perpetuating new forms of inequality.⁸⁸

III. CRITICAL ANALYSIS

A. CASE STUDIES OF CROSS BORDER COOPERATION IN EU: From the European Commission's perspective, cross border initiatives are not specifically designed to enhance local and regional institutionalization, but are amongst numerous programmes designed to promote integration. While the ultimate policy aim may be the creation of integrated border regions, the actual outcomes of cross-border initiatives are harder to pin down. They are relatively small measures in terms of funds and their significance for the process of institutionalization will largely depends upon their interactions with other political spaces and structures.

Scott for example argues that the organizational and funding structures for cooperation on Dutch-German border lead to an over-emphasis on capital investment projects related to infrastructure and physical environment, while other social and cultural initiatives received less support. In Scandinavia transnational networks lead to a concentration on major transport networks. To illustrate these problems arising from cross-border initiatives three cases have been cited located on different regions of Europe and covered by different programme initiatives under the aegis of community initiatives:

- (a) Finland and Russian cross border initiatives under TACIS.
- (b) Cross border initiatives between south east England and France under INTERREG.
- (c) German-Poland cross border initiative under both INTERREG and PHARE.

(a) Finland and Russian cross border initiatives: Finland shares a border area, almost 1, 3000 km in length with seventy years of no activity and has made

⁸⁸ See, Stefan Kratke, "Regional Integration or Fragmentation?, The German-Polish Border Region in a New Europe", *Regional Studies*, Volume 33 (7), pp. 634.

peripheral areas on both sides of the border highly dependent on their own national and economic centres. With the collapse of Soviet Union, cross border traffic began to intensify especially after the ratification of the neighbouring area cooperation agreement in 1992. Local authorities on both sides of the border were motivated to obtain resources under TACIS programme in sphere of actual land use planning, construction activities, Finns visible role in preparation of Russia for membership of the Council of Europe was based on two motives (a) to emphasize cooperation and economic benefit in order to lower and old barriers between west and east based on traditional power politics, (b) to bring the energy resources of the Barents region/s and North-Western Russia within the reach of the EU.⁸⁹

However, in spite of the increased cross-border cooperation there are serious obstacles cooperation is tainted by division of ethnic Karelians and of Vartoila. In Soviet borders debate arose whether Finns aimed to 'neo-colonize' and exploit their natural resources. More recently, the lack of information about the EU structural Funds has at times led to suspicious that the Finns are using their Russian partners in order to benefit from these programmes unilaterally. Thirdly, cooperation initiatives have worked well at the political level, but in practical situation. Russians lack financing capital and many cultural and institutional factors which prevent real commitment to cooperation. Local Finish entrepreneur also criticize the Russian bureaucracy for being top-heavy.⁹⁰ In case of inter-firm linkages— one of the successful project is a sawmill company, Karlis Ltd. owned by four Russian and one Finnish. The Finnish co-owner conduct his business from the Finnish side of the Finland, 90% of the goods is supplied to customers outside and the wage level is about the 1/8 – 1/10th prevailing in Finland. Finally survey conducted among local people on both sides reveal that Finns and Russians do not know much about each other.

(b) Cross border initiative between Kent Nord Pas De Calais : Cross border initiative between Kent (South east of England) and Nord-Pas-De-Calais

⁸⁹ Anssi Paasi, "Boundaries as Social Practice and Discourse: The Finnish-Russian Border", *Regional Studies*, Volume 33(7), p. 672.

⁹⁰ *Ibid*, p. 675.

(Northern France) is primarily a response to the construction of the channel Tunnel in order maximize the advantages of the Tunnel and to reduce the barriers caused by the national boundaries. It resulted in signing of a cooperative Joint Accord between Kent and Nord-Pas-De-Calais regional council in 1987 leading to the formation of Transmanche region. The availability of finance for the programme from the EU provided a significant stimulus to joint activities. In 1991, Kent and Nord-Pas-De-Calais also signed a Joint Declaration with the Belgian regional governments of Flanders, Wallonia and Brussels. Tranchmarache region always has to intensely compete for the funds from other rich Euro-regions and constituents such as Cornwall and Devon of Atlantic arc to their disadvantage.⁹¹

In addition, the evolution of the TDP was strongly shaped by local political influences and a complex set of relationships between actors and policy organizations. The nature of the link between the cooperating authorities clearly determined the direction of policy. During the building for process of INTERREG 2 Central Government through the Government Office for the South East played a significant role and allocated larger share to Dover and Folkestone on the east of Kent. INTERREG spending went to two sub programmes of land management, environment and tourism development. On the other hand, sub programmes of transport, infrastructure socio-economic development and education accounted for lower levels of funding. It highlights following loopholes in case of cross-border cooperation:

- i. Cooperative initiatives bring to fore new types of constrains which affects the local autonomy. Cooperation clearly requires the resolution of potential political conflict within the grouping. Often the English and French authorities complete very similar projects such as environmental improvement, but work on these initiatives separately.
- ii. Access for local government to EU funds through INTERREG has involved central government appointees in programme administration. In such a

⁹¹ A For details, Andrew church and Peter Reid, "Cross Border Cooperation, Institutionalization and Political Space Across the English Channel", *Regional Studies*, Volume 33 (7), p. 646.

situation, regional and local authorities feel that their sense of ownership of the programme is weakened.

- iii. The transfrontier cooperation integrates these peripheral areas into European Union with high opportunity cost for many of these regions. Alternatively, political peripherality is heightened by resulting conflict between border regions and the friction tends to exacerbate centre-periphery differences within transfrontier regions. Similarly the competition for funds have proven harmful to peripheral regions since it over emphasises on physical infrastructure and neglect the social concern.
- iv. Cross border initiatives raises concern regarding the accountability of authorities involved. Within individual authorities, the commitment of limited public funds to international cooperation may conflict with the more local concerns of elected counselors.
- v. If cooperation and network focus sub-national government's attention on the international scale this may assist activities of large-scale cooperation that will benefit directly from the global awareness of local and regional government. In addition, the search for inward investment in many urban locations has led to the emergence of new alliances between local authorities and a range of partners as new forms of urban corporation have developed to promote economic growth.⁹² International cooperation involves inter-organisational coalitions between elected and non-elected agencies which may consolidate emerging forms of local or urban corporatism.

(c) German and Polish cross border initiative: The EU's interest in Germany's eastern borders can be explained by the fact that this frontier constitute one of the most crucial, external borders of EU as it links the EU in the west within the former COMECON countries in the East, and Scandinavia in the north with the Balkans in the south, Between 1991 and 1993, eight so-called. 'Euro regions' have been established along this border, the four most active ones are three at German-Polish border and one involving German, Polish and Czech local authorities. In some cases of cross border cooperation non-state actors,

⁹² For greater details see, Andrew Church and Peter Reid, "Urban Power, International Networks and Completion: The Example of Cross Border Cooperation," *Urban Studies*, Volume 33(8), (1996), p. 1297-1318.

such as the local Chamber of Industry and Commerce or the regional branches of the trade. Unions also participate. The internal decision making structures of a Euroregion is made up of council, Secretariat and working groups. On each of these bodies, representatives of communities from the both sides of the borders are represented.⁹³

Cross border cooperation at Germany's eastern border predates the availability of EU funds. After the fall of the Berlin Wall, the Lander and local authorities at the eastern border, aware of their high level of interdependence, were keen to improve relations in the border area. Indeed, it is a goal which is explicitly enshrined in the constitutions of some of the new Lander. However, effective policy delivery is a matter of debate. Limits of the Euroregions arise due to following points: (a) extreme disparities in government resources at the national, regional and local levels have made for highly unequal relationship in dealing with matters of trans-boundary importance. It also includes disparity between INTERREG and PHARE programme, (b) contradictions between Germany's federalist traditions and centralism in Poland, (c) shows development of effective local self government in Poland and former East Germany.

The intermediate evaluation of the INTERREG IIA programme highlighted some of the coordination problems between German Polish border. A survey undertaken among the project managers reveals that while over half of those questioned stated that their INTERREG project supplemented by Polish project on the other side of the border, only 20% confirmed that such supplementary projects have applied for are funded by PHARE CBC. According to the evaluation report the primary reason for lack of supplementary projects is paucity of national co-funding for such projects on Polish border.⁹⁴ Secondly, there exists incompatibility of INTERREG and PHARE CBC rules. PHARE was created to help the eastern European

⁹³ See, Stefen Kratke "Cooperation and Development on German-Polish Border", (eds) Markus Perkmann and Ngai-Ling Sum *Globalisation, Regionalisation and Cross Border Regions* (New York: Macmillan Press, 2002) pp.126-127.

⁹⁴ The territoriality principle of most EU funds is based on Article 130C of the EC treaty which prevents structural funds money being spent outside the territory of EU.

applicant states to fulfill the community *acquis*.⁹⁵ Whereas under the INTERREG virtually all economically significant cross border activities are eligible for funding, in case of PHARE only non-profitable organization can apply for money. Also, PHARE CBC often supports basic infrastructure projects which are usually larger than INTERREG projects. Common projects are also hard to co-ordinate because of differences in programming structure. Under the INTERREG regulation regulations, eligible countries are invited to prepare multi-annual operational programmes for the entire multi-annual funding periods.

PHARE-CBC, in contrast operates on the basis of annual 'indicative programmes', i.e. financing proposals have to be submitted every year in accordance with normal PHARE rules. The fact that institutional responsibility within the Brussels bureaucracy is divided has also led to co-ordination problems. INTERREG, as part of the Community Structural Funds, is under the overall responsibility of the Commission's regional policy directorate (DG XVI). PHARE, on the other hand, falls under the responsibility of Commission Directorate for General External Relations (DGIA). The co-ordination of policy between these two directorates has often been characterized by competition over competencies rather than constructive cooperation.⁹⁶

The White Paper on 'Border Regions and European Integration' published by the Assembly of European Regions in 1992 identified following problems for low-level commitment towards cross border cooperation. First, limited competences are exercised by the sub-national authorities in the majority of European states. The German and Austrian Lander and Belgian regions are in a privileged position in respect to their counterpart in centralized states. In France 'Joxe Marchand' law of 1992 extend the right of regional and local government to enter into inter regional association beyond the scope of territorially contiguous areas though within the

⁹⁵ Sec, Eiko R. Thielemann "Cross Border Cooperation at Germany's Eastern Border : Institutional limits to Multi-level Governance", in (eds) John Bachtler, Ruth Downes and Grzegorz Gorzelak, *Tradition, Cohesion And Regional Policy in Central And Eastern Europe* (Burlington and Hampshire : Ashgate Publication, 2000) pp .293.

⁹⁶ *Ibid*, p. 293.

international obligation set by French government.⁹⁷ Second, the general constraint imposed on regional associations by the lack of external competences, regional cooperation across frontiers is further complicated by general rule that region can take the responsibility externally for the area in which they hold competence internally. Third, the considerable differences in the level and structure of competences between the regions of various countries mean that subject matter can fall under the responsibility of the regional authority.⁹⁸ Four, the regional authorities who participate in the AER survey also refer to a lack of interest in cross border cooperation notably by the national authorities for instance in granting power the cross border association. Cooperation is also hindered due to varying level of economic development between participating regions. In times of economic difficulty, public authorities tend to protect local labour and public procurement market against the competition.⁹⁹

B. IMPLICATIONS FOR COHESION: Cohesion is generally understood to be priority goal of the European Union but does not correspond to a set of clearly defined policy of the European Union. There is no cohesion policy as such rather cohesion is an umbrella term for a range of policies which the EU hopes will ameliorate the conditions which are held to be barriers to economic convergence at national and regional levels. There are two significant features of cohesion policy in the EU: One, enormous variations exist in levels of economic development, both between member states and between regions within member states; Two these disparities have increased throughout the history of European Union as a result of enlargement.¹⁰⁰

Cohesion is most commonly associated with structural trends rather than strategies for growth and competitiveness. In the interpretation of cohesion policy emphasis is on those policies which work directly to further the reduction of disparities while

⁹⁷ See, Sabine Weyand, "Inter-Regional Associations and the European Integration Process", (ed.) Charlie Jeffery, *The Regional Dimension of the European Union: Towards a third level in Europe?* (London: Frank Cass, 1997), pp.167.

⁹⁸ *Ibid*, p. 168.

⁹⁹ *Ibid*, p. 169.

¹⁰⁰ See, "Cohesion Policy and Regional Autonomy," in Chris Rumford, *The European Union: A Political Sociology*, (Oxford: Blackwell Publishers, 2002), p. 157.

ignoring those counter-cohesion pays at least lip service to the tradition of welfarism and social solidarity. Third, it regards globalization responsible for greater European integration since nation-state has become too big and too small (too big to deal with local problems and too small to solve global problems).

The EU perspective on cohesion is predicted on the need to increase the competitive advantage of the regions, rather than to act directly on economic disparities with the aim of eliminating them. The regional development strategy has been gravitated towards the idea of an “endogenous development”.¹⁰¹ Maastricht treaty needs to be understood in the context since development will come about through greater equality of opportunity, not through evening out-wealth linking cohesion with competitiveness meant making the development of problem regions contingent upon the growth elsewhere and lagging regions become dependent upon the growth in rich regions but growth itself.

The affluent core in European Union is centered around the industrial regions of northern Europe consisting of southeast England, northern France and Paris, the BENELUX countries, Germany and northern Italy which is surrounded by the less-developed Mediterranean, Celtic and Nordic Fringes (northern and eastern Finland and the north and west of UK). In the poorer regions growth is centered on relatively prosperous urban regions.¹⁰²

The favoured regions experience more rapid growth than less favoured regions. Later, a second phase of growth occurs in which efforts need to be concentrated in the poorer regions to ensure they benefit from national success (trickle down effect). Within the cohesion countries there is high degree of differentiation with main loci of growth being the capital cities and better of regions. This prosperity

¹⁰¹ Article 130a of the Treaty on European Union states that cohesion stands for reducing disparities between the levels of development of various regions and backwardness of least favoured regions. It is primarily driven by economic priorities, it is commonly interpreted as a process of catching up for underdeveloped regions and social category the movement of regions and social groups towards community development is defined as convergence for greater details see, James Mawson, “Cohesion Policy in European Union”, *Regional Studies*, volume 32(2), p. 282.

¹⁰² See, Rethinking core-Periphery Relations, See, “Cohesion Policy and Regional Autonomy,” in Chris Rumford, *The European Union: A Political Sociology*, (Oxford: Blackwell Publishers, 2002 ,p. 188-189.

never trickles down since European regions have failed to generate the sort of institutional innovation that will make them continuous 'learning regions'. This model of growth is based simply on the logic of preventing permanent disadvantage of European periphery which could dampen the project of EMU and single market.

European spatial development perspective or European Spatial Directive Perspective (ESDP) further strengthens this inequality. Originally an idea of Jacques Delors to produce a spatial framework for development in the single market, the work has proceeded informally through the Committee on Spatial Development (CSD) with periodic meetings of the planning ministers of the member-states. Work has proceeded faster when European Presidency fell to those states with strong planning traditions.

ESDP entails following objectives : (a) The preservation and consolidation of a balanced, (b) decentralized or poly-central and hierarchically graduated system of city regions, (c) the installation of satisfactory connections between European city regions using suitable environment friendly modes of transport (TENs), (d) Conservation and where necessary – improvement of natural resources in all parts of Europe and in particular intensely populated industrial regions, (e) improvement to cross border cooperation between both communes and states along internal and external EU borders by drawing up general principles for spatial planning in border areas, continued development of poly-central regional administrative organisation and structures for political decision making in order to improve spatial planning at regional level, (f) strengthening cooperation among member states in the field of spatial planning, (g) intensification of cross border cooperation in the field of spatial planning and in the development of subject plans; and continued development of a poly-centrally organized forms of administration for spatial planning through mutual cooperation among European cities and with the support of the commission.¹⁰³

¹⁰³ See, "A European Spatial Development Perspective as a Foundation for coordination of Departmental Actions with Spatial Impact", www.arena.uio.no/publications/euro_b5.htm, pp.1-2

This process of rethinking the European Urban and Regional system throws up a number of problems. First, the boundaries of European regions have become confused. Global economy integration zones could not be expected to follow traditional administrative boundaries. The mapping of regions which supports the ESDP is created by the Commission which defines zones for international cooperation and funding support through its INTERREG programmes. Thus in so far as competition funds flows from ESDP, it does so to a set of relatively incoherent super regions.¹⁰⁴ European space create difficulties for this project since states on the southern periphery may be prepared to go along with the idea of catching up core regions as long as the flow of funds of infrastructure projects continues. However after the current round of structural funds in 2006, such support may no longer be available. Secondly, international cooperation around the cross border super regions has been developing for quite sometime although developing workable institutions at this level has been faced with severe constrains.

It also reflect three types of inequalities and tensions that are arising political significance first, the city regions and core is situated in western part of Europe reflecting inequality between east and west. Secondly, there are potential differences and tensions between global cities and home states. Thirdly, such a model of growth has given rise to new class structure, favouring dominant core but also sectors, regions and NGOs. The main tension arises from new cosmopolitan class of network actors and locally bound low-paid workers. It is noteworthy that the pro-European referenda on EU matters are more emphatic in major cities while nationalist sentiments are still rooted in the peripheries.¹⁰⁵

(d) Implication on the project 'Europe of Region': The sub-national institutional structures in European member states still differ radically from one country to another. There is wide variety of institutional forms produced by the process of decentralization. The following typology of government system within European Union is as follows:

¹⁰⁴ See, Peter, Newman, "Changing Patterns of Regional Governance in the EU", *Urban Studies*, Volume 37 No-56, 2000, p. 901.

¹⁰⁵ *Ibid*, p. 902.

Classic unitary states: are those with sub-national government only at local level. Regional structures may exist for administrative purposes, but are strictly subordinated to central state.

Developing unitary states: are those which have undergone a process of reform to establish elected regional authorities above the local level. The regional tier enjoys a certain degree of constitutional protection and autonomy.

Regionalised Unitary states are characterized by the existence of a directly – elected tier of regional government with constitutional status, wide-ranging autonomy and legislative powers. These countries have gone furthest down the road of regional devolution among the unitary states in the EU.

Federal states involve a constitutional sharing of power and the co-existence of sovereignties. The regional tier exists in its own right and cannot be abolished or restructured unilaterally by the federal and central government.¹⁰⁶

Table-1
A Typology of Regional Governments in EU

| Classical | Devolving | Regionalized | |
|------------------|------------------|---------------------|--------------|
| Unitary | Federal | Unitary | State |
| Denmark | France | Belgium | |
| | Austria | | |
| Finland | The Netherlands | Italy | |
| | Belgium | | |
| Greece | Portugal | Spain | |
| | Germany | | |
| Ireland | Finland | | |
| Luxembourg | | | |
| Sweden | | | |
| United Kingdom | | | |

Source: Report by *Working Group on Multi-Level Governance: Linking and Networking the various Regional and Local Levels*(Brussels: European Commission,2001), p.7

¹⁰⁶ See, *Report by Working Group on Multi-level Governance: linking and Networking the various Regional and Local Levels* (Brussels, European Commission, 2001), p. 6.

The access of sub-national governments to European policy making through intra-state channels is quite limited. The European integration process is regarded as a field of foreign policy dominated and controlled by central state government. The intra-state channel of SNAs (Sub-national government) is highly variable. Belgium, German and Austrian Laender have decisive influence in shaping the priorities of the federal government feeds into the European level decision making process. Even this sub-national ministerial access to the Council of Ministers under Article 146 of the Maastricht Treaty needs to be considered with caution since it does not imply direct sub-national representation but only creates opportunity to delegate national governments rights.¹⁰⁷

Initially EU did not seem very important for sub-national government since the European integration concentrated on few policy areas, and these were mainly the responsibilities of national or federal governments. In 1980s Commission competences increased with the passage of Single European Act 1986. The European Commission approved 28 measures which aimed to remove physical, technical and fiscal barriers to the cross-European market. Much of the legislation affected local and regional governments, such as changes in planning regimes, vocational and professional training. In case of distributive policies technical criteria and eligibility rules pave the way for extra-national means of interest representation. According to Marks Structural funds programme can be divided into three stages: CSFs, Operational programme and monitoring. Regional government influence though weak initially, becomes predominantly by the end of the process, and that it varies country to country. For example influence of sub-national actors of UK through structural funds is quite limited while in France both DATAR and prefects play a significant role in European policy making.

Mobilization of sub-national governments in case of cross border cooperation entails two specific forms in case of extra sub-national mobilization means (a) cooperation agreements concluded between neighbouring countries leading to formation of various institutions which do not challenge state sovereignty since they are geographic specific, their actions is regulated by national governments

¹⁰⁷ *Ibid*, p. 23

through international treaties and also because their legal status remains ambiguous.

A second means of cooperation is in form of inter-regional organization who does not share a common border with each other. Rather than focusing on the solutions of every day problems, their objective is the representation of the interest of particular group of regions. A case in point is Association of European border Regions (AEBR) which was established in 1971 and acts as a kind of umbrella organization of authorities and associations involved in cross border cooperation. Its membership includes individual regions and cities as well as cross border associations such as Arge Alp. The AEBR sees its task primarily in organizing and exchange of information between cross border associations. With the financial support of the European regions it has piloted 'LACE' or linkage Assistance and cooperation for the European Border Region's which aimed at providing technical assistance to border regions and also act as a advisory body to Council of Europe, European Parliament and European Commission.¹⁰⁸ Other inter-organizations focus on the problems and interest of specific group of regions such as conference of Peripheral Maritime Regions (CPMR) comprises of 70 regions or RETI Association of Industrial Regions in decline. For both organizations, the representation of interest of their membership vis-à-vis national and European institutions is their main activity. The 'Four Motors of Europe' founded in 1988 brings economically advanced regions and aims at establishing a network of third level in EU. At Maastricht member states agreed to create committee of Regions with similar organizational structure as existing Economic and social committee. The Committee of Regions has large membership although its role remains largely symbolic. It suffers from various drawbacks such as tendency to give opinion on too many issues, extreme diversity in terms of selection of representatives and cleavages between local and regional interest. AER and conference on Europe of Regions on the other hand is regarded a little more than mouthpiece for the

¹⁰⁸ Sabine Weyand, "Inter-Regional Associations and the European Integration Process" in Charlie Jeffery (ed.) *The Regional Dimension of the European Union: Towards a Third Level in Europe?* (London: Frank Cass, 1997), p. 175.

German Laender along with Belgian sub-national entities to exert influence on central government.¹⁰⁹

Regional information offices maintain direct link to the Commission and European Parliament to secure advantage for their sponsoring SNAs. But their work is primarily designed to serve, by acting as information channel. UK has taken the lead in setting up offices, and has largest number, partly due to fragmented and non-regionalised sub-national structure. UK local authorities tend to prefer organizational responses and the offices became part of the sub-national strategy to by-pass central government in the inclement year of 1980s and 1990s. In spite of these drivers of reform, the UK offices have modest aim and recognize the dominance of central government. In Germany, these offices were an expression of the states' wish to build a coalition in Europe, partly in response to the changes in intergovernmental relations brought about by the European policy. The north-south relationship has a significant role in setting up offices, with a tendency for the more bureaucratized and professionalized local authorities in case of northern state.¹¹⁰ Presently, thus extra-state channels for SNA involvement in the European policy process is of rather limited importance.¹¹¹

At Maastricht the adoption of subsidiarity was cheered by both the defendants of more authority at the Community level, like France and Germany, and opponents of such a development. It became "Euro concept which all could admire by giving it the meaning they want" (*Economist*, 4 July 1992). The Article 36 of the EC treaty which was added by the TEU articulates three principles: first, the principle of attributed.¹¹² Community competence; second, the more specific principle of subsidiarity (which is expressed as a way of determining whether the community or

¹⁰⁹ *Ibid*, p. 178.

¹¹⁰ See Charlie Jeffery, "Regional Information Offices in Brussels and Multi-level Governance in the EU: A UK-German comparison", in (ed.) Charlie Jeffery *The Regional Dimension of the European Union: Towards a Third Level in Europe?* (London Frank Cass, 1997), p. 184.

¹¹¹ See Grainne De Burca, "The Principle of Subsidiary and the court of Justice as Institutional Actor", *Journal of Common Market Studies*, Volume 36(2), 1998, pp. 218-219.

¹¹² See, Peter John, "The Europeansation of subnational Governance", *Urban Studies*, Volume 37, No. 5-6, 2000, p. 888.

the Member State should take action in a sphere in which competence is shared rather than exclusive to the community and third, the principle of proportionately (according to which community action should not go beyond what is necessary to achieve this objectives). Both the preamble and Article A of TEU suggest a different version of subsidiarity, expressing preference for decision-making which takes place 'as closely as possible to the citizens'. The fact that subsidiarity deals with across number of parts in different treaties, and that it dealt with rather differently within these various provisions exacerbates its complexity Article A express the political idea concerned with the division of competence between the Community and Member states. Article 3B expresses a narrower and more logistic idea of comparative efficiency. The Amsterdam protocol makes reference both to the closeness to citizen idea and to the efficiency 'scale of effects' criteria, as well as setting out requirements for constitutional consultation and reporting and about the types and forms of legislation to be adopted. The protocol stresses of the powers which community has given. Given the ambiguity there seems to be a need to describe competences in full detail. Subsidiarity is supposed to serve as the extension that every proposal of the Commission should meet. The burden to proof thus lies with the Commission. It reduced the principle into an instrument of Member States to protect national interest.¹¹³ An unintended consequence of the provision regarding subsidiarity as introduced by Treaty of Maastricht being politicization of the European Court of Justice. ECJ has the role of arbitrator in protecting the principle of subsidiarity. The court is generally considered to lean towards integrative decisions. The social charter based on the principle of 'closeness to citizen' has been merely a lip service while sub-national governments failed to gain in the bargain especially when key sub-national actors have lost interest in the European project in particular German Laender.¹¹⁴

CONCLUSION

As territory, identity and function are separating out and are no longer contained within the boundaries of the nation state. The role and salience of national borders

¹¹³ Kees Van Kersbergen and Bertjan Verbeek, "The Politics of subsidiarity in the European Union", *Journal of Common Market Studies*, Volume 32, No. 2, June 1994, p. 220.

¹¹⁴ *Ibid*, p. 222.

are changing because of the pressure of market integration, social exchange, cross border issues such as those of crime and environmental quality and new conception of security. This in turn generates institutionalized problem solving to facilitate market creation and institution building for cross border cooperation on whole series of common problems. To national territory must be added an emerging new approaches to spatial planning, the Trans-European Networks, the growing heterogeneity within enlarging EU and inter-regional cooperation.

It strengthens the emphasis that EU is neither a practice to traditional international diplomacy or multinational trade liberalization nor simply a domestic polity. It rather represents case of “between ness” where state shares its authority, legitimacy with supranational and sub national actors giving rise to thick layer of institutions where effective problem solving is conditioned on the process of dynamic restructuring as represented in case of cross border institutions

Finally, extra Sub National Authorities influence in decision making especially in context of cross-border regionalism is limited due to ambiguity and silence of international law in terms of sub-national engagement in process of cross border regionalism and secondly, inherent weakness of inter-regional organizations such as ABER though internationalization of domestic policy has opened new avenues for bottom up-approach.

CHAPTER – 3

EUROPEAN INSTITUTIONS AND MULTI-LEVEL GOVERNANCE

I. Genesis and Evolution of European Institutions

West European integration represents the archetype of regional integration: the only experiment in formal institutionalized integration above the level of the nation state which has survived and strengthened from the 1960s to the present. The original structures of the European Communities were far more highly developed and more politically ambitious than those proposed over forty years later in the North American Free Trade Agreement (NAFTA) and the Asia-Pacific Economic Cooperation (APEC) group.

The European Union's basic framework for formal integration is in the form of common institutions, rules, regulations, decisions and policies to regulate channel, redirect, encourage or inhibit economic and social flows. Once this framework was established differentiated informal patterns of interaction in form of governmental decisions, dynamics of market, technology, communication networks and social exchange fostered further integration without the need for deliberate formal inter governmental negotiations.

The formal integration process has always been a discontinuous process. The treaties themselves set a secure framework for the rapid development of informal interactions among various actors within the wider ambit of western organization for European Economic Cooperation. The flow of informal integration across Western Europe especially in the 1970s and 1980s in turn created pressures for further deepening of the formal structures of rules and institutions in order to manage their impact¹.

ECSC organizational set up forms the basis from which the contemporary EU institutions derive their characteristics to large extent. The ECSC was established under the Treaty of Paris in 1957. It drew upon the experience and ethos both of

¹ For Details see, William Wallace, "Introduction", in *Regional Integration: The West European Experience* (New York and Washington: Brooklying institution, 1994), pp. 2-5.

administration of occupied Germany and the French Commissariat du Plan. The model was one of enlightened technocracy geared towards seeking rational solutions to economic problems and to educate that problems encountered by European countries could effectively solved by common policies, through extensive consultation and careful accumulation of information.²

From a transaction analysis, it is not feasible for Member State executives to plan for all possible future ambiguities and sources of contention, so they create institutions that can adapt incomplete contracts to changing circumstances. These agents by no means simply react to the pressures exerted by principal thereby creating a structure of incentives to induce required behaviour. In the EU the ability of principals i.e. Member state executives to control supranational agents is constrained by the multiplicity of principals, the mistrust that exist among them, impediments to coherent principal action, information asymmetries between principals and agents and by the unintended consequences of institutional change.³

The institutional structure of the European Coal and Steel Community (ECSC) was partly functional, partly federal and partly intergovernmental in nature. It comprised of four basic organs: High Authority, the Special Council of Ministers, the Common Assembly and the Court of Justice. The High Authority, acting by majority vote, could bind directly enterprises in the territories of six member-states and these decisions could be enforced by the imposition of fines and penalties. The nine members of the Council Of Ministers were prohibited from taking directions from the member states and were to act only in the general interest of the community. The inclusion of Economic and Social Council (ECOSOC) reflected the same functional and corporatist tradition about the role of social organization in economic realm. In fact the very existence of the ECSC gave impetus towards further integration towards European Union.

² For details see, William Wallace, "West European Model", in *Regional Integration: the West European Experience* (New York and Washington: Brooklying Institution, 1994), pp. 32-33.

³ For greater details see, Gary Marks, Liesbet Hooghe and Kermit Blank, "European Integration from the 1980s : State Centric V. Multi-level Governance", *Journal of Common Market Studies*, Volume 34(3), 1996, pp. 349-350.

1. Regulatory policy regime and creation single European market.

For some, regulation is an all inclusive a concept as governance. While others take a narrower view and emphasize regulation as the mechanism of control . This latter definition of regulation points to rule based behaviour and the use of supranational institutions for scrutiny and enforcement. The regulation thus has two main purposes: the correction of market failures and the provision of rights. The former essentially concern problems of market power, information asymmetries and externalities while the latter refers to the efforts to correct past discrimination and is geared to the question of equity.⁴

The new forms of regulation around and through a European level of governance gives European Union the features of regulatory state with strong resemblance to the US model of regulation. Within the European Community there exist different regulatory regimes at national and community level. There is constant source of tension between the residual national approaches to public policy and the emerging European technique of regulation. The European integration process has in fact created commitment on the part of member states to adhere to regulation process by the virtue of formal and informal obligations imposed by its membership. The treaties of European Union are thus read as mapping out a particular economic blueprint which can be fitted especially in the political and economic climate of the 1980.⁵

The design of the postwar international economic order reflected what has been called the universalist tendency in American approach to foreign policy – the idea that a single set of rules should apply to all countries and that discriminatory economic behaviour and zones of preferences be abolished. In trade, it meant application of Most Favoured Nation (MFN) principle under which each country agreed to grant trade conditions to every other country no worse than those granted to most favoured nation.⁶ This system based on dollar hegemony faced problems

⁴ For details, Francis McGowan and Helen Wallace, "Towards a European regulatory state", *Journal of European Public Policy*, Volume 3(4), 1996, pp. 562-563.

⁵ Ibid, p. 565-567

⁶ This postwar approach was intended as a break with the 1930s when Germany and other dictators created special zones based on exclusive trading relationship and government

from very beginning. The oil crises of 1966 and later 1979 led to the break up of Bretton Woods system. The new floating exchange system created pressure on Deutsch Mark as anchor currency within West European countries thereby making its exports expensive. Simple money market operations also increased inflationary pressures in the domestic economy of many West European countries. The Germans thus had a substantial interest in binding the others in the project of Common Market. The other West European Countries regarded economic integration as a means to regulate inflation and protect themselves from international volatile economic situation by interlocking their currencies followed by establishment of EMU in 1999 and introduction of Euro (common currency).

This form of economic integration not only confronts the national system of regulation in European Union but also exposed them to international competition in markets for goods and services, increased mobility of financial assets and firms, and of certain types of highly skilled labour on which the economic viability of regions and countries depends. The implication of such project is that investors and producers may avoid burdensome national regulation and taxes, and that consumers may avail themselves of products produced under less costly regulatory and tax regimes.⁷

However international economic competition does not directly affect all policy areas within EU. Taking a very conservative view, even now more than half of all jobs in modern economies are in 'sheltered' branches in which local producers are serving local demand without being affected by foreign competition. But even where economic competition has become a significant it has not necessarily

manipulation of currency values and even when traditionally free trade oriented Britain resorted to Imperial preference – a system of special trade relationship that encouraged trade within British Empire at the expense of the rest of world in order to combat unemployment. For details see, Richard J. Aldrich, "European Integration: An American Intelligence Connections", (ed.) Anne Deighton, *Building Postwar Europe: National Decision Makers and European Institutions 1948- 63* (London: Macmillan Press, 1995), p.173

⁷ See, Fritz Scharpf "Introduction: The problem solving capacity of multi-level governance", *Journal of European Public Policy*, volume 4(21), 1997, pp. 521-523

resulted in a 'race to the bottom'. There are two vital aspects of regulation: product and process regulations.⁸

At European level re-regulation is achieved through negotiations since the positions of participating governments cannot be overruled, its success depends on the underlying constellation of interests and ideological preferences among the negotiating parties. Economic integration in EU is thus often represented as a symmetrical Prisoner's Dilemma assuming a common interest of all member states in creating a layer market which could be threatened by protectionist temptations of few individual countries. Under these conditions, reaching agreement could be easy, whereas implementation continues to be problematic.⁹

In general, the Treaty of Rome rejected the idea that the harmonization of social policies should precede the establishment of the common market. Instead the Treaty assumed that such harmonization would follow the higher standard of living made possible by the liberalization of trade and integration of national economies. Hence differences in social policies need not be addressed if they reflect general economic conditions. The Treaty also rejected the idea that economic integration requires tax harmonization. The soundness of this approach is demonstrated by the fact that no race to the bottom in taxation has taken place in the EU, despite deepening integration.¹⁰

⁸ In case of product regulations existence of non-tariff barriers accepted by the European Commission have created for incentive for raising rather than lowering the product regulations. In the joined cases Keck and Mithouard (1993, ECR, 1-6097) the court exempted a number of national regulation from the scope of Article 30. While in case of process based regulation relating to the field of taxation, social regulation of production process and environmental field there exists a threat of downward pressure which can only be arrested through regulation at regional level. For details see, Giandomenico Majone, "International Economic Integration, National Autonomy, Transnational Democracy", *Robert Schuman for Advance Studies RSC No. 2002/48*, pp22-23.

⁹ For greater details see, Fritz Scharpf "Introduction: the problem solving capacity of multi-level governance", *Journal of European Public Policy* Volume 4(4), 1997 pp. 526-527.

¹⁰ Total harmonization approach refers to distinct preference for detailed measures designed to regulate exhaustively the problems in question to exclusion of previously existing national regulations. Once the EU rules have been put in place, a member state capacity to apply stricter rules by evoking the values referred tie in Article 36 of the Treaty of Rome were put in place. In case of Optional harmonization right to free movement of goods is permitted with simultaneous guarantee to member states to retain their traditional forms of regulation, Article 100 a(4) provides that : "if after the adoption of a harmonization measure by the Council acting by a qualified majority, a Member State deemed it necessary to apply national provision on grounds of major needs referred to in Article 36, or relating to protection of environment, it

In the Treaty of Rome the principal instrument of the advancing the four freedoms was the directive, in principle setting the essential framework of policy at the European level and leaving the 'scope and method' to the member states. In the case of Technical Barriers to Trade (TBTs), harmonization was based on Article 28 (ex 30) and 94 (ex 100). Other articles provided the legal foundation for the freedom of movement for services, capital and labour and for aligning many other national regulations. The Commission began to tackle the negative impact on trade of divergent national standards and differing national legislation in the early 1960. Initially the Commission tended to regard uniform or total harmonization as a means of driving forward the general process of integration. After the first enlargement, however, the Commission adopted a more pragmatic approach and pursued harmonization only where it could be specifically justified. It insisted on uniform rules only when an overriding interest demanded it using optimal rather than total harmonization.¹¹

Under optimal harmonization method the national governments must secure the level of regulation set out in a directive but are permitted to set higher standards, provided of course that the stricter national rules do not violate community law. Like optional harmonization, minimum harmonization liberalizes trade without suppressing justifiable regulatory diversity. In the areas where minimum harmonization is the rule member states retain competencies and thus can adapt community measures to national preferences. The introduction of the principle of mutual recognition in the late 1970s was another important step towards flexible regulatory system.¹²

shall notify the Commission of these provision". Thus Community harmonization does not necessarily excludes the possibility of regulation of the member states. In fact Article 100 a (4) specifies the permissible grounds for setting national rules that differ from the Community standards and introduce a system of control involving the Commission as well as other states. For details see, Giandomenico Majone, "International Economic Integration, National Autonomy, Transnational Democracy. An Impossible Trinity?" *Robert Schuman Centre for Advance Studies RCR No. 2002/48*, pp. 12-14.

¹¹ *Ibid*, pp. 22-23.

¹² According to the principle of mutual recognition, as stated by the Court of Justice in the famous *cassis de Dijon* decision, a member state cannot prevent marketing within its borders of a product lawfully manufactured and marketed in another member state. This philosophy was later generalized by the Commission to cover not only traded goods but also services. However it does not rule out the challenges to the principle of mutual recognition. For greater

During 1983 support for revitalizing the single market continued to grow. In April 1983 the heads of Europe's leading multinational corporation formed the European Round Table of Industrialists (ERT) to advocate the completion of the single market. In 1983 the Spinelle Report linked the costs of conflicting national regulation to the need of institutional reforms. In February 1984, with the adoption of draft Treaty on European Union the European Parliament sought to focus attention on institutional reforms it called for increased parliamentary powers and greater use of qualified majority voting in the Council of Minister. The European Council's Fontainebleau meeting in June 1984 marked a renewed commitment to accelerate European integration. The meeting also established the ad hoc committee on Institutional Reform (Dooge Committee) to consider reforms to the Community's decision making procedures.¹³ By December 1985 intergovernmental Conference completed the political relay by agreeing to the terms of Treaty reforms which became Single European Act. Three points about SEA are important: (i) it locked together institutional change and substantive policy goal; (ii) the agreement to proceed with single market was embedded in a set of wider agreement, in particular the accommodation of new members and budgetary redistribution; (iii) it met relatively little resistance at the point of ratification in the member states. In the SEA's committed to qualified majority voting for most of the single market program, some members saw the beginning of a concerted effort to undermine the national veto. It also extended EC competence and strengthened the position of European Commission. It also introduced a legislative cooperation procedure to close EU's democratic deficit and increased the EP's institutional importance. Finally, the SEA incorporated European Political Committee (EPC) into the Treaty and agreed on greater foreign policy coordination to enhance the EU's international standing.¹⁴

details see Neill Nugent, *The Government and Politics of the European Union* (London, Macmillan Press, 1989) p. 221.

¹³ For greater details see, Desmond Dinan, *Ever Closer Union? An Introduction to the European Community* (London, Macmillan Press, 1991) pp. 113-115.

¹⁴ *Ibid.*, 118-120.

The institutional process gained credibility as the debate in USA and Japan about 'fortress Europe' gained momentum and the increased urgency of the EU-European Free Trade Area (EFTA) dialogue, started in Luxembourg (1984). In 1994, an idea began to circulate within the European Commission that Central East European Countries (CEECs) might be allowed to become part of the single market, even though their full membership of the EU would take sometime to achieve. The Europe Agreements promised a liberalization of trade and committed the CEECs to aim at aligning their market regulations legislation to EU. In any event, it is evident that CEECs, by not having their own national processes of regulation and with a weak domestic infrastructure for market management, risked of being pushed into a one level pattern of regulation that could cause serious domestic frictions and little opportunity for exercising leverage over their processes of adaptation to the EU regulatory model.¹⁵ It is by no means certain that EU will prevail as the predominant regulator or that its regulatory powers will be immune to erosion by the persisting policy powers and ambitions of the member states. In any case, EU regulation remains dependent on implementation through member state institutions thereby increasing the political sensitivity of relationship between the EU and national level regulations and questions of regulating the regulator.

2. Growth in the regulation and European Institutions

European policy-making has become increasingly bound up with European regulation which is technical and has increased outside dependence on experts in field such as environment, industrial and commercial sectors which has significant impact on policy making in the European Union. Today policies are formulated in the form of legally binding 'principles' whose detailed specification is left to non-governmental committees. The more abstract formulation of binding principles has made it easier to reach agreement and hence reduce conflict among member governments who no longer fight to last details for the interests of their national industries; they can leave this to representatives of affected industries and also

¹⁵ For greater details see, Francis McGowan and Helen Wallace, "Towards a European Regulatory State", *Journal of European Public Policy*, Volume 3(4), 1996, p. 570.

eliminates the problems of non-uniform implementation at national level.¹⁶ As the competencies of the European Union increased European legislation started affecting large number of people hence giving credence to lobbying by various subnational actors.

In 1992, the European Commission identified approximately 3,000 special interest groups of varying types in Brussels (including 500 European and international federations) with up to 10,000 employees working in the lobbying sector; in addition, the Commission mentions fifty offices in Brussels representing Laender, regions and local authorities, more than 200 firms with direct representations and about a hundred consultants with offices in Brussels.¹⁷ The private-public interaction in the European policy making is thus one of the familiar problems of governance. Scholars like Wolfgang Streeck and Philippe Schmitter regard European Union similar to an American style pattern of competitive federalism organized over no less than three levels-region, nation state, and Brussels. Not all scholars agree to these specific characteristics attributed to European Community governance. Beate Kohler -Koch characterizes EU as Network Governance. It refers to co operation among all interested actors, instead of competition and by joint learning processes. In her account, hierarchy and subordination give way to an interchange on a more equal footing aimed at joint problem solving that is spread in the multi level system.¹⁸

The European system of interest intermediation has its own features and is neither purely pluralist nor corporatist. It has foot in both the camps since like corporatism it implies a cooperative mode of governance based on long term exchange that differs from the more competitive mode of pressure group tactics implied by pluralism. Yet like pluralism it implies existence of multiplicity of various

¹⁶ For details see, Giandomenico Majone, *International Economic Integration, National Autonomy, Transnational Democracy*, *Robert Schuman for Advance Studies RSC No. 2002/48*, pp 22-23

¹⁷ Edgar Grande, "The state and interest groups in a framework of multi-level decision :the case of European Union", *Journal of European Public Policy*, volume (3),1999,p.320

¹⁸ See, Gerda Falkner, "Policy Networks in a Multi- Level System: Convergence Towards Moderate Diversity?", Klaus H. Goetz and Simon Hix(eds.) *Europeanised Politics?: European Integration and National Political System* (London: Frank Cass,2001), pp. 97-98

organizations with overlapping jurisdiction.¹⁹ As a result of European Integration the institutional architecture of the state has changed significantly. New institutions and new level of decision making have been established and the state's internal complexity has grown considerably. This does not imply that the EU is already a state. It lacks the core attributes of a state especially its sovereign power in internal and foreign affairs. Rather the EU has been conceived as an integral part of a new form of multi-layered governance. The decision making process is not only fragmented but the public decision making bodies are integrated into networks of joint decision making i.e. they are interdependent and not independent.²⁰ It brings following issues to the forefront:

- (a) Efficiency of decision making and institutional representation in Commission.
- (b) Issue of voting rights in Council of Minister
- (c) Representation issue in European Parliament.

(a) Efficiency of decision making and institutional representation in European Commission:

The European Commission today faces a trade off between the breadth of its initiatives and returns to entrepreneurship. Already three consequences of entrepreneurship induce diminishing returns are set in²¹: first, as the Commission pursues task of expansion and develop policy regimes, its workload increases. Since it's resources available to perform its duties remain fixed, the Commission is likely to feel strained under its own administrative burden; second, when the Commission succeed in creating new programmes and moves to areas such as monitoring and programme management involving scrutinizing activities of large number of actors its load increases leading to inefficiency; finally mobilization of interest groups has been the source of independence for the European Commission

¹⁹ Chris Ansell, "The Network Polity: Regional Development in Western Europe", www.unc.edu/dept/europe/conferences/mlg/papers, p.308

²⁰ Edgar Grande, "The state and interest groups in a framework of multi-level decision :the case of European Union" ,*Journal of European Public Policy*, volume (3),1999,p.327

²¹ For details see, Mitchell P. Smith, "The European Commission: Diminishing Returns to Entrepreneurship", in Maria Green Cowles and Michale Smith (eds.) *The State of European Union: Risks, Reform, Resistance and Revival* (Oxford: Oxford University Press, 2000), pp. 223-224.

however as the European polity grew, these interest have placed intensifying demands on the scarce Commission administrative resources.

The European Commission is the think tank responsible for agenda setting in the European policy making process. The Commission though is not the sole policy formulator and policy ideas might emerge from other variety of sources such as the formal request of the European Council, or the European Parliament, or from the national governments, or from the interest groups.²² To assist in this process of interest mediation the European Commission is assisted by large network of advisory committees. These committees play a significant role to render advice to the Commission in order to regulate lobbying activity in EU. Advisory committees come in different shape and sizes. Group 1 committees comprise of national officials and national experts. In spite of these officials being nominated by their respective governments, they hardly act as official representatives of their respective Governments. Group 2 committees represent sectoral interests. Officials from Euro groups and interest associations make up most of their membership.

The logic of these committees is to give the Commission an opportunity to iron out potential opposition to a policy proposal while supplementing its own knowledge in the area of consideration. Dependence on interest group involvement on the other hand might instill a lack of confidence amongst its officials. Also officials might forget political nature of advice they might be seeking. The omnipresence of interest groups at the policy formulation stage has led to accusation that a form of agency capture exists within the Commission. This might occurs contrary to the best intentions of the official concerned. To resolve this problem the Commission has developed a systemized form of consultation outside the advisory committees. This involves creation of a register of interest groups and a code of conduct which would govern their relation with the Commission. Some of the guiding principles have been set in the Commission publications. Within the Commission consultations are organized both vertically and horizontally. The Commission as an institution is organized into Directorate General (DGs) which are historically

²² For greater details see, Michelle Cini, *The European Commission: Leadership, Organisation and culture in the EU administration* (New York: Manchester University Press, 1996), p. 144

known by their number and one each for main area of activity. The staff of the DGs makes up the European civil service, recruited mostly by competitions across the member states, and supplemented by national experts and temporary staffs.²³ Each DG in turn is made up of functional directorates which in further divided into various divisions. The draft proposal is initially prepared by desk officer. At each stage objections may be raised or improvement suggested and is send back to the rapporteur for reworking if necessary. Additional delays may be caused as DG hierarchy line managers who are unable to respond quickly to the draft. Further the Commission's internal rules of procedure demand that all relevant departments work together and are consulted before the draft proposal is discussed in the college. In the next stage DG is involved in the setting of a working party which includes representatives from the member states, relevant countries and sectoral interests. These policy initiatives are immune from political control. Amendments from the national ministers, officials, ad hoc reports from the Court of Auditors and policy statements from the pressure groups forms the thin layer of inspection.²⁴ The corruption charges against the Santer Commission focused the need for balancing the act of **representation with efficiency**.

Ever since 1950 with the establishment of European Economic Community – the European Commission was seen as the guardian of small states. It was made explicit that all decisions in the Council would be taken on the proposal from the Commission. At Nice small Member States believed that a strong independent Commission is essential to protect their interest – however efficiency argument weighed heavily against the above mentioned rationale. The doctrine of one member – one state for the nomination of Commissioners has now been fixed.²⁵ A reduction in size for reasons of efficiency has been postponed until the Union reaches a membership of 27 states. Though the criterion for rotation system has

²³ See, Helen Wallace, "Analysing and Explaining Policies", in Helen Wallace and William Wallace (eds.), *Policy-Making in the European Union* (Oxford: Oxford University Press, 2000), p.12

²⁴ For greater details see, Christian Lequesue, "The European Commission: A Balancing Act between Autonomy and Dependence" in Karlheinz Neuenreither and Antze Wiener (eds.) *European Integration After Amsterdam: Institutional Dynamics and Prospects for Democracy* (Oxford: Oxford University Press, 2000)

²⁵ See, Michael Petite, "The Commission and the Amsterdam Treaty", www.jeanmonnetprogrampapers/html_98.

been laid down, the respective articles do not include details. In view of an 'assembly' of up to 27 colleagues the President of the Commission has been given additional discretionary powers in organizing his/her team.

In case delineating the powers of the President, the principle of collegiality is given greater significance than the sector responsibility of each member of the Commission. The President cannot dismiss a member of the Commission without the approval of his/her colleagues, even more s/he has few means of finding a replacement of the Commissioner concerned. The President's newly introduced power relative to those of the overall team thus remains limited. Thus the task to consult relevant services seemed enormous. Policies proposed in one DG may well serve to counter legislation in another. Such lack of reform of internal structure which was not addressed adequately in the Nice Treaty provides ample opportunity to interest groups to exert their influence in European policy making.

There is currently a lack of clarity about how consultations are run and to whom the institutions listen. The Commission runs nearly 700 ad hoc consultation bodies in a wide range of policies. The increase in the volume of international negotiations generates further ad hoc consultation. The Commission believes that it needs to rationalize this unwieldy system in order to make decision making process more accountable.²⁶ Notwithstanding the diversity, it is nevertheless possible to identify some important trend in case of Euro-lobbying²⁷ - first, in responding to increased interest group mobilization, the Commission's approach to consultation has been essentially pragmatic and undirected. There exist a procedural ambition within the Commission that whenever possible, officials should consult with the relevant European associations for each particular policy sector. This can be seen as an attempt to sub-contract or privatize the difficult aspect of brokerage function i.e. the formation of European level consensus within a sector. To facilitate this process Commission Services have drawn up directories. Where such groups do not exist, the Commission itself has been creating Euro-groups. Unfortunately,

²⁶ *European Governance White Paper* (Brussels: Commission of the European Communities, 2001), p.17

²⁷ Neill Nugent, *The European Commission* (Brussels: Official Publication, 1994), pp. 177-179.

though Euro-groups are unable to be much of assistance to Commission since they are internally divided, and poorly resourced.

This does not imply that Commission is vulnerable and represents only powerful sectoral interests. Over the years it has evolved practices to avoid preferential insider problems. The policy making process is technically broken into four steps: initiating dialogue and debate involving publication of a Green Paper or other communication such that Commission becomes aware of various perspectives on a particular issue; in the second stage it maps opinions and frames who matters by bringing many stakeholders together; in the third stage insider processing is carried out involving creation of a smaller group advisory committee or high level group for detailed processing of issue; in the final stage formal proposals marks the beginning of a new policy cycle in which Commission gets involved with key stakeholders as the inter institutional battle develops. The Commission here acts as a mediator and conciliator of different interests.²⁸

b) Issue of voting rights in Council of Ministers: Once the proposal has been agreed in the college of Commissioners, it is forwarded by the Secretary General to the Committee of Permanent Representatives (COREPER) and then on to the Council working group. These working Groups under take a through examination of all the technical aspect of the proposal from variety of perspective. The Commission officials perform different function at this stage. On the on hand it tries to convince the member states representatives of the worth of original draft. On the other hand it tries to reach consensus amongst national level representatives. In areas where agreement is not forthcoming the proposal is transferred to COREPER. The groundwork for meeting at this level is undertaken by Antici groups. Within COREPER meetings the Commission officials are in rather weak position. The Commission representative is required to defend its original proposal there exist the possibility that a final decision is reached in this forum itself. In the Council Meetings the role of the Commission is very limited.

²⁸ For greater details see, Sonia Mazey and Jermy Richardson, "Institutionalizing Promiscuity: Commission-Interest Group Relations in the European Union", Maria Green Cowles and Michael Smith (eds.) *The State of the European Union: Risks, Reform, Resistance and Revival* (Oxford: Oxford University Press, 2000), p. 86

The threat to withdraw a Commission proposal happens rarely.²⁹ Decision Making in Council of Minister is purely intergovernmental in nature. In earlier period of policy making unanimity and veto rights of member countries were considered important. With each subsequent enlargement number of issues under Qualified Majority has increased. At Nice, IGC's task was to distinguish between policy areas where decisions can be taken by qualified majority voting and others which cannot be developed without agreement of every individual Member states. In this respect it soon became obvious that provisions could be divided into 2 groups: of the 75 remaining cases where the Treaty still required unanimity, all the Member States agreed that consensus must continue to be the rule in about 25, in other 50 cases considered that unanimity should be replaced by qualified majority voting.³⁰

The original Treaty of Rome provided that Germany, France and Italy approximately of equal in size should each have four votes; Belgium and Netherlands each received two votes and Luxembourg one. The QM was fixed at 12 votes out of 17. Consequently blocking majority was six votes. Any large country together with Luxembourg could not block a decision. During the first enlargement, the number of votes was multiplied by 2.5 though only 2 for Luxembourg, in order to bring the new Member States into the schedule. Evolution of voting rights throughout the subsequent enlargement followed the same logic.³¹ Hence, in relative terms, the share of individual members in the vote total decreased with the increase in the member states. Also, with each accession the larger Member States lost more than the smaller states. The weights were thus not proportional to the population and provided more votes to the less populous Member States.³²

²⁹ For greater details see ,Michelle Cini, *The European Commission: Leadership, Organisation and culture in the EU administration* (New York: Manchester University Press,1996), pp. 170-171.

³⁰ Edward Best , "The European Union after Nice : Ready or Not ,They Come!" ,*Intereconomics*, 2001,p.20

³¹ For Greater details see, Jan E. Lane, Reinert Maeland and Sven Berg, "Voting Power Under the EU Constitution", Andersen S Sevin and Eliassen (eds) *The European Union: How Democratic Is It?*(London:Sage publications,1996), pp. 170- 171

³² For greater details see, Madeline O. Hosli, "QMV and the council of the EU", *Journal of Common Market Studies* , volume 34(2), 1996, p.258.

A simple extrapolation of this system shows that in EU-27, the six larger states representing almost 70% of the population would have only 42% of the votes in the Council. Up till now, the system has proved sufficiently representative and balanced. The decision under the qualified majority voting gained support of a large majority in terms of population and at least half of the Member States with the blocking minority could be obtained with only three Member States with the largest population or by a larger group of smaller Member States. During the last enlargement the system to calculate the QM did not change but a procedure was established known as the 'Ioannina Compromise'. This problem was not solved at Amsterdam and Treaty simply stated in institutional declaration no. 50 that the compromise of Ioannina should be valid until final resolution of enlargement. Needless to say, with small size countries having majority in the Council, the large ones will also be inclined to resist any future shift from qualified majority to simple majority.³³

The Treaty of Nice thus introduced a triple majority requirement for Council decisions. In order to be valid, Council decision requires not only a qualified majority, but also an absolute majority of Member States and at a country's request a 62% majority of the total population of EU countries. The new weighted votes allocate 27 votes to Spain and Poland while 29 votes to four large members. The two vote difference combined with high QMT establish a quasi parity between the six, Spain and Poland giving salience to coalition formations across the traditional voting lines.³⁴ Member states are likely to form a large number of potentially overlapping coalitions composed of heterogeneous members, reducing the fears that 'Easterners', 'Mediterranean', 'poor' or 'small' countries will vote solidly together across all the issues whatever the sequence in which they join – unless those already members decide to 'pull up the ladder' and leave the others out – the

³³ For greater details see, George Tsebelis and Xenophone Yataganas, "Veto Players and Decision-Making in the EU After Nice: Policy Stability and Bureaucratic/Judicial Discretion", *Journal of Common Market Studies*, volume 34(2), 2002, pp.289-290. According to Ioannina Compromise' when a number of Member States mark their intention to block a decision, the Council must use all means in its possession in order to arrive – in a reasonable time period – at a satisfactory conclusion for those Member States representing a number of votes which are three units under the ceiling of the BM.

³⁴ For greater details see, Frederic Bobay, "Political, Economy of Nice Treaty: Rebalancing the EU Council, in www.europa.eu.int/comm/nice_Treaty/index_en.html, p.6

member states will be divided in even more complex ways between 'small', and 'large', 'rich' and 'poor', northerners' and 'southerners', 'easterners' and 'westerners' etc.³⁵ Thus even with the increase in the number of items under Qualified Majority and new voting right system consensus form of decision making continues to be the basis in Council of Ministers. The issue of greater interest representation of citizen of European Union remains unaddressed.

(c) Representation issue in the Parliament: Michael Mezey, the later Philip Norton has developed a well established basis for general comparisons of parliaments which could be used for analyzing the role of European Parliament.³⁶ In early period of its existence a minimal policy role and support, the EP was classified as an inconsequential chamber. As the EP's policy role developed, the European Parliament more clearly established itself within the marginal category (important in certain respect but hardly central to European political debate). As the EP's policy prerogative have made further advances in the present decades without consolidating its support base, the EP now approaches the 'vulnerable' category (a chamber that is in increasing number of areas is quite important and cannot be simply be ignored but at the same time lacks the widespread and deep-rooted support that may be required to render its position invulnerable). The greater policy role which the EP has gained is yet to be consolidated. It is an institution which is powerful but reflects paucity of deep-rooted supportive attachments. The European Parliament is perhaps the most open of all the European institutions and is thus for quite sometime the target for attention of non-business interest.

³⁵ See, Philippe C. Schmitter and Jose F. Torrealba, "Eastern Enlargement and Transformation of the European Union" in the Wilfried Loth and Wolfgang Wessels (eds.), *Theorien Europaeischer Integration* (Leverkusen and Opladen: Leske & Budrich, 2001). p. 236.

³⁶ The major effort to develop and apply a typology of the Parliaments remains that of Michael Mezey (1979), later refined by Philip Norton (1984). They categorized Parliaments on the basis of Influence and degree of support into - Parliament as strong policy maker but with less support (masses and elite) is thus vulnerable while large support is active, Parliament with moderate powers but with less support is marginal and with more support as reactive, while Parliament with little or no significant role and less support is Inconsequential while with more support its role will still be minimal. For greater details see, Roger Scully "Democracy, Legitimacy and the European Parliament", in Maria Green Cowles and Michael Smith (eds.) *The State of the European Union: risks, Reform, Resistance and Revival* (Oxford: Oxford University Press, 2000), pp. 236-237.

The most important mechanisms in the Parliament for interest representation are the committee system, rapporteurs and intergroup. The proposal from the Commission and initiatives from the European Parliament itself is considered in the standing committees of the Parliament. Each committee has a secretariat which provides support to the committee and is also the source of information to outside groups. Rapporteurs are MEPs appointed by committees to prepare the Parliament's response to Commission proposals and to those measures taken by the Parliament itself. Because of centrality for undertaking initiatives they are therefore key targets for interest representation. Inter groups on the other hand are unofficial groupings of MEPs clustered around particular areas where members have particular interests. They began to emerge after the first elections to the European Parliament. Only one of the interest group namely Intergroup of Local and Regional Representatives was given official status. The other Intergroups thus have to survive by their own means since European Parliament is unable to finance them. This provides ample opportunity to various interest groups to exert influence on the European Parliament.³⁷ It has raised issue of corruption and highlighted the problem of opacity of decision making within the European Parliament.

In the recent Nice treaty in order to bring European Union's governance to people representation of member states under went a drastic change as the total number of seats in the Parliament was increased to 732. This was merely an extension of number game in Council of Ministers spilling over without the agreement and consultation of the European Parliament. There has been reduction in number of seats in all member states, except Germany and Luxembourg. Germany backed the biggest representation of ninety-nine seats in the Parliament.³⁸

Parliament's main disappointment was the poor progress made in extending the co-decision II procedure where qualified majority voting was extended. The extension of qualified majority along with co-decision II was considered the way

³⁷ See, Justin Greenwood , *Representing Interests In The European Union*(London: Macmillan Press,1997),pp. 43-44

³⁸ "An Accord of Unequal", *The Hindu*, 17 December 2001

to reduce democratic deficit in EU.³⁹ Earlier, Amsterdam Treaty did not succeed in transferring enough policy areas to qualified majority. In its opinion on the 1997-IGC, the Commission simply stated that qualified majority should be linked to co-decision procedure. Finally at Nice, the participatory powers of EP are now formally involved by consultation, co-operation, co-decision or assent in 66% of all TEC and 37% of all TEU matters. Strong powers of co-decision or assent have been attributed to the EP in 25% of all TEC articles.⁴⁰ Also the legal status of the EP was enhanced by giving it the same powers as other institutions to challenge acts of other EU institutions before the European Court of Justice (Article 230 TEC) and to obtain an opinion of the Court as to whether an international agreement is compatible with the provisions of the Treaty.⁴¹

This by no means suggests that the power of interest groups has disproportionately increased within the decision making structures. In the framework of multi level joint decision making the logic of influence and the balance of power in state – group relations changes significantly. The public actors can regulate interest mediation either by changing the bargaining position between public- private actors or changing access conditions to public decision making. For example public actors can use their internal commitments and obligations to strengthen bargaining powers in negotiation with companies or interest groups to their advantage. In case of the development of the first European Research Programme in Telecommunications(RACE) in mid 1980 the European Commission used joint decision making systems to improve its bargaining position *vis-à-vis* both private and public actors. The Commission during negotiation used tactics like rearranging the composition of the negotiators and skillfully used the concessions made by one side to gain concessions from other.⁴² Secondly , changes at the Nice treaty could not increase transparency in the decision making process. The institutional

³⁹ See, Xenaphone A Yataganas, "The Treaty of Nice the Sharing of Power and Institutional Balance in European Union – A Continental Perspective", www.jeanmonnetprogram.org/papers/01/010101-01.html # p. 85, p. 17

⁴⁰ Wolfgang Wessels, "Nice Results: the Millennium IGC in the EU's Evolution", *Journal of Common Market Studies*, Volume 39 (2), 2001, p. 210.

⁴¹ *Ibid*, p. 211.

⁴² Edgar Grande , "The state and interest groups in a framework of multi-level decision :the case of European Union" ,*Journal of European Public Policy*, volume (3),1999,pp. 329-330

configurations of the post – Nice strengthened consensus oriented approach towards integration. Consider the three thresholds for achieving a qualified majority, the guaranteed collegiality of the Commission and increased role of the EP, which also needs absolute majorities. All these decisions reinforce pattern of consensual democracy to the detriment of a majoritarian system of government. The search for accountability and clear procedures has again been sacrificed in favour of sustaining or even enhancing pattern which involve more and more actors in preparing, taking and implementing binding decisions.⁴³

3. ISSUE OF GROWING COMPETENCES AND PRINCIPLE OF SUBSIDIARITY

There are two sets of reasons why government leaders may wish to shift decision-making to the supranational level: (a) the cost of losing political control or there may be intrinsic benefits involved in shifting responsibility for unpopular decision; and (b) as mentioned earlier it is the result of inability of multiple principals to control Supranational agents.

Reallocating competencies to the supranational level may be an effective means of providing information and other resources to meet the transaction costs involved in formulating, negotiating and implementing collective decisions. The relative importance of these conditions depends on the potential efficiency gains to be realized by centralizing decision making in a particular policy area, the domestic electoral and party-political context facing government leaders, and their substantive policy goals. The supranational empowerment is not a necessarily Pareto-Optimal outcome for Europeans. It suffices that government leaders are able to reap a private gain by instituting a Pareto sub optimal policy to reward a powerful constituency. Government leaders may also shift decision making to insulate it from the political pressures.

As supranational institutions gain power beyond those necessary to serve as a mere agent of state executives, it needs support from one or more principals to sustain its

⁴³ For greater details see, George Tsebelis and Xenophon Yataganas, "Veto Players and Decision-Making in the EU After Nice: Policy Stability and Bureaucratic/Judicial Discretion", *Journal of Common Market Studies*, volume 40(2), 2002, p. 306

position. Agents may also gain a potent source of influence if they develop access to information or skills that is not available to principals. Further the complexity of policy making across disparate territories and multiple actors, the changing pattern of mutual interaction among policy arenas, the sensitivity of EU decision-making to international and domestic exogenous shocks – all contribute to fluidity.⁴⁴

The growing competences of the EU is reflected in the form of: (a) ***Binding Outputs***: There is a considerable growth of the quasi-legislative and administrative output. The EU system has also produced additional output of so-called ‘soft-law’ such as declaration by the European Council or decision taken in the second and third pillars which are not subject to control by the court, but have nevertheless some kind of binding character and further impact; (b) ***Scope Enlargement for Public Policies***: The scope of traditional and new public policies, pursued by and within the institutions of the EU has increased considerably from the early 1950s to the present day; (c) ***One of the clearest indicators for long-term integration trends can be found in the creation and subsequent evolution of EU institutions, as well as in the increasing differentiation of procedures within the policy cycle.*** An important characteristic of this institutionalization is the comprehensive and intensive participation of national governments and administrations in all phases of the EU’s policy cycle, also and especially in those areas of decision preparation and implementation which were originally earmarked as prerogatives of the Commission. This growth is not limited to the EU but finds its functional equivalent in the CFSP and Third pillar; (d) ***Institutions and administrations are closely linked to intermediary groups of different kinds*** which play a significant role in the policy cycle. In the EU arena we can observe that some (but not all) intermediary groups became involved in nearly all phases of policy cycle but not necessarily all policy fields.⁴⁵

⁴⁴ For greater details see Gary Marks, "An actor-centred Approach to Multilevel Governance", Charlie Jeffery (ed.) *The Regional Dimension of the European Union : Towards a third level in Europe?* (London: Frank Cass, 1997), pp. 37-38.

⁴⁵ For greater details see, Wolfgang Wessels, "An Ever Closer Fusion? A Dynamic Macropolitical View on Integration Process", *Journal of Common Market Studies*, Volume 35(2), 1997, pp. 275-276.

The adoption of the Single European Act (SEA) brought out and augmented the latent anxiety of several actors that the process of completing the Common Market would inevitably lead to disproportionate increase in the powers of the European Commission. This process of transformation was initiated at the sub-national levels, when in 1988 the German Lander, especially Bavaria raised the matter of the possibly negative effect of SEA on the federal constitution of Germany. This sub-national concern was then rapidly translated into a growing fear of some Member States, notably the United Kingdom, that the European Community's 1992 programme would not only automatically lead to the de facto loss of national sovereignty, but would also add to already existing tensions between regional and national authorities.⁴⁶

Given the configuration of conflicting interest, subsidiarity as embodied in the Treaty of Maastricht tried to accommodate these conflicting interests by holding out the clear criterion for the separation of responsibilities, but at the same time postponed the precise identification of such responsibilities. For British conservative Party subsidiarity implied that Common Market should come about with at least in some form of social compensation. The basic difference between British conservative party and Laender vision is the absence of the territorial element. To German Laender and spur to the Common Market intensified efforts by regional authorities to monitor and influence the decision making process. Their eagerness to adopt subsidiarity was a result of the conviction that it serves to protect regional autonomy.⁴⁷ The principle of subsidiarity regulates the allocation or use of authority within a political order where there is no unitary sovereign. It reflects the principle that policies must be controlled by those who are affected by the decision.

The principle of subsidiarity is based on German tradition of interlocking federalism, the legislative and fiscal powers of the nation as a whole are almost all

⁴⁶ For greater details see, John Loughlin, "Representing Regions in Europe: The Committee of the Region", in Charlie Jeffery(ed.), *The Regional Dimension of European Union: Towards a Third Level in Europe?*, (London: Frank Cass:1997),p.90

⁴⁷ For greater details see, Kees Van Kernsbergen and Bertjan Verbeek, "The Politics of Subsidiarity in the European Union", *Journal of Common Market Studies*, Volume 32(2), 1994, pp. 219-220.

exercised by federal government. But, for the formulation of its policies the national government usually depends on the agreement of state governments in the *Bundesrat* and for their implementation it must rely on the administrative systems of the states.⁴⁸

The European Union does not have its own administrative base, and its resolutions require the approval of the national governments represented in the Councils of Ministers and in the European Council. Thus in European Union as well as in Germany, effective policy – making can only result from negotiations between politically autonomous government. Nevertheless, these formal similarities should not obscure the significance of substantive differences: the German federal government can draw on its parliamentary and electoral legitimating to exert political pressure on the states and in negotiations it can bring to bear the weight of its larger budget. In contrast the European Commission is completely dependent on the governments of the member states in both political and fiscal terms. Also European Union (EU) is, both in regard to political culture and in socio-economic terms less homogeneous than any functioning nation state.⁴⁹

However this logic cannot be applied to European Union since the Maastricht Treaty article f (1) recognizes the obligation of the Union to respect the national identities of its member states. Thus state or *demos* is regarded as the basic unit comprising the Union. On the other hand European Union is primarily charged with safeguarding the four basic freedoms and regulating transnational problem. The two opposing principles thus make demarcation of jurisdictions difficult. It inevitably leads to politicalisation of European Court of Justice and secondly it highlights the basic power conflict either between national and subnational authorities or subnational and European Commission and national government.⁵⁰

In the Amsterdam Treaty the notion of subsidiarity reflected Blair's concept of "Third Way". The concept of third way thinkers call for a new role for government

⁴⁸ For details see, Fritz W. Scharpf, "Community and Autonomy: Multi-level policy-making in the European Union", *Journal of European Public Policy*, Volume 1(2), 1994, pp. 223-224.

⁴⁹ *Ibid*, pp. 225-226.

⁵⁰ *Ibid*, p. 227.

– distinct from both the interventionism of the Old left and non intervention of New Right.⁵¹ On February 1998 speech in Washington D.C. Tony Blair spelled out five clear principles of the ‘center-left’. First, Blair argues for ‘stable economic management and economic prudence because of the global economy’. It implied keeping both taxes and spending under tight controls; second, Blair advocated ‘changing the emphasis of government intervention so that it deals with education, training and infrastructure and not things like industrial intervention or tax and spend’. Thus the focus is on supply side economics rather than demand side ; third, he proposed ‘New Deal’ welfare reform package seeks to move people from benefits into work through vocational training, child care and other social benefits; fourth, Blair proposes ‘reinventing government, decentralization and opening up governments’; fifth, he emphasized the needed for being internationalist and opposed isolationism.⁵²

The 1997 Amsterdam Treaty includes a Protocol on the application of the principle of Subsidiarity where competencies are shared between the Union institutions and Member states. It provides some safeguards against centralization by laying down certain requirements for central action, and by increasing transparency. Comparative effectiveness of Community action must be determined by showing that the objectives of the proposed action cannot be sufficiently achieved by Member States, and can be better achieved by the Community. Community action is required if (a) the issue under consideration has transnational aspects beyond the control by Member States; (b) actions by Member States alone or lack of Community action would violate the Treaty (c) action by the Community produces

⁵¹ Social Democratic tradition regards capitalism perpetuates inequalities which in turn hampers individual development however by means of Keynesian demand side economics welfare to the common people could be ensured. Today the Keynesian economic tradition has been facing crisis as Capital goes global thereby undermining their thought. Today state is loosing its freedom to tax and spend. The Social Democracy’s tool, the state responsible for bringing welfare to large number of people has been diminishing. Also, its former social base is reducing since the working class institutions such as trade union are also reducing in importance. Third Way is new Labour’s response to these trends. It is now focusing supply side economics hence to increase employability new touchstone of their policy is education and training. For greater details see, Will Hutton, “ New Keynesianism and New Labour”, Andrew Gamble and Tony Wright(eds) *The New Social Democracy*(Oxford: Blackwell Publishers,1999), p.97

⁵² See Mark A. Pollack, “Blairism in Brussels: The ‘Third Way’ in Europe since Amsterdam”, in Maria Green Cowles and Michael Smith (eds.) *The State of the European Union: Risks, Reform, Resistance and Revival* (Oxford: Oxford University Press, 2000), p. 275.

benefits of scale or effects as compared with action of level of the Member States.⁵³

Finally the issue of subsidiarity puts constrain on decision - making process they are:

(a) Agenda setting: Subsidiarity regulates the allocation of competencies thereby sets the limits on political discourse on the agenda. This immunity from majority control is indeed control for the protection of minorities and other protections of individuals through legal powers and immunities.

(b) Accountability: Subsidiarity can prevent the public from placing responsibility for actions on particular officials, who may appeal to vague and complex notion of comparative effectiveness and limited room for independent action. Such responses hinder accountable government.

(c) Egalitarian objective: The egalitarian objective concerns whether and how to reduce differences in living conditions member states when some differences may be due to costly local policy choices. Amsterdam Subsidiarity might support Community action which overrides such local variations.

(d) Political equality among persons or states: Subsidiarity arrangements often grant small states powers beyond what the number of inhabitants should suggest, so too in the European Union. The future institutional design of EU is at the stake. In order to increase the equal influence of citizens following options are considered in the European White Commission's paper 2000 : (i) increase in the seats of the European Parliament; (ii) greater access to interest groups; (iii) giving bargaining more of deliberative bent; (iv) apart from this, under new qualified majority voting system blocking should be specified.⁵⁴

4. DECISION MAKING PROCESS AND THE JOINT DECISION TRAP:

James Peterson argues that there are different kinds of decisions in EU each with different types of politics Peterson's set of distinction is made horizontally, essentially relating to the relative salience and or controversiality, of different

⁵³ See, Andreas Follesdal, "Subsidiarity and Democratic Deliberation", in Eriksen, Erik Oddvar and Fossum John Erik, *Democracy in the European Union: Integration through Deliberation* (London and New York: Continuum, 2001), pp. 107-108.

⁵⁴ *Ibid*, pp. 103-105.

types of decision. He characterizes his three types as history making, policy setting and policy shaping reflecting different types of rationality at different levels.

Table-2
Levels of analysis in EU decision making

| Level | Decision type | Dominant actors | Rationality |
|----------------|----------------|--|-----------------------------|
| Super Systemic | History making | European Council; governments, European Court of Justice | Political |
| Systemic | Policy setting | Council, Committee of permanent Representatives; European Parliament | Political and technocratic |
| Sub systemic | Policy shaping | Commission Committees Council working groups EP Committees | Technocratic and consensual |

Source: John Peterson, "Decision Making in the European Union: Towards a Framework for Analysis" *Journal of European Public Policy*, volume (2) nos. (1), 1995, p-72.

History Making decisions are usually the stuff of high politics. They 'alter the Unions' legislative procedures and rebalance the relative powers of EU institutions. Generally, such highly politicized decisions are taken after intergovernmental negotiations in IGC or by the European Council. Occasionally, they may result from particularly weighty legal judgments of the European Court of Justice or (more rarely) through inter institutional agreements between the EU's institutions.

Policy-setting decisions are those which make choices between alternative courses of action. They 'set' EU policy, usually according to some variant of the Community method of decision making. The EU's institutions themselves effectively become 'agents at this level, as they generally must define and then defend a 'common position' in a system which requires inter-institutional agreement before most major EU policies can be 'set'.

Finally, policy shaping policy at the sub-systemic levels are means rather than ends involving second order choices about appropriate policy method or technology, as opposed to actual goals. Since European Commission retains a formal right of initiative in most EU policy sectors, it is a crucial player even at the sub-systemic level.⁵⁵

⁵⁵ For details see, John Peterson, "Decision Making in the European Union: Towards a Framework for Analysis", *Journal of European Public Policy*, Volume 2(1), 1995, pp. 72-73

The membership and relative integration of networks in different EU policy sectors are often crucial in determining actual outcomes. The line between what is 'political' and 'technical' often blurred. For example Commission's Agenda 2000 proposals were undertaken mostly at the level of an 'enlargement working group' but was also discussed by insiders both by COREPER and the General Affairs Council who were involved in very technical details. Effective agency at the sub-systemic level tend to be a product of three variables: first, agents must be able to claim technocratic expertise, second agents must have access to information, funding and legitimacy and finally, effective agency at the sub-systemic level requires coalition building skills.⁵⁶

Helen Wallace distinguishes five policy modes which can be distinguished vertically, they are: distinct community method, regulation, multi-level governance, policy coordination and benchmarking and intensive trans-governmentally. Put together with Peterson's horizontal distinctions and vertical distinctions produces a grid.⁵⁷ Some policy domain may fit into a single vertical column. Broadly for example, the single market can be fit into vertical column on regulation. Similarly EMU and Common Foreign and Security policy fit into the column on intensive trans-governmentalism.

The same policy domain may shift between modes, as well as between levels, which in turn reflect fluidity of the policy process indicating towards infinite ways of policy making. Policy making also depends upon the phase of policy process. It can be divided essentially into policy proposal, policy decision and implementation. This policy process is set in broader political, economic and social context from which demands for policy are generated. European policies might emerge from local, regional, individual state, group of neighbouring countries or other European framework.⁵⁸

⁵⁶ Wolfgang Wessels, "The Modern West European State and The European Union: Democratic Erosion or a New Kind of Polity?", Svein Andersen and Kjell A Eliassen (ed.) *The European Union: How Democratic Is It?* (London: Sage Publication, 1996), pp. 64-65

⁵⁷ See, Helen Wallace, "Analysing and Explaining Policies", in Helen Wallace and William Wallace (eds.), *Policy-Making in the European Union* (Oxford: Oxford University Press, 2000) pp. 72-73.

⁵⁸ *Ibid*, p. 75

This extraordinary array of locations provides those demanding and supplying policy with a multiplicity of options for pursuing their objectives and for developing capabilities. On the contrary, they overlap – this implies that EU policy process is multinational in character. Its composite features are derived from the different traditions of the participating countries.⁵⁹

It is not just that the participants are numerous, but that they bring to the forum different languages, different discourses, cultures and habits of works. To the extent that a predominant style of behaviour has emerged, it rests on an amalgam of these various features. The shared process depends on various forms of socialization, which have developed differently within different EU institutions. In some policy domains a clustering of prime actors from one or another nationality may produce a particular orientation such as in the competition policy lawyers predominate. The institutions of the EU, and their national counterparts, tend to entrap particular policy domains in the *chasse gardees* of particular policy communities. Thus agricultural policy making is different from trade policy making, and different again from environmental policy making. Each of these domains involves different kinds of societal actors, different kind of governmental behaviour and different kind of electoral resonance.⁶⁰

The process of regionalization and extending linkages between levels of policy making creates risks of overload. The diversity of Member States' interests and sub national authorities together with the primary formal institutions creates the necessity for consensus which often is not reached. Instead a deadlock situation emerges in the main political arena – the Council referred by Fritz Scharpf as 'joint decision trap'.⁶¹

⁵⁹ See, Gerda Falkner, "Policy Networks in a Multi- Level System: Convergence Towards Moderate Diversity?", Klaus H. Goetz and Simon Hix(eds.) *Europeanised Politics?: European Integration and National Political System* (London: Frank Cass,2001), p.93

⁶⁰ *Ibid*, pp. 76-77.

⁶¹ Adrinne, Hèriter, "Overt and Covert Institutionalization in Europe", in A. Alec Sweet, Wayne Sandholtz and Neil Fligstein (eds.), *The Institutionalization of Europe*, (Oxford: Oxford University Press, 2001), p. 58.

As the consequence the decision making process tends to stall. The necessity for consensus in the Community derives from the fact that the formal institutions preserve diversity of Member States. At the same time, effective decision making in such multi-level structure might be impaired by the problem of complexity resulting from a high number of participants and arenas of policy-making to be co-ordinated. Rising transaction costs and various complications in procedures makes participation of unlimited number of actors participating in intergovernmental negotiations impossible. This dilemma is aggravated by the problem of institutional diversity. These structural limits to the coupling of multiple arenas are recognized by both internal and external veto players. They learn from problematic situations and develop 'heuristics that approach best response strategies'. The effectiveness of co-ordination is improved by limiting the access of new parties from external levels or arenas⁶²

At the same time, pressure for participation exercised by 'externalized' third parties might destabilize established patterns of decision making and be a force of change. The literature on inter-organizational and international negotiation indicates three alternatives to the dilemma of exclusion and inclusion.

- (i) The first one consists of a hierarchical sequential ordering of arenas of policy-making, whereby upper level decisions work as binding considers for lower-level decision making. However, this works if the task can be subdivided, and if higher-level decisions leave some room for autonomous decision making on the lower levels and decision making is also fostered by shadow of future;
- (ii) The second solution involves a flexible dissociation or decoupling of external relations from the intra-organizational arena during the policy-making process.
- (iii) Actors may be able to act in and link up multiple arenas by pattern of 'loose coupling' which perform inter-organizational linkages and coordination between simultaneously operating arenas of negotiations.⁶³

⁶² For greater details see, Arthur Benz, "Restoring Accountability in Multilevel Governance", in www.essex.ac.uk/ecpr/jointsessions/grenoble/apers/wss/benz.pdf, p.2

⁶³ For details see, Arthur Benz and Burkard Eberlein, "The Europeanization of regional policies: patterns of multi-level governance", in *Journal of European Public Policy*, volume 6(2), 1999, pp. 333-334.

These modes of informal mediation and co-ordination exhibit several crucial advantages: they enable actors to circumvent rigidities of formal decision-making by informally linkage arenas and problems; they can mobilize the power of policy ideas; they can give expertise based policy entrepreneurs a better chance of overcoming conflicts; and finally, they allow the introduction of competition between arenas as way of encouraging innovation. Given their advantages, these modes are likely to prevail in adjustment processes of multi-level structures, unless they are impeded by existing institutional structures. Loosely coupled arenas are linked primarily by communication, and not by resource dependencies or control.

Actors in internal policy-making of related arenas avoid using power to control their agent's behaviour in external relations. Instead, they seek to influence their representatives by way of negotiations and to advance their interests by forming informal networks, which often cut across the boundaries of institutionalized arenas.⁶⁴

EU constitutes a dynamic, three fold process of structuration: it creates independent arena of negotiations, intensifies communication and stimulates learning. It is further reinforced by overt and covert of institutionalization of European space in the following ways:

- (a) In the treaties the primary rules do not clearly delineated among various actors.
- (b) Original Treaty lacks specific detailed rules about how to deal with all kinds of future contingencies. Treaty of Rome and all subsequent treaties provide latitude in application of rules and competences which has to be interpreted when applied to a new context. Negative integrations or market creating measures have relied on judicial law making and Commission decisions. By contrast, positive integration relies on the consensual capacity of the Council and more on European Parliament. These are particularly important when it comes to highly politically viable and redistributive issues.
- (c) Existing institutional rules are constantly being adjusted to meet the requirements of new circumstances, not just by judicial interpretation but also

⁶⁴ *Ibid.*, p. 335.

through direct renegotiation. This may be achieved by arriving at package deals or issue-linkages: measures from which the losers of the contested policy stand to gain are added to the 'focus issue' in order to win the opponent. Losers may also be offered compensation another way of settling conflicts by passing only framework solutions, which leaves all parties free to shape the respective policy in more details.

- (d) 'Naming and shaming' is used after Member States have provided information about their activities in the context of monitoring. It implies the attempt to change the behaviour of regulatees by exposing their behaviour if sanctioning tools are not readily available for the regulator, as is often the case of Europe. The Commission might highlight this by publishing this information as performance tables in order to shame government into compliance. It also organized campaign to inform citizens about their rights vis-à-vis national administration under Community legislation.
- (e) Network building and mobilization may be used by the Commission thereby empowering domestic actors, such as ministries and interest groups and large firms, to differing degrees. Cleavages in domestic political arena are exploited and alliances formed with different actors in order to build support for a specific European policy measure when faced with an impending deadlock.
- (f) The strategy of re-labeling refers to putting a difficult agenda by using indirect means. Complex decisions might be wrapped up 'behind closed door' in such a way that they are difficult to unravel at a later stage when more actors are allowed to participate in decision-making.
- (g) Finally, organization theory draws attention to the fact that decision – making is not only about choice rather path dependent lock-ins makes actors commit to specific actions. Once the commitment of actor is secured, the organizational action can be mobilized. The prime intention here is to reduce the uncertainty about actors' behaviour.⁶⁵

This form of decision making affects the policy making within member states. Its impact on national level policy formulation however depended upon the level of

⁶⁵ Adrinne, Hèriter, "Overt and Covert Institutionalization in Europe", in A. Alec Sweet, Wayne Sandholtz and Neil Fligstein (eds.), *The Institutionalization of Europe*, (Oxford: Oxford University Press, 2001), pp. 56-57.

decentralization and relative strength of sub national actors in the decision making process within European Union. Scholars like Peter John talks about 'Europeanisation of domestic policy' or the new concept of para diplomacy which implies a form of sub national foreign policy unmediated by traditional foreign policy institution of the state. In the EU context it simply imply equating extra state access equivalent to various association involved in foreign policy process. However at present these channels of influence are quite limited in their approach due to limitations of various extra state institutions in interest representation.⁶⁶ For example, CoR though regarded as a significant step in strengthening pro-regional lobby also faces many problems such as lack of adequate consultative powers, suspicion by other European institutions and differentiated representation. The local –regional divide in CoR divides this institution between federal or regionalized states. Also the representatives cannot agree whether they should debate on general issues of EU governance or have decisive say in EU.⁶⁷ Similarly regional offices in Brussels are either poorly equipped or resourced or are simply the mouth piece of their respective governments. Countries with strong regionalized tier of government though have strong presence in Brussels such as Federal Republic of Germany, Belgium and Spain.⁶⁸

II. MEANING OF DEMOCRATIC DEFICIT AND INSTITUTIONS OF EUROPEAN UNION:

1. Meaning of Democratic Deficit

The democratic deficit is commonly seen as a result of the Union's institutional design, decision rules, the dominance of delegated expert knowledge, a weakness of accountability, hostile public opinion in some member states and absence of a political community in the Union. The debate on democratizing the Union's decision making process has been dominated by a discussion of increasing the

⁶⁶ See, Peter John, "The Europeanisation of subnational Governance", *Urban Studies*, Volume 37, No. 5-6, 2000, p. 884.

⁶⁷ Liesbet Hooghes, "Europe With Regions", *Publius: Journal of Federalism*, volume 26(4), 1996, p.76

⁶⁸ *ibid*, 77 Also see, See Charlie Jeffery, "Regional Information Offices in Brussels and Multi-level Governance in the EU: A UK-German comparison", in (ed.) Charlie Jeffery *The Regional Dimension of the European Union: Towards a Third Level in Europe?* (London Frank Cass, 1997)

powers of the European Parliament. It has, over the years managed to insert itself in the Union's politics of policy making by using its legislative powers and through the work of its committees. However even today EP elections manifest low turn out then national general elections.⁶⁹ The issue of people identifying with the European Parliament remains a distant dream.

A second strand of thinking on the democratic deficit reflects the fear that the consent of the people may constrain the future development of the system. Shocked by the Danish 'No' in June 1992 EU institutions and the member state governments are beginning to confront the need to enhance accountability and address issues of democracy. It is motivated by the belief that economic integration needed a measure of political integration. The citizens of the member countries need to feel more at home with its institutions so that they will not deny their consent to future Treaty change.⁷⁰

A third element of thinking on the democratic deficit concerns the relation between the Union and democracy in the member states. This point of view is raised by many scholars of multi level governance. According to them the process of re regulation at European level has caused loss of greater transparency in policy formulation and implementation process. They advocate greater participation of people in decision making process along with increasing use of soft laws to make EU both efficient and transparent in policy making.⁷¹

Today, market correcting European regulation is being opposed by business interests as is true at the national level. One reason is differences between rich and poor member states for example firms, workers, and consumers in Portugal or Greece simply cannot afford environmental or social standards which Danish or Dutch voters might consider essential. Even more important are the divergence of existing welfare state and industrial relations institutions and the high political

⁶⁹ Brigid Laffan, Rory O' Dannel and Michael Smith, *Europe's Experimental Union: Rethinking Integration* (London: Routledge Publication, 2000), pp. 92-93.

⁷⁰ *Ibid*, p. 94.

⁷¹ Wincott Daniel, "Looking Forward or Harking Back? The Commission and the Reform of Governance in the European Union" *Journal of Common Market Studies*, volume 39(5),2001, p.898

salience of divergent national policy legacies. Voters in Britain simply cannot accept the high levels of taxation that sustain the generous Swedish welfare state. On the other hand Swedish families cannot live with the low level of social and educational services provided in Germany; and German doctors and patients would unite in protest against any moves towards a British style national health system. If these differences were to be settled by the "Community method" and majority rule at the European level the lack of legitimacy could blow the Union apart.⁷² There is the need for new, more flexible and open approach to the EU policymaking.

Achieving these improvement depends upon various factors : (i) legislation is often only part of a broader solution of combining formal rules with other non-binding tools such as recommendations, guidelines, or even self-regulation within a commonly agreed framework. The use of regulation should be considered in cases where the uniform application of legislation across the Union is necessary for completing the internal market and has the advantage of avoiding the delays associated with transposition of directives into national legislation.(ii) Also, so-called "framework directives" should be used more often as they offer greater flexibility in their implementation, and tend to be agreed more quickly by Council and EP, (iii) more use should be made of primary legislation though leaving the executive to fill in the technical details, (iv) under Certain conditions, implementation measures may be prepared within the framework of co-regulation. Co-regulation combines binding legislative and regulatory with actions taken by actors most concerned with drawing on their practical experience, (v) Community action may be complemented by the use of the so-called "open method of coordination".⁷³

2. Flexibility and Open Method of Coordination

The complex decision making process emphasis the need of establishing legitimacy since there exist variety of ways to make policies involving different types of governmental functions, substantive issue areas and geographical regions.

⁷² See, Fritz W. Scharpf, "European Governance: Common Concerns Vs. the Challenge of Diversity", *jeanmonnetprogram/workingpapers/no6/01*, pp. 5-6.

⁷³ *European Governance White Paper* (Brussels: Commission of the European Communities, 2001), pp. 20-21.

In such a case a flexi polity at the European level maximizes legitimacy by supporting transnational regime in those issue area where citizen support is strong. From the publication of Tindemans Report (1975) until the early 1990s, the supply of quality literature on differentiated integration was rather scarce. When the CDU/CSU released its, controversial *Reflections on European Policy* (1994), the study of differentiated integration was revitalized.⁷⁴ Flexibility norm embodied in TOA and Nice Treaty reflect various concepts such as multi-speed, variable geometry and a la carte exemplifying differentiated integration.⁷⁵

The TOA produced a form of Closer Co operation (CC) which allowed flexibility to be applied in pillar 1 and 3 and an equivalent (constructive abstention) to be deployed in pillar 2. It also gave European Commission the power to decide whether and when member states initially outside a CC measure could subsequently join it at least in pillar 1. In pillars 2 and 3, the Council retained powers, both to propose and to decide on the subsequent ability of member states which initially opt out to join later. Even in pillar 1, however, the Treaty allowed member states to veto the launch of CC measures for important and stated reasons of national policy (Article 5a). Thus, even though CC was agreed it was arguably possible for any member state to prevent its use. EP and the ECJ were empowered by Amsterdam to play the same role in decision making in CC measures once they had been set as they would otherwise have done. Within the Council, only participating member-states retained the right to vote on a CC measure. The Commission, as stated above, retained a key role in pillar 1, and was also empowered in pillar 3 to take decision (although the ECJ and EP were not). The budget would be paid by participating member states, unless the Council agreed unanimously that all member states would pay out of the EU budget. The launch of CC would be by QMV, provided that no member state resisted it.⁷⁶

⁷⁴ Alexander C.G Stubb, "A Categorization of Differentiated Integration", *Journal of Common Market Studies*, volume34(2),1996,p. 282

⁷⁵ Brigid Laffan, Rory O' Dannel and Michael Smith, *Europe's Experimental Union: Rethinking Integration* (London: Routledge Publication, 2000), pp. 88-89.

⁷⁶ For greater details see, Andrew Moravcsik and Kalypso Nicolaïdis, Explaining the Treaty of Amsterdam: Interests, Influence, Institutions", *Journal of Common Market Studies*, Volume 37(1), 1999, pp. 59-85.

It had following limitations: (i) it was not clear whether a veto over the launch of CC was in fact absolute; (ii) there was no ruling about the necessary number of participants in a CC measure. Although CC would be launched by QMV, and therefore would require the agreement of 2/3 of weighted votes of member states, however it was still unclear about the issue of how many member states would constitute a quorum; finally, (iii) it stated that CC could not be used to add new areas of policy competence to the EU – instead, it could be used in areas where EU had already granted authority to act.

It added that the *acquis communautaire* could not be unpicked by CC, and that the institutional framework of the Union must be preserved; finally, (iv) there were concern about the extension of the democratic deficit to flexibility given the EP's lack of ability to decide about the launching of a CC measures even if it had co-decision rights over any subsequent legislation. CC provision in fact did nothing to prevent member state from launching extra – EU cooperation, either as a first choice strategy or if they failed to get sufficient support for their proposals to collaborate under CC provisions.⁷⁷

The Nice Treaty in fact raises several barriers to the effective implementation of CC. These are as follows: it cannot introduce in case of new competencies :it cannot apply to matters in which the EU has exclusive competence; it must not distort the single market or adversely, effect socio-economic cohesion; it must not be used as a first choice policy instrument; rather may serve as one of last resort; it must remain open to those member states which initially opt out but subsequently wish to take part; it must serve to reinforce the general integration process. In addition, CC must continue to ensure that the competences, rights and duties of non-participant member states are respected.⁷⁸

Furthermore, the Nice Treaty explicitly sets a limit on the use of flexibility in pillar 2. Abolishment of the national veto power in pillar 1 and 3 was a crucial

⁷⁷ For greater details see, Alex Warleigh , *Flexible Integration: Which model for the European Union* (London:Sheffield Academic Press, 2002), pp: 68-70.

⁷⁸ See, Xenaphone A Yataganas, "The Treaty of Nice the Sharing of Power and Institutional Balance in European Union – A Continental Perspective", www.jeanmonnetprogram.org/papers/01/010101-01.html # p. 85, p. 34

innovation, since it thereby removes the ability of a single state to block the initiative of Single European Market. Moreover, the EP was granted a role in approving the launch of CC in pillar 1, by the assent procedure.

In case of pillar 2 the High Representative of the Council is tasked with a duty to inform both the EP and all the member states about the progress of CC measures. In pillar 3, the Council will now both approve the launch of a CC measure and decide whether initially laggard states can subsequently join it by QMV, on the basis of proposal from the Commission. The Nice Treaty also gives the Commission a partial veto power under pillar 3. Clause A-F of the Nice Treaty defined general principles which are applicable to any CC measure regardless of the pillar in which it is undertaken. Thus, there is some degree of procedural standardization. The quorum for a CC initiative is set at eight. The definition of 'last resort' was clarified by the Nice Treaty. The Council is empowered by Clause B to decide when the objectives of a proposed vanguard group cannot be met by the traditional community method 'within a reasonable period'.⁷⁹

Table-3
Provision of Closer Cooperation in the Nice Treaty

| VARIABLE | WHAT THE TREATY SAYS | CORRESPONDING MODEL |
|--|-------------------------------------|-------------------------|
| Triggering mechanism | Varies according to pillars | Multi-speed (pillar 1) |
| Quorum | Eight members states not a majority | A la carte (pillar 2-3) |
| National Veto over launch | No except in pillar 2 | Concentric Circles |
| Present in all pillars | Yes, but limited in pillar 2 | A la carte |
| Uniform across all pillars | No | Concentric Circles |
| A means to add new competences to the EU | No | A la carte |
| can laggards join the vanguard | No | Multi-speed |
| | Yes | Multi-speed |

Source: Alex Warleigh, *Flexible Integration: Which model for the European Union* (London: Sheffield Academic Press, 2002), p.80.

Flexibility norm as embodied in TOA and Nice treaties thus reflect following problems and prospects : (i) It reflect an uneasy balance between the need for accommodating diversity and the observation of the *acquis*, the reassertation of

⁷⁹ For greater details see, Alex Warleigh , *Flexible Integration: Which model for the European Union* (London:Sheffield Academic Press, 2002),p.83.

national interests and deepening of integration. The system can be conceived as multi-faceted and dialectically organized around a three fold rationale: protection under pillar I; usefulness under pillar II and necessity under pillar III; (ii) Closer cooperation is about procedural and institutional development. It can become a positive policy making device to further integration but only for specific and non-controversial areas. EU has yet to decide which model of flexibility it wants to adopt. Recent Nice Treaty in act develops all the three variants of flexibility model simultaneously. See the table at the back; (iii) the closer cooperation might be seen as one timid step in the direction of multi perspectival polity'. The combination of various differentiated integration brings new competences within the domain of EU; (iv) By envisaging the establishment of coexisting subsystems with multiple relationship to the main body of *acquis*, the flexibility undermines the ideal that EC law should be the means of harmonization. It undermines two key principles which the ECJ holds dear: non-documentation between member states and supremacy of EC law since it introduces an exception into primary law; (v) It provides no mechanism for the public control of the cumulative unintended consequences of scattered forms of decision making. Even the involvement of representative institution in establishing rules for non-parliamentary forms of legitimation will not deliver accountability for executive discretion in allocation of value.⁸⁰

The open method of co-ordination referred to in the Lisbon summit conclusions is not unprecedented. The open method of co-ordination has been present in the Treaty since 1958 when member states promised to co-ordinate their economic policies while later it was used in case of co-ordination of employment issues in the 1970s. Both the employment strategy adopted at Essen in 1994 and the macroeconomic monitoring procedures introduced in the Maastricht further developed state co-operation on this line. In fact the Essen European Council eventually formalized it by the inclusion of an employment chapter at Amsterdam. The processes established following the Luxembourg, Cologne and Cardiff European Councils frame the context within which Open Coordination Method

⁸⁰ See, Eric Philippart and Monika Sie Dhian Ho "Flexibility After Amsterdam: Comparative Analysis and Prospective Impact", in Jörg Monar and Wolfgang Wessels (eds.) *The European Union after the Treaty of Amsterdam* (New York and London: Continuum, 2001), pp. 190-193.

takes place and have codified it as the 'open method'. Other forms of such co-ordination arose in other spheres also. The practices outside the European Community such as the Trevi-Group and Schengen acted as laboratories for the development of flexible EU policy in the third pillar.⁸¹

There are three reasons why the open method may be seen as a new mode of governance. First, taking developments in economic policy, the open method can be used to deal with the specific issue in a controversial area such as factor and product market under EMU; second, as EU policy-making moves into politically sensitive areas such as defence, immigration and taxation, the centralization of policy formulation encapsulated in the Monnet method is more problematic. This method of governance facilitates further Europeanization of particular policy by a group of member states outside existing institutional forms; third, the open method provides a pragmatic rather than a principled answer to the problem of legitimacy within EU. It is however, debatable whether the open method transcends the usual criticism of governance in the EU, notably elitism and opacity.⁸²

The open method is linked to a variety of policies where states are capable of proceeding individually, but are unsure of the best practice to take, where collective action is needed for any reform, or there are increased returns from such collective action. The method institutionalized the sharing of experience and reform experimentation, removing any real or apparent risk of regulatory competition and replacing it with a cooperative but non-binding method. In some sectors, such as information society, policy initiatives have been launched, while in others, such as research, such initiatives remain at preparatory stage. This method is being applied in new areas, such as pension and education policies.⁸³

⁸¹ Dermot Hodson and Imelda Maher, "The Open Method as New Mode of Governance", *Journal of Common Market Studies*, Volume 39(4), pp. 722-723.

⁸² See, Fritz W. Scharpf, "European Governance: Common Concerns vs. The Challenge of Diversity", jeanmonnetprogram.org/workingpaper/no6/01, pp. 13-15.

⁸³ Dermot Hodson and Imelda Maher, "The Open Method as New Mode of Governance", *Journal of Common Market Studies*, Volume 39(4), p. 725.

3. Comitology and legitimacy crisis in EU

From the perspective of the post national governance school of thought committees could be interpreted as a valid example of a non-hierarchical setting for taking binding decisions beyond nation-state. By piecemeal engineering, committees do not move the EU in one clear, unequivocal direction. They are indicators of a status, quo, characterized by a 'pendulum' between 'fusion' and diffusion.⁸⁴ The fusion thesis is based on the assumption that the nation state is alive but not well. This process is more than just 'the rescue of the nation state', or the 'strengthening of member of states'. Comitology committees would then serve especially to ensure close co-operation between the member state and Community institutions. Committees with national and European civil servants are significant indicators and, perhaps more important, are also the main driving force behind the merging of public instruments.⁸⁵ Comitology would then serve especially to ensure joint management or, in the Commission's jargon, a partnership which would extend to all relevant levels of the member states. It is the product of increasing competition for access and influence in the EU policy cycle. The pooling of resources from different levels and the self interests of all participants in reaching some kind of result would lead to high degree of acceptance by all those directly involved.⁸⁶

The European regulatory agencies are autonomous bodies of a public nature, not established by the Treaties, but created as a result of acts of secondary legislation adopted by the Council. They have their own legal personality and have been established with a view to fulfilling the task of a technical or 'scientific' nature, or a specific management task provided for in their terms of reference. The Commission thus has no formal relations or procedures with the agencies but exercises its powers primarily through its representatives in the board, who are usually senior officials from the relevant Commission departments.

⁸⁴ Wolfgang Wessels, "Comitology Fusion in Action: Politico Administrative trend in EU system", *Journal of European Public Policy*, Volume 5(2),1998,p.215

⁸⁵ For details see, Giandomenico Majone, International Economic Integration, National Autonomy, Transnational Democracy, *Robert Schuman for Advance Studies RSC No. 2002/48*, p. 32

⁸⁶ Wolfgang Wessels, "Comitology Fusion in Action: Politico Administrative trend in EU system", *Journal of European Public Policy*, Volume 5(2),1998, pp. 216-217.

The fundamental point about the attribution of powers in European Law is determined cumulatively by all institutions, in the sense that the Treaty determines simultaneously the field of activity, the competent institution and the form of and procedure for decision making. It is thus a system of specific and limited empowerment, which significantly reduces the scope for rule making. Furthermore, neither an all embracing interpretation of subsidiary powers (Article 308), nor liberal definition of implicit powers can compensate for these restrictions arising from the determination of member states to retain absolute control over the process of integration.⁸⁷

This principle of powers conferred by means of *limited empowerment* leads to the system of overall distribution of Community power characterized by an interdependence of the institutions invested with distinct and carefully defined functions. It is more of a blue print for *institutional balance* than a *system of separation of power*⁸⁸. This is particularly apparent from the unique way in which a blend of legislative and executive power is shared between the three institutions and member states.⁸⁹

Advocates of the *Meroni doctrine* consider that the implementing powers conferred on the Commission by Article 202 as spelt out in Article 211 plus budgetary implementing powers laid down by article 274 involves the formulation in general rules of application and the applicability of those rules in specific cases. The power laid down by the Treaty cannot be reduced, unlike others which do not flow directly from the Treaty. They conclude that the granting of such a power to an agency is *ultra vires* that the Commission has a constitutional duty to execute its power by the means of its own department, while any external delegation is prohibited.⁹⁰

⁸⁷ For details see, Xenophon A. Yataganas, "Delegation of Regulatory Authority in the European Union: The relevance of the American Model of Independent Agencies", www.jeanmonnet.org/workingpaper/3/01, p. 42.

⁸⁸ *Ibid*, p. 20.

⁸⁹ *Ibid*, p. 22.

⁹⁰ See, Renaud Dehousse, "Misfit: EU Law and the Transformation of European Governance", www.jeanmonnet.org/workingpaper/2/01, p. 12.

In this context, the very legality of assistance bodies set up to manage external aid programmes is in doubt, as they encroach upon the Commission's budgetary powers. The same goes for the law application agencies (medicines, industrial property), as their technical assessment of the issues nevertheless involves discretionary choices. Regulatory measure involves application of general rules to individual cases and adaptation of these rules to specific situations. These decisions are both regulatory measures, which necessarily involve a certain margin of discretion. Consequently, the delegation of such an authority to the independent agencies is not a simple transfer of competence, but an effort to europeanise some areas of governance especially where the cooperation between community and national administrations is not sufficient to ensure an efficient rule making or a uniform implementation.⁹¹

In fact creation of these agencies with specific statutes and mandates voted on the basis of co-decision by the European Parliament and the Council on a proposal from the Commission respects the distribution of powers rather than undermining legitimacy of the distribution of powers within European institutions. They on the contrary contribute to a simplification and increased clarity of their own powers. They also liberated the Commission's duties of policy formulation and target achieving, which are currently stifled under the dual pressure of dealing with a heavy workload of technical regulations and improving its internal management. The legislations can through these agencies, avoid some hard decisions they would otherwise have to face, thus making possible the enactment of certain laws that would otherwise be politically infeasible or technically unattainable.⁹² In this way it strengthened deliberative aspect of European governance.

⁹¹ *Ibid*, p. 11.

⁹² For details see, Xenophon A. Yataganas, "Delegation of Regulatory Authority in the European Union: The relevance of the American Model of Independent Agencies", www.jeanmonnet.org/workingpaper/3/01, pp. 42-43.

CONCLUSION

The present political regime of the EU is already in danger of overstretching the participation of elites acting on the European level on the behalf of people of their respective member states. The limitations of adequate participation of people of Europe within European institutions and growing trend towards consensual form of decision making where extra state mobilization of sub national actors is still in the developing urges to find right blend of deliberative and aggregative approach to policy making at EU. Aggregative processes imply that all participants try to assert their interest unconditionally. There is also a need of deliberative processes in which all participants have to justify their concern as a matter of public interest.

CHAPTER – 4

CONCLUSION

Although the political corpus of the European Union is often conceived as amounting to something more than merely the numerical aggregate of the component parts, the institutions serving the interests of the collectivity have not yet assumed the acclaimed character of sovereignty that neo functionalists and federalists alike have hoped for, and with it the status of the self determining and self-directing 'political community'. Profoundly diffused in its institutional superstructure, the Union denotes a shared venture whose overall political shape and final integrative vocation are yet to become discernible. Attribute like 'partial polity' or arguing that the Union is a *sui generis* political phenomenon apply new conceptual paradigms or ad hoc theoretical interpretations to determine its final destination. Although, more than 25 years have elapsed since Puchala's celebrated linking of the European Community (EC) with the story of the elephant and the blind men which appeared in 1972, students of integration still find themselves trapped in a process of inventing concepts, comparing familiar models of governance, and elaborating on classical and novel ideas of power sharing, ranging from unitary state model to dynamic conception of federalism and con-federalism lying somewhere in the midst of the theoretical spectrum whose two poles are represented by approaches to international integration and paradigms of comparative politics governance seems somewhat interminable.

William Wallace argues that the European Union refers to 'a constitutional system which has some state attributes but which most – or all – of its constituent governments do not wish to develop into a state, even while expecting it to deliver outcomes which are hard to envisage outside the framework of an entity which we would recognize as a federal state. Hence Sbragia's suggestion to think of the Union as 'an ongoing experiment in fashioning a new structure of governance incorporating politics based on the state-society model add credence to Kirchner's

usage of 'co-operative federation'¹ McKay David regards the EU as a moving towards federation which has already produced results in terms of the delineation of power between national and supranational authority.² In historical terms, the present stage of EU development represents neither a movement back to the 'conventional' inter-governmentalism of the 1970s nor is the European Union a full-fledged federal entity. The experiment had its genesis to arresting destructive wars unleashed in this part of the world which were responsible for various hardships the citizens of West European countries had to undergo. Over the years, the forces of globalization have essentially transformed the dynamics of European integration from being a closed fortress towards a catalyst boosting new regionalism. It is thus essential to grasp underlying logic of globalization and its repercussions on EU experimental Union which is responsible for *sui generis* phenomena.

II GLOBALISATION AND CHANGING DYNAMICS OF STATE IN THE INTERNATIONAL REALM

1. Meaning and dimensions of globalization

The international system does not simply consist of state. It can be increasingly characterized by a plural and composite plurilateral structure. This transformation has significant consequences for the logic of collective action. The word "globalization" often is used to represent this process of change. Globalization is neither uniform nor homogenous; its boundaries are unclear and its constituent elements and multidimensional character have not as yet been adequately explored. Globalization is an integrative process, whereas internationalization is simply the spread of transnational activities. Internationalization of production implied a strategy of international firms and used resources from different parts of the world. The global strategies of governance became more evident with the emergence of transnational corporations which combines the new technologies, the emerging

¹ See, Dimitris N. Chrysochoou, "New Challenges to the study of European Integration: Implications for Theory-Building", *Journal of Common Market Studies*, Volume 35(4), 1997, p. 523.

² See, David McKay, *Federation and European Union: A Political Economy Perspective*. (Oxford: Oxford University Press 1999).

market (industrial sites) and the worldwide industrial reserve army to their advantage thereby creating new division of labour. It also implies that different parts of the production process are being located at points of greatest cost advantage.³ Globalization is thus the reduction of transaction costs for the flow of goods and services, investment and short-term capital across national borders – is said to deprive the “nation-state” of its capacity to engage in economic intervention except where this intervention increases the economy’s competitiveness. The “Competition state” is thus said to replace the welfare state.⁴

The process of globalization in public writings and social science claim that national sovereignty is growing intrusive. From their point of view, the state is on the retreat, reactive to global forces which it is not able to control. The diffusion of new technologies particularly in the realm of production, capital mobility and communications, has led to a global convergence in patterns of production, trade, finance and consumerism. Today world politics is conceived as the interaction of three distinct but interdependent realms of politics, market and society. Globalization does not mean that the international system is any less structurally anarchic it merely changes the structural composition of that anarchy from one made of sovereign state to one made up of relations between functionally differentiated spheres of economic activity and the institutional structures proliferating in an ad hoc fashion to fill the power void.⁵

Even then the nation-state is the only authority which is entitled to convey popular legitimacy to collective decisions at the international level. At least in principle, no TNC, no NGO and no religious movement can ever claim to speak for the people of Nation-State on the other hand the transnational economy market derives its legitimacy from the claim to superior efficiency. In the present ideological environment, it is increasingly difficult to deny that the market is more suitable to the allocation of certain values than the state. Societal actors derive their

³ See, Philip G. Cerny, “Globalization and the changing logic of collective action”, *International Organization*, Volume 49(4), 1995, p. 599.

⁴ See, Philip G. Cerny, “The Paradoxes of the Competition State: The Dynamics of Political Globalization”, *Government and Opposition*. Volume 32(2), 1997, p. 252.

⁵ See, Jörg Friedrichs, “The meaning of New Medievalism” *European Journal of International Relations*, Volume 7(4), 2001, p. 480.

legitimacy from the promotion of substantial values whether human rights or sustainable development, emancipation or Islamic values. By their distinctive corporate nature, the nation-state system and the transnational market economy implicitly raise antagonistic claims to how the organizing principles of world politics should be. Within thus this framework, the fragments that make up World politics becomes the virtual place where the competing claims of the three realms (politics, market, society) intersect. Each sphere has constantly to rebuff its rivals' attempts to invade its autonomous sphere of actions.

- Societal actors have to be prepared both against totalitarian claims that may be raised by some states, and against the colonization of their life by the forces of the market.
- The economy cannot allow itself to be used for political aims in an instrumental way, nor can it be committed to societal values that run counter to the logic of the market.
- Politics has to consolidate and to define its collective action capacity against the particularistic concerns of societal actors and the organized interests of the economy. Thus, today the state cannot renounce the claim for its traditional monopoly of legitimate political action in the international spheres. A fragmented society and a disembedded market are in particular need of clear institutional framework which only the state can provide.⁶

The state based collective action continues to have a major role to play in the provision of certain types of public goods and in the management of a range of significant specific assets, even if it must do so in a context where the authoritative power of the state as a whole is weaker and more circumscribed than it has been in the past. But rather than the state being directly responsible for market outcomes that guarantee the welfare of its citizens, the main focus of state in the world is proactive promotion of economic activities whether at home or abroad, that will make firms and sectors located within the territory of the state competitive in international markets.⁷

⁶ *Ibid*, pp. 491-493.

⁷ See, Philip G. Cerny, "Globalization and the Changing logic of collective actions, *International Organization*, Volume 49(4), 1995 pp. 616-617

2. 'Europe of regions' and European integration

The slogan "Europe of the Regions" seems to have had its origin in the integral federalist model of European integration and was used by a number of federalist authors, including *Denis de Rougement*. In this model of federalism, the nation-state would be replaced by sub-national levels of governments and especially regions taking over some of the nation-state's function and responsibilities.⁸ Some federalist went so far as to advocate the complete disappearance of the nation-state, whereby only the supranational institutions of the European Community would exist as a federation of regions. These regions were often defined as the ancient ethnic or submerged nations in Europe whose right to statehood had been denied by their inclusion in artificial nations constructed around the domination of one powerful ethnic group such as the English around London; the Walloons Belgium; and the Parisian French. Europeanization was perceived as a route by which these submerged nations could escape from the clutches of their oppressive nation-state by becoming part of a wider European federation. Some European federalist also wished to federalize their own nation-states as a preparation for European federalization. This strategy has become a reality in Belgium and partially in Spain.⁹

Today, the slogan "Europe of Region" is used rather in a wider sense than the one outlined above. Its popularity owes much to a series of conferences initiated by the German Laender in 1989 and called simply "Europe of the Regions". These conferences were part of a political strategy on the part of the Lander which was seeking to recuperate some of the prerogatives they had lost to the German Federal government, as a result of European integration. Later Assembly of European Regions (AER) explicitly took over and now aims to encourage the creation of a federal Europe with an enhanced role for the regions.

Since the mid – 1980s the slogan has become a kind of catch-phrase which has coincided with two factors related to acceleration of European integration that has

⁸ See, John Loughlin, "Europe of the Regions" and the "Federalization of Europe", *Publius: The Journal of Federalism*, Volume 26(4), 1996, p. 150.

⁹ For greater details see, James Anderson "The raise of regions and regionalism in Western Europe" in Guibernau Monteserrat (ed.) *Governing European Diversity* (London: Sage Publication, 2001), p. 41.

marked the period of Jacques Delors Presidency of the European Commission – recovery from a period of economic stagnation and also the recovery from the period of budgetary deadline for the setting up of the internal market as the method of bringing new life into the integration process.

The vision of Europe, held by the Social Democratic Jacques Delors, was one in which the Single European Market would be tempered by a stronger social policy for both individual and territories. On the territorial level, this meant an enhanced regional policy that would become an instrument designed to reduce the economic and social disparities. It also brought to fore issue of cohesion. The cohesion project (formally launched in 1993) creates another source of tension primarily driven by economic priorities, it is commonly interpreted as a process of catching up for under-developed regions and social categories within the EU, measured by criteria such as increased income, reduced unemployment and better living conditions. The aim is to encourage development at faster rate than the European average. The movement of regions and social categories towards community development standards is defined as convergence.¹⁰ It entails competition among regions with the prime motive (as stated in chapter two in significant detail) to prevent any significant dislocation and disruption in the periphery which would have repercussion in developed parts of the European Union. Cross Border Regionalism in the context of cohesion project which fosters competition among regions assumes wider significance. Although no general consensus exists as to how it should be achieved – economic, political and spatial cohesion are viewed as essential in maintaining an effective and internationally competitive European Union. Numerous programmes and initiatives have been launched with the express goal of opening up new spatial perspective for co-operation between cities and regions in various areas of development. It creates a sense of European identity by diffusing innovation, promoting job creation and revitalization strategies in among member states of European Union.

¹⁰ See, M.W. Danson, "Cohesion and Diversity in the European Union: Irreconcilable Forces?", *Regional Studies*, Volume 33(3), p. 260.

Over the years, structures of cross-border cooperation in Europe's border regions have been built up through a combination of local initiatives and supportive measures implemented by national and EU institutions, resulting in a complex multilevel framework of formal institutions, political associations, lobbies and incentive programmes. Formal-institutional aspects of cross-border cooperation is in the form of INTERREG, PHARE and TACIS (which provides supplementary funds for cross border projects on the eastern border) the EU's Council of Europe, the European conference of Ministers Responsible for Spatial Planning (CEMAT), the Association of European Border Regions and various regional authorities and local governments in border regions, as well as the European Commission are among the institutions and agencies that have been deeply involved in promotion of transnational cooperation.¹¹

They have also encouraged a strategy of what might be called 'multilevel institutionalization' in order to facilitate co-operation and the vertical and horizontal co-ordination of policy between different spatial levels. This strategy is largely based on precedents established by the BENELUX countries and cross-border actors on the Dutch-German border. It involves the creation of intergovernmental planning commissions representing senior government agencies, regional working groups and voluntary associations, or Euro regions made up of municipalities located along national boundaries. Cross Border Regionalism in Europe is not exclusively a matter of creating formal or semi-formal organizations. Universities, environmental groups, cultural associations, chamber of commerce, trade unions and other non-governmental actors have also been active in promoting co-operation. As might be expected, the role of NGOs varies greatly with regional context. NGOs network serve a vital function in circulating information and expertise in the area of local democracy, human rights and environmental protection. Universities on the other hand generally play an important role in providing expertise and non-political platforms for the articulation of regional concerns.

¹¹ See, James Wesley Scott, "European and North American Context for cross-border Regionalism", *Regional Studies*, Volume 33(7), p. 608.

The history of transnational co-operation on spatial planning begins with the setting up in 1970 of the Council of Europe's Conference of Ministers of Spatial Planning have been working on a European spatial development plan. In the meantime, experience has been building on cross-border co-operation, especially where there are obvious and urgent common planning issues which need to be addressed. Co-operation has generally been informal, requiring only the exchange of information and plans, but there are examples of formal cooperation which was institutionalized through setting up of joint working groups or committees. In 1993, the informal meeting of Ministers responsible for spatial planning studies was responsible for the formulation of European planning policy, and specifically the preparation of a European Spatial Development Perspective. The draft ESDP published in 1997 is the product of intergovernmental action, and has been prepared under the guidance of the Committee on Spatial Development.

The ESDP is a first attempt to providing a general spatial development plan for the EU. It is argued that this is needed to achieve greater cohesion, balanced growth and sustainable development and can also contribute to increased economic competitiveness. The aim is to provide coherence and complementarity of Member State's own policies. The ESDP pursues three general objectives: (a) the formation of a polycentric urban system; (b) parity of access to infrastructure and information; (c) the management of European culture and heritage. The ESDP is essentially the result of (a) the increasingly spatial orientation of EU goals and policy due to spatial concentration of economic activity and the central role of global and regional cities; (b) intensified competition between cities across national boundaries and (c) the corresponding polarization of economic prosperity and negative environmental consequences.¹²

Spatial planning and state regulation in other spheres play a significant role in maximizing competitive and growth potential of major urban areas while attempting to ensure that patterns of growth are sustainable and, at worst, the negative impacts could be avoided. It was a result of: (a) the driving force of DG

¹² See, James Mawson, "Transnational Spatial Planning in Europe: The Role of INTERREG IIC in the UK", *Regional Studies*, Volume 32(3), p. 283.

(XVI) especially through its studies of spatial development trends gave boost to the idea of ESDP (b) political support of other (European) institutions especially the Committee Regions; (c) pioneering work of some Member States in addressing the European and transnational dimensions to spatial planning.¹³

Regions have also made their presence felt through various means of channelization of their interest in EU decision-making processes. The concept of European domestic policy has been a central element of the European policy strategies of the German Laender over the last ten years. It has been developed as part of a political argument the Lander have used in order to recalibrate the structures and processes of European policy making in Germany.

The central problem arising for Sub National Authorities from European integration has been the characteristic definition of European policy as an area of foreign policy located among the exclusive prerogatives of the Central state. Central governments have therefore made decisions about the transfer of competences to European institutions and have those, through the Council of Ministers where they have strong presence in the exercise of those competences. These decision making process have ignored the internal distribution of competences within member states.

In case of determining the jurisdictional limits exercised by Community institutions external bodies (national parliaments, regional authorities, and public opinion) have been outsiders on competence issues. The Committee of Regions and the ESC do not hold advisory role in competence matters. Member States have benefited from screening out domestic scrutiny and opposition. There exist little possibility of review by the European Court of Justice of the competence in question as national parliaments and regional authorities do not have any standing at present to bring direct actions for the annulment of EU measures before the Court.¹⁴

¹³ *Ibid*, p. 282

¹⁴ See, Anna Verges Bausili, "Rethinking the Methods of Dividing and Exercising Powers in the EU: Reforming Subsidiarity and National Parliaments", *Jean Monnet Working Paper 9/02*, p.4.

The growing impingement on sub national authorities competences led the Länder (Germany) to argue that European policy should no longer be seen as foreign policy in the traditional sense of international law. The Länder consequently claimed rights in shaping this 'European domestic policy' as far as possible equivalent to those extensive rights they possess in traditional domestic policy. A similar line of argument was adopted by other Sub National Authorities in EU like Belgium, Austria, Spain and France. It resulted in devolution and decentralization process in member states.¹⁵

The role of Sub National Authorities in the EU decision making varies across Member states, across policy areas and stages of decision making process. Elizabeth Bomberg and John Peterson argue three points relating to Sub National Authorities role in the EU decision making.¹⁶

- (a) Constitutional powers and formal channels of influence are critical but not exclusive determinants of the impacts of Sub National Authorities at the EU level. The relative influence of sub national authorities from different Member states at the EU level is determined by the overall configuration of territorial relations back home. However skilful bargaining and access to policy networks is crucial in determining the role and impact of Sub National Authorities from territorial communities are better equipped to penetrate EU networks than their constitutionally superior counterparts.
- (b) Sub National Authorities must build coalition in order to influence EU decision making. Formal institutional representation through both EU and national institutions provide the most visible methods of SNA activities in Brussels and Strasbourg. The intergovernmental nature of many EU decisions which profoundly affect SNA interests. In the case such as Germany such behaviour is already institutionalized.
- (c) Sub National Authorities wield considerable and formal influence at the final or 'post-decision' stages of the EU's policy process, but their informal influence at the early stages is becoming apparent. However the concept of

¹⁵ See Elizabeth Bomberg and John Peterson, "European Union Decision Making: The Role of Sub-national Authorities", *Political Studies*, Volume XLVI, 1998, p. 220.

¹⁶ *Ibid*, p. 234.

'Europe of the Regions' is far fetched given the enormous diversity which exist in relations between capitals and regions across the EU.

III UNDERSTANDING THE *SUI GENERIS* PHENOMENA OF EUROPEAN UNION:

1. Sovereignty of European States and European Integration Process

In the Western Europe the period from late Middle Ages to the rise of monarchical absolutism the prevailing mode of governance in Europe was that of mixed governance in form of balanced representation of territorial rulers and of the social orders or estates in the legislature. The organizing principle of the Community was not separation of powers rather the representation of interest where checks and balance is maintained by the means of veto held by the actors engaged in the decision making.

It seems unlikely that the framers of treaties were directly, inspired by the historical precedents. This system of mixed governance rests on the principle of institutional balance and fused sovereignty. The typical feature of the philosophy of mixed governance is the reciprocal duty of loyal cooperation between community institutions and national authorities and between national authorities themselves – a duty imposed by Article 10 of the EC treaty. Further at Nice the inter-institutional agreement were given official status. Such agreements are considered as a tangible way of extending the duty of loyal operation, as laid down in that article for relations between institutions and member states.¹⁷

Overt and covert means to circumvent the deadlocks in the decision making process of European Union further helps to maintain inter institutional balance. They are summarized as follows: (a) Existing rules are constantly being adjusted to meet the requirements of new circumstances through direct renegotiations. This may be achieved by arriving at package deals or issue linkages; (b) naming and shaming is used after Member States have provided information about their activities in the context of monitoring. It implies the attempt to change the

¹⁷ *Ibid*, p. 326

behaviour of regulates by exposing their behaviour if sanctioning tools are not readily available for the regulator; (c) Networking and mobilization may be used by the Commission thereby empowering domestic actors, such as ministries and interest groups and firms to differing degrees; (d) the strategy of re-labeling or putting a difficult agenda by using indirect means or by making decision process more technical in nature; (f) finally, decision making is not only about choice but about commitment. This is achieved through path dependent lock-ins.¹⁸

Principle of institutional balance is also reflected in the concept of shared sovereignty. The powers conferred upon the EU institutions are taken from member states with very little explanation about the actual operation about these attributed powers. In fact over the years primacy of the rules of inter governmental attribution has been challenged over the years. This attribution of powers is peculiar in many ways – (a) attribution of powers has lost its enumerative and limited character and (b) the primacy of an explicit attribution of power is challenged by the doctrine of implied powers.¹⁹

It is developed due to following factors: the doctrine of implied powers developed by the Court of Justice is reflected in the autonomy enjoyed by the Community institutions paving the way towards numerous ways to arrive at decision; and in the extended recourse to the article 308 EC (ex. 235) made in the Council. The principle of implied powers was introduced when the Community was still in the process of creating the internal market and the doctrines of direct effect and supremacy were already part of the Community law. The principle simply says that under certain circumstance the Community will have to acquire unspecified competences without which the power granted originally would have no meaning or could not be reasonably and usefully applied. Hence for the implied powers doctrine to function there has to be some granted powers to build upon.

¹⁸ See, Adrienne Heriter, "Overt and Coveret Institutionalization in Europe", in Alec Sweet, Wayne Sandholtz and Neil Fligstein (eds.) *The Institutionalization of Europe*(Oxford: Oxford University Press, 2001), pp. 56-70.

¹⁹ See, Marlene wind *Sovereignty and European Integration: Towards a Post-Hobbesian Order* (New York: Palgrave Publication, 2001), p. 161.

The ECJ gradually developed its jurisprudence to include two supplementary and in certain sense more far reaching doctrines in respect to implied powers namely – exclusivity and pre-emption. This started out in crucial areas such as common commercial policy, agriculture and competition law but today includes almost all aspects of Community regulation. The first of the two, exclusivity was already implied in the principle of implied powers whereas the principle of pre-emption relates to cases where the member states are not allowed to legislate unilaterally, not because statute would conflict with Community law but because the competence in question is seen as exclusive to the Community. The interesting thing here is that exclusive competence and pre-emption, as implied powers and supremacy, are extraordinary instruments compared to the remedies available in classical international law, where the competence stays with the contracting parties. By 1980s the ECJ began to make more active use of article 10 of the treaty of Rome. This article was intended to make all national administrative agencies conform to Community law.²⁰

It is not only the judicial branch which expanded from the 1970s onwards. The legislative branch also experienced explosive growth in all kinds of Community activities in this period. The prime question was whether this measure should be interpreted as a means of filling minor gaps where the Community was already competent to act or whether it should be interpreted in a manner that made the provision applicable to new areas of community regulation. If the former interpretation were to be adopted there seemed to be few problems. In that case Article 308 would simply serve to even out smaller undesired effects of the Community regulation. If the extended interpretation were adopted then it would have violated the provisions of treaties preserving principle of sovereignty of member states. With every subsequent amendment from the Single European Act to the Treaty of Nice this principle is more dynamically interpreted. Instead of emphasizing rigid prohibition forbidding any modification of the original allocation of powers has focused on enhancing the loyal cooperation in the law making process which might even require delegating regulatory tasks to various

²⁰ *Ibid*, p. 169.

independent agencies for undertaking various market correcting measures.²¹ The creation of these agencies with specific enabling statutes and clearly defined mandate voted on the basis of co-decision procedure by the European Parliament and the Council on a proposal from the Commission would not upset the enumerated powers to EU institutions. On the contrary these European agencies would help the Commission to better fulfill its main responsibilities by reducing its administrative and technical overload.²²

The European institutions are autonomous having their own identity, values, beliefs and norms. The treaty imposes obligations on Community institutions to pursue treaty objectives. Policy making process is not only entrenched in the treaty but is also coloured by intra-institutional values. West European experience shows a revealed pattern of governance through multiple locations. The state persists a continuing and relatively robust political and territorial unit, but with division of labour within and beyond the state. An important consequential point is that the availability of multiple locations of governance provides political, economic and social actors with choices about where to address particular issues and dilemmas, and choices about appropriate partners. European Union has also developed decision making regimes along three- territorial functional and affiliation lines. Europeanization is characterized by multiple modes of interaction rather than a single predominant mode of decision making.²³

At least five modes of interaction could be identified within EU. These are: the Community method of supranational governance, a European regulatory mode associated with market making and market supervising, distributional politics mainly located around the EU in a multi-level format involving sub-national as

²¹ See, Anna Verges Bausili, Rethinking the Methods of Dividing and Exercising Powers in the EU: Reforming Subsidiarity and National Parliaments, *Jean Monnet Working Paper 9/02*, p. 15.

²² See, G. Majone, "International Economic Integration, National Authority, Transnational Democracy: An Impossible Trinity?", Ribert Schuman Centre for Advance Studies RSC No 2002/48, p. 23.

²³ See, Helen Wallace, "Europeanization and Globalization : Complementary or Contradictory trends?", in Shaun Breslin, Christopher W. Hughes Nicola Phillips and Ben Rosamond (eds.) *New Regionalisms in the Global Political Economy: Theories and Cases* (London, New York: Routledge Publication, 2002), pp. 146-147.

well as central government, benchmarking and concentration, as found originally in the Organization for Economic cooperation and development and intensive trans-governmentalism or the knitting together of national policy makers in close cooperation in the Council of Europe but without the agency of a separate strong collective identity. When these modes are put together with Peterson's horizontal distinctions produces a grid indicating the various ways in which decisions and policies are formulated in EU.²⁴

Thus, treaties do (or do not) confer competence on the Union to act in a specific case rather determination of power to act lies with institutions of the Union. Subsidiarity in this context does not absolve the existing dilemma as it applies only in the exercise of the conferred powers which are shared or complementary and it does not have force to review or challenge the *acquis communautaire*, nor the Commission's right of initiative.²⁵

Thus it implies:

- (a) There is no direct control on the political appraisal involved in the competence attribution;
- (b) There is no control in the exercise of attributed competences.
- (c) There is no judicial remedy for encroachment of regional competence.
- (d) Principle of subsidiarity sets limits to community competences but in areas of non-exclusive competence. There also exist inherent contradiction in respect to the definition of subsidiarity since the preamble of the treaty of Amsterdam refers to the democratic principle of governance as close as possible to citizen, article 5 while the protocol place it as a principle to set limit to community involvement.

In lieu of above mentioned facts it is essential to set limits to Community involvement in constraining creeping competences. As mentioned earlier in the chapter following means are adopted to do away the problem of democratic deficit.

²⁴ For greater details refer, Helen Wallace, "The Institutional Settings: Five Variations on Theme", in Helen Wallace and William Wallace (eds.) *Policymaking in European Union* (Oxford: Oxford University Press, 2000), p. 20.

²⁵ See, Anna Verges Bausili, Rethinking the Methods of Dividing and Exercising Powers in the EU: Reforming Subsidiarity and National Parliaments, *Jean Monnet Working Paper 9/02*, p. 4.

- (a) flexibility or principle of closer cooperation as adopted since Amsterdam treaty;
- (b) use of soft legislative and administrative tools such as recommendation guidelines, framework directives and co-regulation;
- (c) use of open method of coordination
- (d) and, greater inclusion of interest groups

IV IS EUROPEAN UNION AN EMERGING FEDERATION?

Federalism fulfils two major functions: (a) A vertical separation of power by a division of responsibilities between two levels of government. The component units as well the federation are usually geographically defined, although 'societal federalism' considers non-territorial units as components of a federation; (b) the integration combine the heterogeneous societies, while preserving their cultural and/or political autonomy. Both functions imply that the component units and the federation have autonomous decision powers which they can exercise independently from each other. Thus, sovereignty can be shared or divided, rather than exclusively located at one level. Today even without the legitimate monopoly of coercive force, the European Union has acquired some of the fundamental federal qualities. The EU possess sovereignty rights in a wide variety of policy sectors from Economic and Monetary Union to far reaching regulatory competences in sectors such as transport, energy, environment, consumer protection and increasingly in the core of traditional state responsibilities such as internal security and albeit to a lesser extent, Foreign and Security Policy.²⁶

1. Evidence of European Union being an Emerging Federation

Not only has the EU developed into a political community with comprehensive regulatory powers and a proper mechanism of territorially defined exclusion and inclusion (Union Citizenship). It shares most features of what the literature defines as a federation.

- (a) The EU is a system of governance which has at least two orders of government, existing under its own right and exercises direct influence on the people;

²⁶ For greater details, Michael Burgess "Introduction: Federalism and Building the European Union", *Publius: The Journal of Federalism*, Volume 26(4), 1996, pp. 4-5.

- (b) The European Treaties allocates jurisdiction and resources to these two main orders of government;
- (c) There are provision for shared government in areas where the jurisdiction of the EU and member states overlap;
- (d) Community law enjoys supremacy over national law, it is the law of the land;
- (e) European legislation is increasingly made by majority decision obliging individual member States against their will;
- (f) At the same time, the composition and procedures of the European institutions are based not solely on principles of majoritarian representation, but guarantee the representation of minority views.

The EU lacks following features to determine as federation:

- (a) It does not represent Westphalian order. It possesses a negotiated sovereignty and attributable powers.
- (b) It lacks direct legitimacy especially in context of electoral politics and awareness of decision making at Brussels.

(a) Understanding the concept of negotiated sovereignty

It is difficult to explain the process of European integration along these traditional lines of state formation. European Union is not a sovereign state since it lacks a developed political culture and a written constitution. Also it is not just another example of sovereign state handing over parts of their powers to an international organization. It has passed beyond the Westphalian order where sovereignty is a property lost by one but not gained by another. First, the degree to which powers have been handed over is unprecedented in the history of international organization. There are hardly any field left where the EU has not gained powers. Second, the member states of the EU have handed over powers in the field which are traditionally considered essential for the sovereignty of state – internal security, defense, immigration and human rights. Third, the member states of the EU have been confronted with a claim of the European Court of Justice, that Community law constitutes an independent legal order which autonomously determines the effect of EU law in the legal order of member states.

In this context Nation- State will simply not wither away since it takes more than transfer of powers for a state to disappear. The EU member states in fact have applied domestic logic of hierarchy to their foreign policy fields resulting in complicated structure of overlapping authorities. To provide direct legitimacy and order to this structure of overlapping authorities – the convention of Future of European calls for following mandate.²⁷

- Better division and definition of powers in the Union;
- Simplification of the Union instruments;
- More democracy, transparency and efficiency.

In terms of substance the draft of the constitutional treaty makes major studies forward with regard to the Union's new tasks and the institutional architecture.

- The integration of the charter of fundamental rights into the constitutional treaty will ensure that citizen's rights are protected;
- Conferring a single legal personality on the Union will enable it to take on a higher profile internationally;
- The drafting of a single constitutional treaty and the elimination of the different pillars will make the EU's work and exercise of its responsibilities easier to understand and more transparent for citizens;
- The classification of the Union's powers will enable citizens to distinguish more clearly between the Union's responsibilities and those of its Member States, while preserving the flexibility of the community system;
- The new provisions on the common foreign and security policy, together with the creation of an EU foreign affair minister will help to enhance the Union's role on the international stage;
- The provision on defence will make it possible to improve military compabilities and will enable those Member States which are willing and able to do so to engage in structured cooperation that will strengthen the credibility of the EU's foreign policy.

²⁷ See, *Convention on the future of Europe Draft Constitution – Commission Statement*, Brussels 13 June, 2003.

The draft treaty on Convention on the Future of Europe has following short comings:

- Qualified majority voting has been extended to far more areas than in the present Treaty, but it is still not sufficient for the needs of an enlarged Union with thirty or so members for the next thirty years;
- The principle of institutional balance and clarification of the role of the institutions is still unsatisfactory;
- The progress made on economic governance and external representation of the euro is inadequate;
- Finally the Commission regrets that the Convention has not inserted in the Treaty a revision clause which would allow certain provisions of the constitution to be amended by a reinforced majority procedure, without having to go through new national ratification procedure.²⁸

(b) **Issue of democracy within the EU:** Scholars like Greven and Offe, question the possibility of democratic processes beyond the nation-state. In their view, democratic legitimacy is possible only within the framework of demos. Beyond the nation-state, there is no strong sense of public interest, and potential for political regulation is limited. A European political community extending beyond national borders cannot exist since in case of majority decisions collectively binding decision can only have legitimacy when everyone must comply with it, even those who were outvoted; and in case of non-compliance sanctions could be applied which is only possible in the political community.

The model of deliberative democracy among public interest oriented association does not require a complete demos, the deliberation of the representatives in committees at least implies that a common goal exists, one that transcends individual interests. It is effective at the same time is linked to unequal chances of participation and an infringement of the principle of public accessibility. The democratic process comprises both of aggregative and deliberative elements.

²⁸ James Graff, "We Will Never Have a Single European Nation", *Times*, volume 16(25), June 23 2003

Aggregative processes, in which all participants try to assert their interest unconditionally are not sufficient to constitute democracy. There is also need for deliberative processes in which all participants have to justify their concerns as a matter of public interests.²⁹

CONCLUSION

The European Union signify a new form of governance characterized by some scholars as partial polity while others regard it as *sui generis* political system in which sovereignty is shared between various actors. The organizing principle of the European Community is not separation of power rather representation of interest where checks and balance is maintained by means of veto held by the various actors engaged in the decision making process. The typical feature of this form of mixed governance is the principle of institutional balance. The member states delegated some part of their sovereignty to supranational institutions. These attributed powers are taken by European institutions without little explanation about the actual operation. This process of attribution has lost its enumerative and limited character as the competencies under supranational institutions increasingly affects larger number of people within European Union. Even the principle of Subsidiarity has limited utility in this context since it applies to those attributed powers which are shared and complementary and it cannot be used to review the *acquis* itself. This system of shared sovereignty highlights the problem of democratic deficit and the need to make decision - making process more participatory. Over the years number of decision making modes have been evolved giving salience to differentiated integration process and consensual form of arriving at the decision however the problem of inclusion and exclusion of various actors still persists. Despite attempts by recent treaties to make European Union more participatory and efficient the gap between policy formulation at Brussels and its awareness among the people remains inadequate. Today the principle of Subsidiarity is being applied in the new context of bringing decision making as near to people as possible. In this context differentiated decision making process involving supranational, national and subnational actors is giving salience to federal comity.

²⁹ See Michale Zurn, "Democratic Governance Beyond the Nation State", *European Journal of International Relations*, Volume 6(2), 2000, pp. 102-103.

APPENDIX - 1

Checklist of Characteristics of Cross-Border Structures

| Aspect | Permanent Structure (possibilities) | Programme Management (possibilities, concerning the functions performed by a permanent structure) |
|---|---|--|
| <i>Composition</i> | Regional/local authorities National-level authorities Other bodies (e.g. social partners) | |
| <i>Organisation</i> | Political-level assembly/council Official-level board/committee Secretariat (common, single location) Secretariat (split location) | |
| <i>Capacity</i> | Technical (own staff) Financial resources (own resources from members' subscriptions/contributions) Financial resources (from projects, provision of services, etc) | |
| <i>Functions / services/ powers</i> | Information gathering, research, studies Preparation of strategies, plans, programmes Provision of information and advice, promotion (of cross-border cooperation generally, and programmes/projects specifically) | Contribution to programme development As part of programme development Programme publicity Information to beneficiaries / applicants Technical assistance |
| | Project development | Developing own projects Supporting/coordinating development of other projects |
| | Project implementation | Implementing ones own projects |
| | Programme secretariat | Receiving and processing project application, preparing reports for committees, etc |
| | Project appraisal, selection, notification of Approval | Supporting the advisory (e.g. sectoral working groups) and decision-making (e.g. Steering Committee) bodies Participating in membership of advisory and decision-making bodies |
| | Financial administration | Providing the core membership of decision-making bodies, including Steering Committee Acting as Paying Authority Supporting the Paying Authority Collating findings and reporting |
| | Monitoring and evaluation | Carrying out monitoring tasks Organizing evaluation tasks Formal membership of Monitoring Committee |

Source: Practical Guide to Cross-border Cooperation (European Commission: Brussels, 2000),p.123

APPENDIX – 2
List of Euro-region type structures developed between 1990 and 2000

| <i>Name</i> | <i>Border</i> |
|--|---------------|
| Euroregion Bug | PL/UKR/BY |
| Euroregion PRO EUROPA VIADRINA | D/PL |
| Euroregion Spree-Neisse-Bober | D/PL/CZ |
| Euroregion Neisse-Nisa-Nysa | CZ/PL |
| Euroregion Glacensis | CZ/PL |
| Euroregion Praded-Pradziad | CZ/PL |
| Euroregion Silesia/Slezsko | CZ/PL |
| Euroregion Tesinske Slezsko - Slask Ciezyrski | CZ/D |
| Euroregion ELBE/LABE | D / CZ |
| Euroregion Erzgebirge Krušnohoří D/CZ Euroregion Egrensis | CZ/D |
| Euroregion Bayrischer Wald/Sumava- Mühlviertel-Böhmerwald | D/CZ/A |
| Euroregion Waldviertel - Budowice - Jižni Cechy | A/CZ |
| Euroregion Weinviertel-Südmähren-Jižni- Morava-Zahórie | A/CZ/SK |
| Euroregion Bile-Biele Karpaty | SK/CZ |
| Euroregion Beskidy | PL/SK/Y |
| Euroregion TATRY | PL/SK |
| Euroregion Istria | HR/SLO |
| Euroregion Vagus-Danubius-Ipolia | SK/H |
| Euroregion Ipelsky-Ipoly | SK/H |

| | |
|--|------------|
| Euroregio Neogradiensis | SK/H |
| Euroregion Sajó-Rima-Slaná-Rimava | SK/H |
| Euroregion Košice - Miskolc | SK/H |
| Euroregion Hajdu-Bihar/Bihar | H/RO |
| Euroregion Danube-Kőrös-Maros-Tisza | H/RO/BiH |
| Euroregion Danube-Drava-Sava | H/HV/BiH |
| Upper Prut Euroregion | RO/MD/UKR |
| Middle Prut Euroregion | MOL/RO |
| Lower Danube Euroregion | RO/MOL/UKR |
| Euroregion Danube East | RO/BG |
| Euroregion Danube South | RO/BG |
| Euroregion Danube 21 st Century | RO/BG/BiH |
| Euroregion Nestos-Mesta | GR/BUL |
| Euroregion Network Polis-Kent | GR/TR |

Source: Practical Guide to Cross-border Co operation (European Commission: Brussels, 2000),p.120

APPENDIX-3

List of Euro-region-type structures in Scandinavia and the Baltics

| <i>Name</i> | Date of Establishment | Border |
|---|------------------------------|----------------------|
| Øresund Council Øresund Committee | 1964 1994 | DK/S |
| North-Calotte Council | 1971 | S/FIN/N |
| Kvarken Council | 1972 | FIN/S |
| Mittskandia | 1977 | FIN/S/N |
| Storstroms Amt / Kreis Ostholstein - Lübeck | 1977 | DK/D |
| Islands/Archipelago Cooperation - Skärgården | 1978 | S/FIN |
| Cooperation ARKO | 1978 | S/N |
| Bornholm-Southeastern Skåne | 1980 | DK/S |
| Oestfold/Bohuslän/Dalsland | 1980 | S/N |
| Tornedalsrådet | 1987 | FIN/N/S |
| Estonian-Finnish 3+3 regional cooperation | 1995 | EST/FIN/RUS |
| Euroregion Baltica | 1996 | PL/S/LT/LIT/LV/DK/RF |
| Council for Cooperation of Border Regions Võru- Alüksne-Pskov | 1996 | EST/LV/RF |
| Euroregion Pomerania | 1995/97 | D/PL/S |
| Euroregion NEMUNASNIEMEN- HEMAH | 1997 | LT/PL/BY/RF |
| Euregio Helsinki-Tallinn | 1999 | EST/FIN |
| Euroregion SAULE | 1999 | LT/LV/RF |
| Euregio Karelia | 1999 | FIN/RF |
| Euroregion Country of Lakes- Ezaru Zeme | 2000 | LT/LV/BY |

Source: Practical Guide to Cross-Border Cooperation (European Commission: Brussels, 2000), p.121

APPENDIX- 4
List of Euro- regions in the European Union

| Name | Date of Establishment ¹ | Border |
|--|------------------------------------|---------|
| EUREGIO | 1958 | D/NL |
| Euregio Rhein- Waal | 1973 | D/NL |
| Euregio Maas Rhein | 1976 | D/NL |
| Ems- Dollart-Region | 1977\ 1997 | D/NL |
| euregio rhein-maas-nord | 1978 | D/NL |
| Zukunft SaarMoselle-Avenir | 1979 | DF |
| Benelux-Middengebied | 1984 | BNL |
| Scheldemond | 1989 | B/NL |
| EuRegio SaarLorLuxRhein | 1989 | D/F/LUX |
| Euroregion Nestos-Mesta | 1990 | GR/BUL |
| Euroregion Neisse/Nisa/Nysa | 1991 | D/PL/CZ |
| Euroregion Elbe/Labe | 1992 | D/CZ |
| Euroregion Erzgebirge | 1992 | D/CZ |
| Euroregion Pro Europa Viadrina | 1992 | D/PL |
| EUREGIO EGRENSIS | 1993 | D/CZ |
| Euregio Bayerischer Wald/Böhmerwald | 1993 | A/D/CZ |
| Euroregion Spree-Neisse-Bober | 1993 | D/PL |
| Inn-Salzach-Euregio | 1994 | D/A |
| Regio BODENSEE | 1994 | A/CH/D |
| Euroregion Pomerania | 1994 | D/PL |
| Regio TriRhena | 1995 | D/F/CH |
| EuRegio Salzburg-Berchtesgadener Land-Traunstein | 1995 | D/A |
| EUREGIO via Salina | 1997 | D/A |
| Sønderjylland-Schleswig | 1997 | DK/D |
| EUREGIO Inntal | 1998 | D/A |
| EUREGIO Zugspitze-Wetterstein-Karwendel | 1998 | D/A |
| Midi-Pyrénées, Languedoc-Rousillion, Catalunya | 1998 | E/F |
| Euregio Karelia | 1999 | D/F |
| Euregio Karelia | 1999 | D/DK/NL |

Source: Practical Guide to Cross- border Co operation (European Commission : Brussels, 2000), p. 120

¹ In most cases, informal cooperation started earlier

APPENDIX - 5

Institutional aspects of INTERREG IIA Programmes for internal land borders

| INTERREG IIA AND OP NUMBER | PROGRAMME DEVELOPMENT | TECHNICAL MANAGEMENT | FINANCIAL MANAGEMENT | CROSS-BORDER STRUCTURES |
|---|---|--|---|--|
| | <p>Common development of:</p> <ul style="list-style-type: none"> concept/strategy by regional partners: CS programme by regional partners: OP dev't by state, in consultation with regional partners: (OP) | <p>Project</p> <ul style="list-style-type: none"> development/TA: DTA submission: SU appraisal: AP selection/approval: SA <p>c: common procedure</p> | <p>Common bank account</p> <ul style="list-style-type: none"> for EU contribution: EU for national contribution: MS | <ul style="list-style-type: none"> existing but not involved INTERREG IIA: ES involved in / partially responsible for INTERREG IIA: IN responsible for INTERREG IIA: IIA |
| 1 Maas-Rhein B/D/NL | CS OP | cDTA (Euregio-TA, regional project managers) cSU (Euregio) cAP (Euregio-board) cSA (Steering Committee) | EU (ING Bank) MS | II A (Euregio) |
| 2 West Flanders B/F | CS OP | DTA (assistance of Secretariat) SU (regions) cAP (Technical Committee) cSA (Steering Committee) | -- | II A (Euroregio) ES (COPIT=cross-border cooperation on spatial planning; permanent commission for the external relations between the Le Nord 'département' and the province of West Flanders) |
| 3 PACTE B/F | OP (in the framework of INTERREG I) | cDTA cSU (both cross-border technical teams) cAP (technical teams and technical monitoring group) cSA (monitoring group) | -- | ES (COPIT= cross-border cooperation on spatial planning; |
| 4 Ardennes B/F | OP (mixed commission) | cDTA cSU (2 technical INTERREG teams) AP (regions) SA (Partnership Committee and monitoring committee) | -- | -- |
| 5 PED B/F/L | CS OP | cDTA SU (regions) cAP (technical Group) cSA (monitoring committee) | -- | -- |
| 6 Scheldemond B/NL | CS OP | cDTA cSU (Euregio-Council) cAP (Technical Cross-border Working Group) cSA (Monitoring Committee) | EU (Gemeentekrediet van België) | II A (Euregio Scheldemond) ES (chambers of commerce; sick-funds; International Schelde faculty; permanent consultation between East Zeeuws-Vlaanderen and Waasland; Flemish-Dutch cross-border cooperation) |
| 7 Middengebied B/NL | CS OP | DTA (separately) cSU + cAP (Secretariat) cSA (monitoring committee) | EU (Gemeentekrediet van België) | IIA Middengebied |
| 8 Sønderjylland/ Schleswig DK/D | OP | cDTA (project partners) cAP + cSU (Secretariat) cSA (Steering Committee) | EU (administered by county of Sønderjylland) | ES (Region Sønderjylland-Slesvig) |
| 13 Saar-Lor-Westpfalz D/F | OP | DTA (consultation) SU (regions) cAP (Secretariat) cSA (Monitoring Committee) | EU (Saarländische Investitionskreditbank) | ES (Regional Commission Saar-Lor-Lux-Westpfalz; summit meetings Lux/Rh-pf; local cooperation; Euregio SaarLorLux; cooperation SaarLorLuxRhein) |
| 14 PAMINA D/F | OP (Pamina-office in the framework of INTERREG I) | cDTA cSU (Secretariat) cAP (Working Group) cSA (Monitoring Committee) | EU (Bas-Rhin 'département') | II A (Pamina-Council) |
| 15 Oberrhein-Mitto-Süd D/F/CH | CS (OP) | cDTA cSU (Common Secretariat) cAP (Working Group) cSA (Monitoring Committee) | EU for F/D (Landesbank Baden-Württemberg) | ES (Oberrhein Conference; TriRhena) |
| 16 Alpenrhein/Bodensee/Hochrhein D/A/CH | (OP) | cDTA (consultation) cSU (Secretariat) cAP (working group) cSA (monitoring committee) | -- | ES (Regio Bodensee, Bodensee Council; International Bodensee Conference; Commission of Parliamentary Presidents; Commission of Parliamentarians) |
| 17 Germany/Luxembourg D/L | (OP) (Saarland, Rh-Pf and spatial planning ministry in Lux) | DTA (consultation) SU (regions) AP (regional-national) | EU (Landesbank Rheinland-Pfalz) | ES (Regional Commission Saar-Lor-Lux-; summit meetings Lux/Rh-pf; local cooperation; Euregio SaarLorLux;) |

| | | | | |
|--|-------------------------------------|---|--|--|
| | | authorities and Secretariat cSA (Steering Committee) | | |
| 18 Ems-Dollart D/NL | CS OP | cDTA (Euregio Secretariat) cSU (Euregio Secretariat) cAP (Euregio Secretariat) cSA (Steering Committee) | EU MS (Norddeutsche Landesbank) | II A (Ems Dollart Region: fully responsible) |
| 19 EUREGIO D/NL | CS OP | cDTA (Euregio Secretariat) cSU (Euregio Secretariat) cAP (Euregio Secretariat) cSA (Steering Committee) | EU MS (Investitionsbank Nordrhein-Westfalen) | II A (EUREGIO: fully responsible) |
| 20 Rhein Waal D/NL | CS OP | cDTA (Euregio Secretariat) cSU (Euregio Secretariat) cAP (Euregio Secretariat) cSA (Steering Committee) | EU MS (Investitionsbank Nordrhein-Westfalen) | II A (Euregio Rhein-Waal: fully responsible) |
| 21 Rhein-Maas- Nord D/NL | CS OP | cDTA (Euregio Secretariat) cSU (Euregio Secretariat) cAP (Euregio Secretariat) cSA (Steering Committee) | EU MS (Investitionsbank Nordrhein-Westfalen) | II A (Euregio Rhein-Maas Nord) |
| 22 Bavaria/Austria D/A | (OP) | DTA (separately) SU (regional authorities) AP + SA (regional authorities) SA (Steering Committee after AP by regional authorities) | -- | IN (Euregio Bayerischer Wald/Böhmerwald; Inn-Salzach Euregio; Euregio Salzburg/Berchtesgardenor Land- Traunstein) ES (Euregio Allgäu; Euregio Zugspitze; AG Unterer Bayerischer Wald; mixed commission Upper Austria- Böhmen) |
| 29 Pyrénées E/F | CS (several at regional level) | cDTA (necessarily) cSU (to one or both regions) cAP (cross-border working groups; cross-border working groups; Steering Committee) cSA (Steering Committee) | -- | IN (Comité de Travail des Pyrénées) ES (Euregio between Catalonia, Languedoc-Roussillon and Midi-Pyrenees; tripartite cooperation agreement between Euskadi, Navarre and Aquitaine) |
| 30 Spain/Portugal E/P | CS (several at regional level) | cDTA (GIT joint project appraisal/selection for some cross-border measure) DTA (for other measures, e.g. transport, by regional authorities) SU (regional departments of national ministries) AP + SA (Steering Committee) | -- | IN (Working Committees: Galicia/Norte, Centro/Extremadura, Extremadura/Alentejo, Castilla y Leon Centro/Norte) ES (in preparation: Andalusia/Algarve) |
| 32 Alpes F/I | CS (OP) | DTA (separately) SU + AP (regions) cSA (Monitoring Committee) | -- | ES (cooperation for the management of ski slopes) |
| 39 Ireland/Northern Ireland IRL/UK | CS (by each association) (OP) | cDTA (c except infrastructure projects) cSU (to both INTERREG- Secretariats) cAP + cSA (measure working groups) | -- | IN (Cooperation North and three associations: ICBAN, NWRBCG, EBRC) |
| 41 Italy/Austria I/A | OP | DTA SU (ministries of regions) cAP + cSA Steering Committee | -- | IN (INTERREG-Council) ES (Euregio Tirol and Working Group Westtirol., Engadin and Vinschgau) |
| 51 Kvarken/ MittSkandia SE/S/N | CS (OP) | DTA - c for SF/F SU + AP (secretariat) SA (monitoring committee) | EU (administered by county of Västerbotten in Ulmea) | II A (Kvarken Council) |

Source : Institutional Aspects of Cross Border Regionalism (European Commission: Brussels, 1999), pp.26-30.

APPENDIX-6

Institutional aspects of INTERREG IIA Programmes for internal maritime borders

| INTERREG IIA AND OP NUMBER | PROGRAMME DEVELOPMENT | TECHNICAL MANAGEMENT | FINANCIAL MANAGEMENT | CROSS-BORDER STRUCTURES |
|---------------------------------|---|---|---|--|
| | Common development of: <ul style="list-style-type: none"> concept/strategy by regional partners: CS programme by regional partners: OP dev't by state, in consultation with regional partners: (OP) | Project <ul style="list-style-type: none"> development/TA: DTA submission: SU appraisal: AP selection/approval: SA c: common procedure | Common bank account <ul style="list-style-type: none"> for EU contribution: EU for national contribution: MS | <ul style="list-style-type: none"> existing but not responsible for INTERREG IIA: IN involved in / partially responsible for INTERREG IIA: IN responsible for INTERREG IIA: IIA |
| 9 Fyn/K.E.R.N DK/D | CS OP | cDTA (project partners) cSU (secretariats) cAP (Secretariat) cSA (Steering Committee) | EU (administered by the county of Fynen) | II A (Fyns Amt-KERN; joined by county of Pløn 1996) |
| 10 Storstrom/Ostholstein DK/D | CS (first time 1992/3) OP | cDTA (project partners) cSU (secretariats) cAP (Secretariat) cSA (Steering Committee) | EU (Storstroms Amt; account at Den Dansk Bank, Nykøbing F.) | II A (no specific structure but responsibility at regional level) |
| 11 Oeresund DK/S | CS OP (Oeresund Committee) | DTA cSU +cAP (Secretariat) cSA (INTERREG working group for projects up to 68,000 ECU, Steering Committee for projects beyond 68,000 ECU) | -- | II A (Oeresund Committee) |
| 27 Greece/Italy GR/I | -- | -- | -- | -- |
| 33 Corsica/Sardinia F/I | -- | SA Monitoring Committee | -- | -- |
| 34 Corsica/Tuscany | -- | SA Monitoring | -- | -- |
| F/I | | Committee | | |
| 35 Nord-Pas-de-Calais/Kent F/UK | CS OP | cDTA (common brochures and publicity) SU (national authorities) cAP and cSA (joint technical group and monitoring committee) | -- | IN (Euroregion: NDPC-Kent-Flanders-Wallonia-Brussels) ES (ARC MANCHE; BDTE=cross-border support structure for SMEs; town partnerships; cooperation treaty between NPDC and Kent CC 1988) |
| 36 Rives-Manche F/UK | CS OP (technical group: joint national/regional level) | cDTA (common brochures + publicity) SU (national authorities) AP (national programming committees) cSA (joint technical committee) | -- | ES (ARC MANCHE) |
| 40 Ireland/Wales IRL/UK | CS | cDTA (occasionally) (assistance by local coordinating teams) cSU (Secretariat) cAP+ cSA (for soft projects by joint working groups) AP+SA (for transport projects by national authorities) | -- | ES (Irish Sea Partnership) |
| 50 Islands SF/S | CS OP (Islands Cooperation) | cDTA SU (secretariat) AP (secretariat) SA (monitoring committee) | EU (bank account by Alands authority) | II A (Islands Cooperation) |
| 52 North Calotte SF/S/N | CS (OP) (North Calotte Council; participation of local authorities and social partners) | DTA - c for SF/S SU (secretariat) AP (4 advisory working groups) SA (management committee) | EU (Swedish Central Bank) | II A (North Calotte Council) |

Source : Institutional Aspects of Cross Border Regionalism (European Commission: Brussels, 1999), pp.31-32.

APPENDIX-7

Institutional aspects of INTERREG IIA Programmes for external borders

| INTERREG IIA AND OP NUMBER | PROGRAMME DEVELOPMENT | TECHNICAL MANAGEMENT | FINANCIAL MANAGEMENT | CROSS-BORDER STRUCTURES |
|--|--|---|---|---|
| | Common development of: <ul style="list-style-type: none"> • concept/strategy by regional partners: CS • programme by regional partners OP • dev't by state, in consultation with regional partners: (OP) | Project <ul style="list-style-type: none"> • development/TA: DTA • submission: SU • appraisal: AP • selection/approval: SA c: common procedure | Common bank account <ul style="list-style-type: none"> • for EU contribution: EU • for national contribution: MS | <ul style="list-style-type: none"> • existing but not involved INTERREG: ES • involved in / partially responsible for INTERREG IIA: IN • responsible for INTERREG IIA: IIA |
| 12 Bornholm DK/Baltic | OP | cDTA (consultation) cSU + cAP (Secretariat) cSA (Steering Committee) | -- | ES (B7, Four Corner Cooperation, Euregio Baltik) |
| 23 POMERANIA D/PL | CS (OP) | cDTA (rarely) SU (Euroregio) AP (steering committee) SA (project committee) | -- | IN (Euroregio Pomerania) ES (deutsch-polnische Gesellschaft; deutsch-polnische Wirtschaftsförderungsgesellschaft) |
| 24 Brandenburg D/PL | CS (consultation with Poland) (OP) | cDTA (rarely) SU (Euroregions) AP (Euroregions and ministry) SA (steering committee) | -- | IN (Euroregio Spree-Neiße Bober; Euroregio Pro Europa Viadrina) |
| 25 Saxony D/PL/CZ | (OP) | cDTA (rarely) SU + AP (Euroregions) SA (steering committee) | -- | IN (Euroregio Elbe-Labe; Euroregio Egrensis; Euroregio Erzgebirge) |
| 26 Bavaria/Czech Republic D/CZ | CS (several strategies) (OP) | DTA (separately) SU + AP (Bavarian authorities) SA (steering committee) | -- | IN (Euroregio Egrensis; Euroregio Bayerischer Wald/Böhmischer Wald) |
| 28 Greece External Borders GR/BG/FYROM/A L | -- | 3 JPMC with regional representatives and GR representatives in FYROM/SPF | -- | ES (Euroregio Nestos-Mesta) |
| 31 Spain Morocco | -- | -- | -- | -- |

| E/MOR | | | | |
|--------------------------------|--|---|----|--|
| 37 Jura F/CH | CS (OP) | DTA (project partners) SU (Dep de Belfort; CTJ) AP (technical committee) SA (monitoring committee) | -- | IN (Communauté de Travail de Jura) ES (network of towns; agreement of cooperation between CTJ and Belfort) |
| 38 Rhône-Alpes F/CH | CS (INTERREG I-experience and studies), OP (technical group) | cDTA cSU (regions on both sides with same text) cAP (mixed working group) cSA (monitoring committee) | -- | ES (Franco-Geneva regional committee; Euroregio Lac Leman, Lake Geneva-Council; Communauté de Travail des Alpes Occidentales) |
| 42 Italy/Switzerland I/CH | OP (involvement of 5 regions and 3 cantons) | Every Italian region with own structure; e.g. Valle d'Aosta: cDTA cSU (regions on both sides with same text) cSA (mixed working group) | -- | ES (Conseil Vallée-Valle d'Aosta; Euroregio Insubrica; Tessin-Lonbardy; Mont Blanc-territory; Communauté de Travail Alpes Occidentales) |
| 43 Italy/Slovenia I/SLO | OP | DTA (project partners) SU (Italian regional authority) AP + SA (working groups of INTERREG-Council) | -- | ES Euroregio Italy/Slovenia in preparation |
| 44 Italy/Albania I/AL | -- | -- | -- | -- |
| 45 Gibraltar UK/MRC | -- | -- | -- | -- |
| 46 Austria/Czech Republic A/CZ | CS (trilateral spatial planning concept) (OP) | DTA (project partners) SU (regional authorities) AP + SA (INTERREG-Council) | -- | ES Euroregio Bayerischer Wald/Böhmerwald/Mühlviertel, Euroregio Weinviertel-Südmähren/Westslovakien (1998); Euroregio Waldviertel/Südschekien) |
| 47 Austria/Hungary A/H | CS (OP) | DTA (project partners) SU (Austrian regional authority) AP + SA (cross-border coordination committee) | -- | ES (Regional Council; in preparation Euroregio Burgenland; Austrian-Hungarian Commission on spatial planning) |
| 48 Austria/Slovakia A/SK | CS (OP) | DTA (project partners) SU (Austrian regional authority) AP + SA (working groups of INTERREG-Council) | -- | ES (Euroregio Weinviertel-Südmähren-Westslovakien, Euroregio in preparation Győr, Bratislava) |

| | | | | |
|--------------------------------------|--|--|--|--|
| 49 Austria/Slovenia +A/SLO | CS (OP) | DTA (project partners) SU (Austrian regional authority) AP + SA (working groups of INTERREG-Council) | -- | (Euroregion in preparation) |
| 53 Barents SF/S/N/RUS | (OP) (national government and provinces) | CDTA SU (secretariat) - c for SF/S AP (secretariat) - c for SF/S SA (partly: monitoring committee) - c for SF/F | EU for SF/S (Regional Council of Lapland) | II A (BEAR=Barents European Arctic Council) ES (Barents Council; 1992 bilateral agreement on cross- border cooperation between Finland and Russia) |
| 54 Karelia SF/RUS | CS OP (3 regional associations, Finnish authorities and Russia) | DTA (consultation) SU + AP (secretariat - at regional associations) SA (management committee) | -- | II A (Regional Council North Karelia together with Republic of Karelia in TACIS) ES (Euroregion Karelia in debate) |
| 55 St. Petersburg SF/RUS | CS OP (3 regional associations, St. Petersburg, Leningrad Oblast and Finnish social partners) | DTA - c occasionally SU (secretariat - at regional associations) AP (management committee) SA (working group) | -- | II A (Regional Council South Karelia) |
| 56 Inland/Estonia SF/EST | CS (OP) | DTA SU (regional associations) AP (interregional programme management committee) SA (monitoring committee) | -- | II A (South Finnish Regional Associations and regions in Northern Estonia) |
| 57 Ett Gränslöst Samarbete S/N | CS, (OP) | cDTA SU (secretariat) AP (programme management committee) SA (monitoring committee) | -- | ES (Border Committee Östfold-Bosleim) |
| 58 Inre Scandinavia S/N | (OP) | cDTA SU (secretariats) AP (programme management committee) SA (secretariat for projects: <30000 ECU) SA (monitoring committee) | -- | ES (ARKO cooperation) |
| 59 Nordens Gröna Bälte S/N | CS (OP) | cDTA SU + AP (secretariat) SA (management cttee) | -- | ES (Milt Norden Committee) |

Source : Institutional Aspects of Cross Border Regionalism (European Commission: Brussels, 1999), pp.33-35.

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