

## **POLITICAL REFORM IN EUROPEAN UNION: THE TREATY OF LISBON**

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Almost fifty-five years of efforts to unite Europe has brought the continent to a crucial stage in its development, where in addition to the internal forces of integration, the external pressures have made it incumbent on the European states to take their level of cooperation to new heights. In the economic arena, the goals achieved through cooperation are remarkable. The countries united under the European Union (EU) constitute the world's largest single market which confers enormous advantages on the member states in the form of absence of customs and trade barriers. Monetary cooperation among the fifteen countries of Eurozone has strengthened the Euro against the Dollar and in the wake of the crisis in the US economy, which began towards the end of 2007, countries with large reserves of Dollar consider Euro as an alternate reserve currency for minimizing monetary risks and diversifying portfolios.<sup>1</sup>

Considerably successful in the economic sphere, the EU, however, remains ineffective as a force in international politics. The accomplishments at the economic front do not allow the EU to take a decisive stance in world affairs unless these accomplishments are buttressed by political unity among the member states. In a rapidly globalizing world, it is becoming increasingly important for the EU to achieve harmony in its foreign policy decisions in order to retain its external markets as well as to become independent in its defence and security policy. Moreover, it is necessary to augment political cooperation among the member states of EU in order to sustain economic growth and also to simplify the decision making processes for economic cooperation and defence and security, thus ensuring peace and stability within the Union. Therefore, the process of integration of Europe has reached a critical point in time where internal and external forces are pushing the EU member states to take some significant measures for political cooperation which they hitherto had been avoiding.

The Treaty of Lisbon, signed by the heads of member states on December 13, 2007, had been put forth for ratification at this crucial juncture in the existence of EU. This article aims to find out how effective the reforms introduced by the Lisbon Treaty have been in increasing political and economic cooperation among the EU member states. An attempt has also been made to study the impediments to the process of integration in Europe which have been hampering the development of EU as an effective political organization. In relation to these problems of integration, the article also examines how the Lisbon Treaty has been conditioned by them and whether the treaty has been successful in countering some of these problems.

### **The Need for Reform in European Union**

European Union was born under the Treaty of Maastricht in 1992.<sup>2</sup> It was the new name used for a set of institutions which had been constituted during a protracted process of European integration spread over decades. Like the Union, these institutions, too, had come into being through different treaties. The first such institution, a supranational executive, was formed under the Treaty of Paris in 1951. It was known as the High Authority, formed to initiate day-to-day decisions for common production and distribution of coal and steel for the European Coal and Steel Community (ECSC),<sup>3</sup> which was an organization for economic cooperation among six European states – Germany, France, Italy and the three Benelux countries,<sup>4</sup> Belgium, the Netherlands and Luxembourg. Under the Paris Treaty, a Council of Ministers was also formed which consisted of the ministers of the member states who could approve or reject the policy initiatives by the High Authority. Two other institutions were also constituted – the Common Assembly, composed of national parliaments “to exercise democratic control over executive” and the Court of Justice which was delegated the authority to solve disputes between the member states with its decisions were binding upon them.<sup>5</sup> The institutional framework for ECSC was adopted for the two new communities formed under the Treaty of Rome in 1957, the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM), with a comparatively stronger executive called as the Commission.<sup>6</sup> The two new communities shared with the ECSC, the Court of Justice and the Parliamentary Assembly which was given greater consultative powers under the Treaty of Rome and which was to be elected directly from the member states in the due course.<sup>7</sup> The four institutions created

for the communities were incorporated, with their evolved profiles, into the structure of European Union in 1992.

It is important to note that the institutions adopted by the European Union were originally created for six-member communities which had an agenda for economic cooperation.<sup>8</sup> As the European communities grew in scope as well as membership, the institutions were exposed to constant transformation for the purpose of dealing with these changes. Thus the Merger Treaty, signed in 1965, which provided for a Single Commission and a Single Council of the three European Economic Communities, had to reform the existing institutions enabling their evolution to deal with an extended area of policy initiation. For instance, a rotary Presidency of Council was created which was held for six months by one of the member states and authority for policy initiation was delegated to the government of the country in office. To accommodate further changes in the European Economic Communities, which came to be called as the European Economic Community (EEC) after the merger, the institutions and their functions were repeatedly reformed. The Single European Act (SEA) signed in 1987, provided for the adaptations in institutions required for the achievement of the Internal Market.<sup>9</sup> However, most of the changes introduced by the treaties were focused on enhancing economic collaboration among the member states.

Keeping in view the nature of the former treaties, the Treaty of Maastricht, also known as the Treaty on European Union, was the first treaty under which European states agreed to cooperate on a political level. With the signing of this treaty, the period of political stagnation in the construction of Europe, which had lasted for almost four decades, came to an end. During this period, the only significant step taken by the EEC was expansion, enlisting UK, Denmark, Ireland, Greece, Spain and Portugal to its membership. In 1987, the SEA broke the stagnation in the economic sphere, but there was no progress in the political arena ever since the failure of Treaty in establishing European Defence Community which was signed by the member states of ECSC in 1952 but was never implemented. Thus after precisely forty years of stagnation, in 1992, Europe gradually woke up from its slumber and took an enormous stride towards political integration, transforming EEC into European Union – an organization which was delegated the authority to initiate cooperation between the member state governments in diverse policy areas such as foreign affairs, defence, justice and home affairs.<sup>10</sup> The introduction of a citizenship of the Union<sup>11</sup> was another big step towards integration. The Treaty marked “a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions (were to be taken) as closely as possible to the citizen.”<sup>12</sup> In the economic sphere, too, significant decisions were taken. Promotion of “economic and social progress which is balanced and sustainable,” was added to the objectives of Union which was to be achieved “in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of this Treaty.”<sup>13</sup> Thus the Maastricht Treaty initiated a new phase in integration of Europe in which a concentrated attempt was made to extend the cooperation among the states from the economic to the political sphere.

As already mentioned, the Maastricht Treaty adopted the existing institutions of the EEC for the Union but it did not introduce any considerable modifications in either the institutions or the framework in which these institutions had been placed under EEC. The Treaty of Rome renamed as “the Treaty Establishing the European Community” was adopted with slight changes to enable political cooperation. The changes included steps such as extension in tenure of office of the Commission, the selection of the Commission’s president by the Council in consultation with the Parliament (which was the Parliamentary Assembly in the EEC) and the extension of majority vote for decision in the Council to some new areas. Moreover, the areas of policy formulation were divided into three pillars: European Communities (EC);<sup>14</sup> Common Foreign and Security Policy (CFSP);<sup>15</sup> and Police and Judicial Co-operation in Criminal Matters (PJCC).<sup>16</sup> Under the powers delegated to the institutions, only the Council could legislate in the CFSP and PJCC pillars since it was intergovernmental in nature. The member states did not agree to entrust authority to supranational institutions including the Parliament, the Commission and the European Court of Justice (ECJ) to deal with the matters such as foreign affairs and defence. The supranational institutions could function in the first pillar which dealt with the matters formerly handled by the EEC. The Commission had the exclusive right of initiative in the matters falling under the first pillar and the judgments of ECJ were binding. The procedure of co-decision introduced in the treaty enabled the Parliament, which had become a body elected directly by the citizens of member states ever since the first European elections in 1979, to amend or reject the legislation proposed by the Council, in matters pertaining to the first pillar. Thus as

the institutional framework of EEC was adopted for EU almost unmodified, the cooperation among the member states in EU could not be extended beyond the areas which had been traditionally under the jurisdiction of EEC.

After the implementation of the Maastricht Treaty in 1993, the shortcomings in the institutional structure of the EU gradually came to the surface. Practically, the EU remained unsuccessful in adopting any significant policy regarding defence, foreign policy and social reform. It was doubted that EU would be reduced to an intergovernmental organisation in which only Heads of State could take important decisions through consensus. However, the very structure that EU tended to adopt was, to a great extent, supranational in nature. The decision making process adopted by the Maastricht Treaty was an unsuccessful attempt to create a balance between the supranational and intergovernmental institutions. The legislation in Council often ended in stalemate because of lack of consensus. The decisions, which were made using the majority vote, came to be criticized by national parliaments since majority voting made the ministers, acting as the representatives of their governments, less accountable for the decisions made through this procedure.<sup>17</sup> Moreover, the role of the parliament was also criticized, since the members directly elected by EU citizens did not hold legislative powers comparable to that of the Council of Ministers. Consequently, the EU was indeed reduced to the status of an intergovernmental organization at the practical level, in contrast to its supranational framework.

Another problem facing the EU, for which the Maastricht Treaty provided little solution, was the problem of enlargement. Owing to the economic benefits that EU could confer, more and more European states wished to join the organization. Due to expansion in membership, decision making through consensus became almost an unachievable goal. Especially with the arrival of the East European states, which had diverse political systems with their growth rates being quite low in comparison to those of the West European economies. Accommodating these new member states required a fundamental reorganization of the EU's institutional framework and of various policy mechanisms.<sup>18</sup>

To deal with these problems, three major modifications were introduced in the institutional framework of EU in the Treaty of Amsterdam (1997) and Treaty of Nice (2001). Under these treaties, some modifications were introduced in the institutional framework of EU, including the reweighting of votes in the Council of Ministers to reflect the size of larger states more closely, the setting of a ceiling on the size of the commission and further modest extensions to the scope of qualified majority voting were introduced to ensure smooth functioning of the institutions of the Union after its enlargement to encompass twenty or more members.<sup>19</sup> These reforms, however, were insufficient to tackle the problems facing EU since an increase in the number of member states required a simplification of institutions as well as decision making procedures.

Thus in 2001, a few months after the Treaty of Nice had been signed, the European Council, convened at Laeken, declared that the treaties hitherto implemented still left the EU with an "inadequate institutional framework", which is insufficient to manage the issues arising from the enlargement in EU.<sup>20</sup> A Convention on the Future of Europe, consisting of representatives from member states governments, national parliaments and EU institutions, was formed. The convention was given the task of working on a new treaty which would introduce adequate modifications in the structure of EU.

A multitude of suggestions for reforming EU were presented. Among them was the suggestion put forth by the German foreign minister, Joschka Fischer, that called for a federal constitution. The proposal received support from the German Chancellor Gerhard Schröder, French President Jacques Chirac and British Prime Minister Tony Blair.<sup>21</sup> Following the suggestion, the Convention presented a "Draft Treaty establishing a Constitution for Europe" in July 2003. No constitutional reform in EU can be introduced unless unanimously approved by all member states. The Member States reached agreement on the text of the Constitutional Treaty in June 2004 and signed the document that October. It was planned that the Constitutional Treaty would come into force, following its ratification by the Member States, on 1 November, 2006. On 29 May and 1 June 2005 respectively, the French and Dutch electorates rejected the Constitutional Treaty in referendums, by 55 per cent and 62 per cent respectively. The French and Dutch "no" votes prevented the Constitutional Treaty from ever coming into force. The Constitutional Treaty was ratified by 18 of the 27 Member States. The European constitution suggested the repeal of all the existing treaties to replace them by only one text.

In the wake of the French and Dutch referendums, in June 2005 the EU declared a “period of reflection” to consider the future of the institutional reform process.<sup>22</sup> In June 2006, the European Council extended the “period of reflection” for another year, but it requested Germany, which would hold the rotating EU Presidency in the first half of 2007, to present a report which would serve as the basis for further decisions on how to continue the reform process. The German Presidency made clear from the start of 2007 its hope of resolving the EU’s institutional impasse. The first concrete sign that the German Presidency’s ambitious timetable might be becoming a serious prospect came in the “Berlin Declaration” of 25 March, 2007, which announced the aim of “placing the European Union on a renewed common basis before the European Parliament elections in 2009.” However, the Berlin Declaration was signed only in the name of the Presidents of the three EU institutions – European Council, European Commission and European Parliament – as there was no agreement among the Member States themselves.

The German Presidency presented its report on the institutional reform process to the Member States on 14 June, 2007. In its report, the Presidency concluded that the way forward was to “preserve the substance of the innovations agreed upon in the 2004 IGC” while abandoning the structure of a single Constitutional Treaty and “constitutional” language and symbols. The Presidency, therefore, proposed “a return to the classical method of treaty change” – that is, a return to the practice of amending, rather than replacing, the existing Treaties. The Presidency further proposed that an IGC be convened rapidly, with the aim of reaching agreement on a new Treaty by the end of 2007.

On 19 October, 2007, EU leaders reached final political agreement on the new Treaty. Following checking by lawyers and linguists, the text of the Lisbon Treaty was published on 3 December, ahead of the Treaty’s signature by the Member States on December 13, 2007.<sup>23</sup>

### **The Treaty of Lisbon**

The Treaty of Lisbon is the new sediment of legislation added to the existing legislative framework of EU, which has developed layer-upon-layer with each treaty agreed upon by member states throughout the fifty years of European construction. The treaty amends the Treaty on European Union (Maastricht Treaty 1992), the Treaty establishing the European Community (Merger Treaty 1967) and the Treaty on Functioning of European Union (Treaty of Rome). The official name of the treaty is “the Treaty on European Union and the Treaty establishing the European Community.”

The sixty-five declarations in the treaty introduce a number of reforms in the legislative and institutional framework of the EU, giving it the popular name “the EU Reform Treaty.” The Treaty of Lisbon tends to present a solution for the many problems facing EU. This includes the attempt to strike a balance in the powers delegated to the intergovernmental and supranational institutions, which is specifically important in order to ensure smooth decision making procedures and also to make EU more democratic in nature. The treaty also introduces some reforms and mechanisms to enable EU to take decisions related to defence and foreign affairs.

The institutions of European Union have gone under major changes. The objective of these modifications is to make the institutions more democratic, meeting the European citizens’ expectations for high standards of accountability, openness, transparency and participation.

### **The Council**

The EU Council has received the most modifications. The most major among them is the office of the President of the Council. The Council will have a full-time standing President, elected by serving heads of government for a two-and-a-half-year term which will be renewable once. The President will prepare and host four or more summits a year. Until now, these functions were delegated to the premier of the member state holding the rotating presidency of the council.<sup>24</sup> The introduction of permanent president will not only help stabilise the Council it will also prevent the monopolisation by the presiding state of the decision making process. This monopolization was particularly criticized when the German presidency in June 2007 handled the reflection period for Lisbon Treaty without giving the member states enough time to discuss the provisions of the draft treaty on national level in June 2007. In the presence of a President independent of national constraints, the proceedings of the Council will not be conditioned by the policies

of national government of any one member state. To enhance the accountability of the institution, the proceedings of the Council will be held in public instead of being held behind closed doors.

Regarding the stability of the Council, an important reform is the extension in the term of rotating presidency. Under the treaty, the presidency will rotate among pre-established groups of Member States after a period of eighteen months. The three states forming the group will have a common programme and each state will chair the proceedings of the Council for a period of six months.<sup>25</sup> This will enable the Council to follow a consistent programme for a longer period of time thus stabilising the decision making procedure to a greater extent.

To avoid political impasse that often hinders decisions in Council, the Qualified Majority Voting (QMV) has been introduced in extended areas of policy making. This includes measures concerning border checks, measures concerning a common European asylum system, provisional emergency measures in case of a sudden inflow of refugees after consulting the European Parliament, and measures concerning a common immigration policy. The QMV has also been extended to Council's decisions for providing incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally on their territories. Judicial cooperation in civil matters, having a cross-border dimension, has also been included in the list of affairs that can be decided by QMV. Sensitive areas such as social security, foreign policy, taxation and security still require unanimous decisions.<sup>26</sup>

The voting procedure is also modified under the Treaty of Lisbon. The principle of Double Majority is devised to render a greater degree of legitimacy to the decisions taken by the Council. The principle works on two levels: on one level, it reflects the will of the member states; and on the other level, it reflects the will of the majority of the citizens of EU. A double majority will be achieved when a decision is taken by 55 per cent (15 out of 27) of the Member States representing at least 65 per cent of the Union's population. The principle will come into effect in 2014. For blocking a decision, a "Blocking Minority" of four member states will be required.<sup>27</sup>

An important reform in the Council is the introduction of a transitional measure whereby if Member States against a bill are significant in number but still insufficient to block the decision (1/3 of the Member States or 25 per cent of the population), all of the Member States commit to seeking a solution to rally opponents whilst reserving the option to vote at any time. This measure was introduced on the demand of Poland which had threatened to veto the opening of talks on the treaty if rights of smaller states in the voting procedure were not to be ensured.<sup>28</sup> Since most of the Member States were intent upon reaching an agreement, Poland's demand was accepted to avoid a deadlock.

### **The European Parliament**

The European Parliament, which is the only institution of Union elected directly by the EU citizens, has been delegated greater powers under the treaty. The treaty declares that "the Parliament shall, jointly with the Council, exercise legislative and budgetary functions."<sup>29</sup> This gives the parliament powers equivalent to that of the Council in particular areas. On a legislative level, the co-decision procedure in legislation has been extended to encompass new competences. The co-decision requires the consent of the Parliament as well as the Council for legislation. Most of these areas have been also included for QMV in Council. This procedure mainly applies to the present domains of competence of the European Union (internal market and economic governance in particular) and to some new competences that have been granted to it. Moreover, the European Parliament's legislative powers now focus on the control of individuals on the borders, on measures governing the reception and the processing of asylum seekers, as well as on the fight against illegal immigration. The Parliament is also given the power to elect the President of the Commission.

The number of members of the European Parliament has been reduced to seven hundred and fifty, plus the President. The minimum threshold has been set to six members per Member State and no Member State shall be allocated more than ninety-six seats. The term of the European Parliament would be five years.<sup>30</sup>

### **The Commission**

The Commission traditionally holds the powers to promote the general interest of the Union and take appropriate initiatives to that end. Under the Lisbon Treaty, with the exception of the common foreign and security policy, and other cases provided for in the Treaties, the Commission would ensure the Union's external representation. After the implementation of Lisbon Treaty, the first Commission to be sworn in (2009-2014) will comprise, as today, a Commissioner from each Member State but from 2014, the number of Commissioners will correspond to two-thirds of the Member States (18 in a Union comprising 27 Member States). The members will be chosen according to an equal revolving system between States. The new system is a sign of progress as the reduction in the Commission's size will avoid any nationalisation of the Brussels College, in charge of representing the Union's general interest.

The European Council, acting by a qualified majority, has been delegated the authority to propose to the European Parliament a candidate for President of the Commission. The candidate shall be elected by the European Parliament by a majority of its component members. If the person does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.<sup>31</sup> The election of the Commission's President by the European Parliament will render the institutions of EU more democratic. The election of President will reflect the citizens' will in the Commission which until now has been completely isolated from the public in EU.

Most importantly, the pillars dividing the areas of policy formulation have been abolished. The Commission holds the authority to initiate policies and through the co-decision and QMV, the Parliament and Council can legislate in most policy areas.

### **Foreign and Security Policy**

The Lisbon Treaty includes major reforms aiming to develop the much required coherence and unity for its foreign policy. The creation of a new office of High representative of the Union for Foreign Affairs and Security Policy merges the positions of High Representative for the Common Foreign and Security Policy and the European Commissioner for External Relations. The High Representative will chair the Foreign Affairs Council, which brings together all of the European Union Foreign Ministers and will represent the Union abroad. The Representative will have a European Diplomatic Service at his disposal. The introduction of this office will help enhance the coherence and unity of the European Union's external action.

Another important reform is that the treaty gives EU the status of a Legal Entity. This implies that the Europe Union will now be delegated the authority by the member states to sign legal documents and agreements.

The Lisbon Treaty provides major progress in terms of the "common security and defence policy." It introduces the "mutual defence clause" according to which, if one of the European Union Member States is attacked, the others are obliged to provide it with help. It also introduces a "solidarity clause." It also expands the Union's potential in terms of the fight against terrorism, conflict prevention missions, post-conflict stabilization missions, etc.

These States are, therefore, prepared to fulfill the most demanding military missions on behalf of the European Union particularly in response to requests made by the United Nations. It confirms the existence of the European Defence Agency with a view to developing a real European arms policy and to coordinating work to equip the various national armed forces. This is a major innovation. The Lisbon Treaty extends the Union's field of activity to industrial and trade issues in the area of armament.

### **Conclusion**

The European Union has evolved as a political organization over the decades. Established as an organization for economic cooperation incorporating institutions enabling some degree of political cooperation as well, the EU has gone through various stages of evolution. With every stage, its elementary organs have developed to help the organization survive. From ECSC to EEC and then finally EU, there have been many transformations in the organization. The basic institutional framework, however, remains the same, which ensures the continuity of the organization despite the changes in its title. The changes introduced during the process of evolution of EU are superposed on the basic

institutional framework. The last major modifications superposed were through Maastricht Treaty in 1992. With the enlargement of EU, the Maastricht Treaty became insufficient to tackle the arising problems. Moreover, the Maastricht Treaty was a transition stage for EU transforming it into a full-fledged political organization from an organization meant for economic cooperation. The institutional flaws that EU received in this transition need to be removed in order to achieve better levels of efficiency. Attempts were made to remove these defects through the Treaty of Nice, Amsterdam but the need for some fundamental changes persisted.

With the beginning of the new millennium, the pressures to reform EU have been mounting in wake of globalization as well the growing security needs of Europe. EU's success in economic sphere demands an increase in efficiency of EU on political level to enable the organization to hold a significant position in international politics.

The Treaty of Lisbon aims to address these issues, introducing reforms in institution of the EU as well as modifications in the political processes to enhance cooperation among the member states not only in economic sphere but also for formulating common and unanimous foreign and defence policy for the continent. Combining its economic and political strengths, with a stronger foreign and defence policy, the EU will be able to ensure a better place for Europe in the world.

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14. The EC pillar included the matters which had been traditionally under the jurisdiction of EEC for policy formulation such as Customs Union and Single market, Common Agricultural Policy, Common Fisheries Policy, EU competition law and Economic & monetary union. Areas such as EU-Citizenship and Education & Culture were also added to this pillar.
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