

INVOLVING EXPERTS IN THE PROCESS OF NATIONAL POLICY CONVERGENCE

(REPORT BY WORKING GROUP 4a)

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EXECUTIVE SUMMARY

1. One of the most notable features of European integration has been its creativity and capacity to adapt to constantly changing challenges and needs.

As the Union embarks on a phase of “active” integration, the practical need for convergence between the Member States is making itself felt afresh. And this calls for closer harmonisation of legislation or new forms of collective action on top of the “passive” integration, focused on eliminating internal barriers in the Community, that has long been the mainstay of its success.

What is known as the “open method of coordination” is one such new form of collective action to foster compatibility, consistency or convergence between Member States’ public policies. Covering a variety of arrangements, it stands half way between pure legislative integration and straightforward cooperation. But recent experience has shown that the instruments it offers can be effective in furthering European integration.

2. This report takes a considered look at the various forms of cooperation and coordination that have become established over the course of European integration, starting with those provided for in the Treaties and then looking beyond. It shows how the “Community dynamic” not only manifests itself in the ways foreseen by the Treaties but often grows out of practices applied in “grey areas” (and later formally incorporated in revisions of the Treaties), while sometimes even the intergovernmental approach can prove useful. In particular, the report highlights the emergence since Maastricht (economic policy) and Amsterdam (employment policy) of the open coordination method endorsed by the Lisbon European Council.
3. By comparing the instruments used in various policy areas where some form of EU coordination and/or cooperation now applies, we have been able to draw some valuable conclusions of practical relevance for governance. Essentially these concern criteria for assessing the proportionality, legitimacy and effectiveness of the various forms of action possible according to the type of problem they seek to tackle, with the main focus being on the coordination of national policies.
4. In general terms, our analysis shows that because each coordination/cooperation process has its own underlying sectoral dynamic and logic, no one method can be singled out above all others. The wide variety of arrangements reflects the specific nature of each sector and the differing aims pursued.

The fact is, there is no “law of evolution” leading unerringly and inescapably from cooperation to coordination and harmonisation at Community level. Progress in integration may suggest otherwise, but each advance has probably had more to do with factors specific to whichever sector was concerned.

5. Our analysis also shows that the open coordination method and the traditional approach of introducing Community legislation are not alternative tools for promoting integration but can, in fact, complement each other.

Three instances are identified where the open coordination method is better suited for the purposes of European integration than the legislative approach.

The first is where the subject matter touches closely on national identity or culture; here Community harmonising legislation is clearly inappropriate. The second case is where the national arrangements are so diverse and/or complex that harmonisation would be out of all proportion to the objective. Lastly, coordination may serve as a precursor to Community legislation – where the Member States are not ready to embrace common legislation immediately.

Finally, the existence of Community legislation in a particular area does not, in itself, rule out coordination as well.

6. The open coordination method, then, is just one of a range of tools that can be used to promote integration. But it can only be used if it supports a defined Community

objective or helps the Union to fulfil its task in an existing area of competence. And it cannot be used simply as a way to avoid using more binding Community instruments.

With this in mind, we put forward the following recommendations.

- The choice of tool from the options available should be guided by the principle of proportionality and decided case by case. It will be up to the Commission, after first assessing the impact of a planned course of action, to decide which method (legislation or coordination) offers the most suitable response to the needs identified.
 - The conditions should be defined in which the use of coordination would be acceptable, in particular to ensure that it conforms to the ‘acquis communautaire’ and the Treaties, accords with fundamental principles such as the single market and economic and social cohesion, and does not overstep the limits of the Union’s or Community’s powers.
7. As regards the legitimacy of national policy coordination, this raises the specific problem of how to ensure a proper level of parliamentary control. The Commission, too, with its central role as a driving force and catalyst of coordination, must develop its expertise in the field.

In these new areas where it is more a question of coordination and *soft-law*, of defining broad guidelines and political choices than of bare legislation, Parliament, the Commission and the Council must all adapt their practices and procedures in order to play their part not merely as formal actors but as effective standard bearers in the political management of the processes of coordination at European level.

8. Lastly, the “open” and “decentralised” approach of coordination raises questions about the participation of all those concerned at every level, about the transparency of the procedures and the accessibility of information. To this end, greater use must be made of networking between the public and private players involved, systematic sharing of information and experience, coordination, and simplification of procedures.

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INTRODUCTION

European integration involves a complex mix of policy-making methods, instruments and institutions. Its development, however, is dictated not by a ready-made blueprint but by a dynamic process of competition between tools for integration all tending towards the Community method. This method, with the underlying interplay between the institutions, is what makes the European model of integration unique.¹

The competition between the various tools is reflected in the sharp distinction between “regulatory” policies, which are typically rather technical and highly efficient (e.g. market regulation), and “distributive” policies, which are traditionally the preserve of national and sub-national authorities. It is also reflected in the shift from “passive integration” (Scharpf, 1996), where the principal aim is to eliminate barriers to the establishment of the single market, to “active integration”, where a combination of different instruments is deployed, harmonisation of national legislation being but one of many. This shift signals the Community’s entry into fields of activity that are far more political and go closer to the heart of national sovereignty. Here the place of common rules may be taken by other, more flexible instruments that give precedence to cooperation or coordination (depending on the objectives, the nature of the area in question and its “European maturity”). The aim is to secure a desired degree of convergence or compatibility between national policies to implement agreed objectives on matters of common concern.

In other words, “[the] success [of the political construction of Europe] has been dependent on the ability to combine coherence with respect for diversity and efficiency with democratic legitimacy. This entails using different political methods depending on policies and the various institutional processes. For good reasons, various methods have been worked out which are placed somewhere between pure integration and straightforward cooperation.”²

The coordination of national policies, now known as the “open coordination method”, occupies an intermediate place between intergovernmental cooperation and the adoption of common rules. Recent experience shows that it can offer valuable instruments for integration.

This report compares various forms of cooperation and coordination introduced to ensure the compatibility, consistency or convergence of national policy choices made with a view to deepening European integration. It then suggests several avenues for further reflection: proportionality and the effectiveness of possible forms of action according to the nature of the problems to be solved; the search for a balance between legitimacy and renewed effectiveness for national policy coordination methods; and the place of these new coordination methods in the legal and institutional system of the Union.

¹ Enhanced cooperation occupies a special place among the instruments for integration, insofar as it makes differentiated progress possible in the event of difficulties in an area where both harmonisation and the traditional Community method are provided for. The conditions governing recourse to this instrument will not be examined in this report.

² Council of the European Union, *The ongoing experience of the open coordination method*, Note of the Portuguese Presidency of the Union, 9088/00, 13 June 2000, p. 4.

PART ONE

COOPERATION AND COORDINATION OF NATIONAL POLICIES: DEVELOPMENTS BASED ON THE TREATIES

1. COMPATIBILITY, CONSISTENCY AND CONVERGENCE OF POLICIES, AND THE INSTRUMENTS USED FOR COOPERATION AND COORDINATION IN THE UNION

The current forms of cooperation and policy coordination among the EU Member States comprise a variety of instruments designed to foster compatibility, consistency or convergence of national choices with a view to deeper European integration.

Compatibility means making sure that Member States' own policy decisions do not seriously harm other Member States or jeopardise the achievement of other European goals. To take tax and social security, for instance, the balance between the requirements of the single market (freedom of movement of goods, services, capital and persons) and the diversity of national public revenue systems is very delicate. It can be upset by "harmful" tax competition, which therefore has to be curbed. In areas where unanimity is required, it can be difficult to secure the adoption of Community directives. Here, **cooperation** between the Member States can help to ensure compatibility between national choices by using other tools besides legal instruments. These combinations reflect the wide range of objectives and legal bases available. For instance, the *tax package* ratified by the Nice European Council in December 2000 includes both a traditional Directive (on interest and royalties between companies of the same group) as well as two taxation measures of a less traditional kind.³

Consistency involves the additional dimension of strengthening and mutually boosting the effectiveness of the national policies concerned, going beyond a simple striving for compatibility. Economic policy is one example. Here, consistency between national systems is a corollary of monetary union and has to be ensured because of the impact that national economic policies can have on the rest of the Union when there is a single monetary policy.⁴ The goal of consistency is enshrined in the Treaty in the formula: "Member States shall regard their economic policies as a matter of common concern" (Article 99 EC⁵). It is pursued in particular through the adoption of an economic coordination **system**, the *broad economic policy guidelines* (BEPG), based primarily on the principle of periodic definition of objectives and "peer review".

³ The *code of conduct* for business taxation (*Resolution of the Council and the Representatives of the Governments of the Member States on a code of conduct for business taxation*, Annex I to the Conclusions of the Economic and Financial Affairs Council of 1/12/1997, Doc. 98/C 2/01) has no legal force but constitutes a kind of political agreement between the Member States. It relies on peer pressure and the monitoring which that involves, but does not introduce a formal system and covers only a very narrow range of taxation; adoption of the proposed Directive on savings will require not only unanimity but also the adoption of "equivalent" measures countries outside EU (United States, Switzerland, etc).

⁴ See: Pedro Solbes, "Euro: coordonnons nos politiques économiques", in *Les Echos*, 18.03.01.

⁵ References to Treaty articles use the abbreviations 'EC' and 'EU' respectively for the Treaty establishing the European Community and the Treaty on European Union.

The concept of consistency of national policies therefore includes their coordination at Community level towards objectives defined by mutual agreement. Closer national policy coordination can thus set in motion convergence towards those objectives. The countries taking part do not necessarily converge towards a single model or common methods: rather, they are striving towards identical goals, but are free to use by different procedures and means to achieve them. The example *par excellence* is the coordination process established under the *European Employment Strategy*. It goes back to Jacques Delors' White Paper of 1993⁶ and the multilateral monitoring of employment introduced by the Essen European Council in 1994. The strategy was formally incorporated in a new Title on employment by the Amsterdam Treaty and was brought into effect following the Luxembourg European Council in 1997 before ratification was even completed.

From a legal point of view, the convergence concept is new and appears in the EC Treaty only in connection with economic and monetary union (EMU).⁷ It includes the definition of *uniform and quantifiable* convergence criteria, which the Member States must adhere to strictly (as well as a precise timetable for their implementation). It should be noted that here again convergence relates to performance and not necessarily the policies implemented by the Member States.

In principle, some subject areas require a single rule implemented uniformly throughout the Community: here, national policy convergence is not an accurate description, since separate national policies disappear and are fused under a single rule. Examples are the prohibition of national customs duties and the adoption of a Common Customs Tariff, or monetary policy, which is decided solely by the European Central Bank (ECB). The same is true in areas where the Community enjoys exclusive competence and has exercised those powers. The common rules adopted by the Community under the common commercial policy (goods) or the common policies on transport, agriculture and fisheries deprive the Member States of the right to legislate and make agreements with non-member countries on matters governed by such rules.

In other fields, legislation – and hence national policy – do clearly need to be harmonised. A single market without frontiers cannot be set up merely by implementing the rules laid down by the Treaties (ban on discrimination). National laws have to be aligned closely enough to allow their mutual recognition, without any need for them to be merged or to be identical. Where responsibility is shared between the Community and the Member States, national policies continue to exist but cannot conflict with the Community rules.

In some areas, on the other hand, the Treaty precludes policy alignment through Community rules. On education and vocational training, for example, the Community can encourage cooperation between Member States but it cannot intervene to harmonise national laws and regulations. With the Treaty as it stands, policy convergence in this area will not be achieved by legislation: it will have to take other forms. In the case of research and technological development (R&DT), by contrast, *benchmarking* (calibrating performance) and the dissemination of best practice are used to encourage the Member States to adopt (and converge towards) the most effective formulas, purely by force of example.

⁶ Commission White Paper on *Growth, Competitiveness, and Employment*, COM (93) 700.

⁷ Articles 2 and 121 EC, Protocol No 21 on the convergence criteria. Historically, though, the coordination process started in 1974 with the Council Decision on the need for a high degree of convergence of the economic policies of the Member States. In particular, the Decision set up the Economic Policy Committee with responsibility for coordination. It was, indeed, the 1974 pattern of coordination that served as the model for the Chapter on employment in the Treaty of Amsterdam.

Lastly, national policy alignment is also possible in areas which, though not a matter of Community competence, do still fall within the institutional framework of the Union. The *common foreign and security policy* (CFSP)⁸ is one example. It provides for new instruments, such as “common strategies”, “joint actions” and “common positions” under Article 12 EU, which complement existing national policies. But national policies do not disappear; they simply have to be in line with the action carried out by the Member States at EU level and are therefore made “to converge”.

2. FORMS OF COOPERATION PROVIDED FOR IN THE TREATIES

The example *par excellence* of a largely intergovernmental form of cooperation enshrined in the Treaties and now developing within the framework of the institutional system of the Union is the CFSP.

In a number of other fields covered by the EC Treaty,⁹ the Community has no explicit power to act. Rather, its role is to support action by the Member States while fully respecting their autonomy and powers. Here the Community can, however, act using the procedures of the Community method, provided it keeps within the limits of the powers assigned to it by the Treaty.¹⁰ So in education and vocational training, the decisions adopting the three main Community programmes, *Socrates*, *Leonardo da Vinci*, and *Youth*, followed the traditional Community pattern: the Commission proposal was discussed by Parliament and Council. The Council and Parliament can also adopt recommendations on a proposal from the Commission. Practice shows that Parliament’s involvement in drafting recommendations – initially not specifically provided for in the Treaty – and the holding of preliminary consultations with the parties concerned has greatly helped to enhance the legitimacy and impact of measures recommended in this area, and also helps to secure the political support of the Member States in the Council. It is also interesting to note that when the Member States wanted to make further progress in this area outside the institutional framework of the Union, they used this approach to adopt an intergovernmental initiative in 1998 (“Bologna Process”) aimed at the convergence of national policies and the creation of European area of higher education. The Commission was not the source of that initiative, but has to provide expertise and support. In

⁸ Title IV of the EU Treaty.

⁹ The main ones are: education and vocational training (Articles 149 and 150 EC), social inclusion (Article 137 EC, last paragraph), and culture (Article 151 EC). These are new Articles added to the EC Treaty as part of the changes introduced by the Single European Act in 1986 and the Maastricht Treaty in 1992.

¹⁰ The EC Treaty does not define the Community method as such: it spells out every area where the Community has the power to act and the procedure that applies. The procedure always comprises features typical of the Community method. So the Community method can be described as any Community decision-making procedure that leads to the adoption of individual decisions or general acts under the Treaty or secondary Community legislation and:

- involves an institutional dynamic reflected in the balanced participation of the Council, Parliament and Commission, and hence of the relevant public interests represented by this “institutional triangle”;
- gives rise to acts that produce direct or indirect legal effects and on which the EC Court of Justice can rely for the purposes of its judgments.

It should be noted that the Community “method” is often wrongly taken to mean simply legislative action; but it can operate through non-legislative action. However, the report’s analysis of the “open coordination method” involves comparing it sometimes with the Community method, when looked at in terms of the procedure, and sometimes with Community legislation, when looked at in terms of the outcome.

November 1999 the Education Ministers decided to plan their work on a “rolling agenda”, which involves defining a limited number of long-term priorities and methods to promote cooperation in education and of vocational training. A few months later, in March 2000, the European Council of Lisbon included education and vocational training among the fields where the open coordination method can be used.

The case of education testifies to the evolving nature of European integration: starting from the provisions of the Treaty, “good” practices then become established going beyond the Treaties and, although “non-Community” in nature (initially at least), bringing in new elements that make for greater effectiveness and/or legitimacy. Ultimately they produce a higher level of integration. The “Community dynamic” manifests itself not only in the ways foreseen by the Treaties. It is often born of existing practices in the “grey areas” of the Treaties, practices that are subsequently enshrined in revisions of the Treaties. Sometimes, too, it operates outside the Treaties via the intergovernmental method. The case of political cooperation from the 1960s onwards is an interesting illustration of this.

3. INTERGOVERNMENTAL FORMS OF COOPERATION OUTSIDE THE TREATIES

The dichotomy between the intergovernmental and supranational approaches to European integration throws up an interesting number of ambiguities, nuances or continuities, with the result that the two approaches, though traditionally considered exclusive, tend in practice to converge or even merge.

At various times in the course of European integration, forms of intergovernmental cooperation have existed on the margins of the EC Treaty provisions, even in areas that fall under the Treaty. Education is an example, with the Bologna process.¹¹ The same is true for national economic policy coordination, where an informal body (the *Euro-Group*, comprising the Economic or Finance Ministers of the euro countries plus the Commissioner responsible for economic and monetary affairs) helps coordinate the economic policies of the members of the euro zone.

Intergovernmental cooperation on *justice and home affairs* (JHA) started in the mid-1980s, in particular when a number of Member States signed the Schengen Agreement and implementing Convention.¹² Here, cooperation remained purely intergovernmental, developing entirely outside the inter-institutional framework of the Community or the Union. But coordination began to develop in other areas too – notably policing, justice, and asylum and immigration – sometimes keeping more closely to the Community framework. This set the stage for a series of rapid (to say the very least) political and institutional developments in less than 10 years. The momentum continued with the European Councils of Maastricht (1991) and Amsterdam (1997) and the signing of the Treaty on European Union and the Treaty of Amsterdam. Some areas, such as immigration and asylum policy, went from pure intergovernmental cooperation to an almost entirely Community framework, combining both harmonisation of legislation and

¹¹ See above, second paragraph.

¹² The agreement provides for a number of measures to accompany the removal of controls on persons at external borders between the signatories. The judicial cooperation mechanism is implemented by the *Schengen Information System* (SIS), which allows the national authorities to exchange descriptions and information.

coordination of national policies,¹³ as well as some aspects left over from the intergovernmental approach (such as the Commission and the Member States sharing the right of initiative). Similarly, the Treaty of Amsterdam incorporated the Schengen ‘acquis’ into the European Union and transferred some aspects to the Community framework. In other fields, cooperation was institutionalised under the “third pillar” (Title IV of the EU Treaty), now confined to police and judicial cooperation in criminal matters. Nevertheless, these matters now fall within the single institutional context of the Union, which means that the Community institutions now have wider powers here. The very fact that the Treaty of Amsterdam gives the Union a general, “cross-pillar” objective (the progressive establishment of an area of freedom, security and justice, in which free movement of persons is guaranteed) is further evidence of the integration momentum set in motion in a field closely linked to national sovereignty.

4. FORMS OF POLICY COORDINATION ENshrined IN THE TREATIES

Some forms of national policy coordination have been introduced directly by amendments to the Treaties.

This was the case with trans-European networks,¹⁴ enterprise¹⁵ and R&D policy,¹⁶ where the Treaty explicitly provides for national policy coordination (in generic terms). The Commission is required to play a role of catalyst: it can take any appropriate action to promote coordination.

Economic policy coordination also comes under the Treaty.¹⁷ For the first time, indeed, the Treaty spells out the details of the procedure. Notable features are its reference to the cycle, definition of the role of the institutions involved in decision-making, the idea of dynamic definition of broad European guidelines (objectives and common policies) and peer review.

Defining coordination in procedural terms rather than in generic terms of Community support measures in the shape of “soft law” (action plans, recommendations, White Papers, etc.), lends coordination added value in itself, enabling it to take its own place in the European edifice alongside the traditional instruments of integration.

Clear evidence of this is the fact that economic policy coordination soon produced a *spill-over* effect: the Treaty now also includes a procedure for coordinating employment policies (the *European Employment Strategy*, also known as the *Luxembourg process*), founded on essentially the same principles as economic policy coordination.

The most notable example of the spill-over effect, however, is the new *open coordination method*, embodying as it does a desire to rationalise (or make consistent) the instruments

¹³ See in particular the Commission Communication to the Council and Parliament on *A Community immigration policy* (COM(2000) 757 final, 22/11/2000), which introduces the idea of a new integrated approach in the management of migratory flows.

¹⁴ Article 155 EC, added by the Treaty of Maastricht.

¹⁵ Article 157 EC, added by the Treaty of Maastricht.

¹⁶ Article 165 EC, added by the Single European Act.

¹⁷ Articles 98 EC *et seq.*, as amended by the Treaty of Maastricht.

devised to coordinate economic policy and then refined as part of the strategy for employment¹⁸ and to extend them to other national structural policies.

5. NEW FORMS OF OPEN COORDINATION

When we speak of new forms of policy coordination, we are thinking, then, of the fields covered by the *open coordination method* (OCM) defined by the Lisbon European Council.

Closely modelled on employment policy coordination, the new method offers “a means of spreading best practice and achieving greater convergence towards the main EU goals. This method, which is designed to help Member States progressively develop their own policies, involves: fixing guidelines for the Union combined with specific timetables for achieving the goals which they set in the short, medium and long terms; establishing, where appropriate, quantitative and qualitative indicators and benchmarks against the best in the world and tailored to the needs of different Member States and sectors as a means of comparing good practice; translating these European guidelines into national and regional policies by setting specific targets and adopting measures, taking into account national and regional differences; periodic monitoring, evaluation and peer review”.¹⁹ The OCM is a flexible instrument, leaving it to the Member States to implement coordination defined at European level and so respecting the diversity of national systems while introducing some degree of continuity between Community and national arrangements. This is why it is termed the “open” method.²⁰ Moreover, it is implemented differently in different fields: hence the tendency to speak of open coordination methods, in the plural.

This new strategy hinges on the mechanisms of the *Luxembourg process*. The innovation of Lisbon was simply to give a name to the method enshrined in the EC Treaty’s Title on employment, with the avowed aim of extending it – gradually and in ways tailored to individual

¹⁸ The procedure introduced for employment soon became the standard model for national policy coordination at European level. Under Articles 126 and 128 EC, the Council, acting on a proposal from the Commission and after consulting Parliament, the Economic and Social Committee, the Committee of the regions and the Employment Committee, draws up guidelines each year (setting common aims at European level), which the Member States must take into account in their employment policies (national action plans). These guidelines are based on a study carried out as part of the joint annual report on employment submitted by the Commission and the Council to the European Council, assessing the measures taken by the Member States in the light of the guidelines. After making its assessment, the Council, acting on a Commission recommendation, can make individual recommendations to Member States that perform poorly. The Council makes its assessment on the basis of the annual report that each Member State must send to the Council and the Commission.

¹⁹ *Presidency Conclusions*, Lisbon European Council, 23 and 24 March 2000, item 37.

²⁰ “... European guidelines can be adapted to the national level; ... best practices should be assessed and adapted in their national context; ... there is a clear distinction between the reference indicators to be adopted at European level and concrete targets to be set by each Member State for each indicator, taking into account their starting situation; ... monitoring and evaluation should take the national context into account; ... the development of this method in its different stages should be open to the participation of the various actors of civil society”. Council of the European Union (2000), *The ongoing experience of the open coordination method*, Note of the Portuguese Presidency, p. 6.

sectors – to other fields, such as the information society and research, enterprise policy, education, and social inclusion.²¹

PART TWO

COMPARATIVE ANALYSIS OF COORDINATION AND COOPERATION PROCEDURES BY POLICY

By comparing the instruments used in various policy areas where some form of EU coordination and/or cooperation now applies, we have been able to draw some valuable conclusions of practical relevance for governance. The main focus was on the coordination of national policies.

The analysis, using a comparative double-entry table, was based on a series of criteria relating essentially to:

- a) **proportionality** between the nature of the problems to be solved (objectives to be achieved) and the action envisaged: legal framework/basis (Community/innovative nature of the instrument/method used); intensity of constraint (targeted action and/or decentralised approach); incidence of coordination/cooperation on the national policies concerned;
- b) **legitimacy**, measured in terms of degree of parliamentary control, institutional balance, involvement of *stake-holders* (social players, regional and local authorities, etc.);
- c) **effectiveness**, depending on: quantified indicators or public “scoreboards”; the role of Community and national budgetary incentives; the concepts of cycle and duration; the existence of some measure of evaluation and visibility of the action.

The analysis did not cover every possible policy. Economic policy and employment policy were included as examples of coordination enshrined in the Treaty. Taxation policy (including direct taxation), on the other hand, is a field where it is more appropriate to speak of cooperation between the Member States, since no concrete form of national policy coordination has been implemented to date.²² Justice and home affairs is also of interest as it has developed so recently (from intergovernmental cooperation to partial “communitisation”). Lastly, the Lisbon European Council singled out education and vocational training, social inclusion, enterprise policy, R&TD and social security (though initially confined to simple cooperation) as areas where the new “open coordination method” could be applied.

²¹ It should be noted that while the *Luxembourg process*, in particular because it is enshrined in the Treaty, confers a strong mandate on the European institutions for defining guidelines and recommendations at European level, other forms of “open coordination” are less binding (for example, on social inclusion).

²² There are indeed forms of cooperation (for example for the fight against tax evasion), which are however limited by the fact that the Community objectives on the matter are difficult to establish precisely and to follow in a coherent way by the various intervention levels. It also results from the analysis that this field is influenced in an increasing way by the projections recorded as regards coordination in other structural policies (economic policies, employment).

FIELDS INSTRUMENTS	Economic policy	Employment	Public revenue	JHA
<p>a) Areas where a legal basis exists (primary law)</p> <p>b) Innovative approaches</p> <p>c) Other forms of cooperation</p> <p>d) CJEC case law</p> <p>(Areas of +/- Community competence; cooperation/coordination;...)</p>	<p>Objective: Help achieve the Community's objectives as defined in Art. 2 EC, policy coordination (Luxembourg and Helsinki European Councils, 1997, 2000)</p> <p>a) Art. 98-104 EC: Economic policy MS shall regard their economic policies as a matter of common concern and shall coordinate them within the Council (Art. 99 EC) and avoid excessive deficits. Coordination process with annual Broad Economic Policy Guidelines (BEPG) at its centre.</p> <p>b1) Stability and Growth Pact (European Council 6/97): surveillance/stability and convergence programmes: - Regulation 1466/97 on surveillance and coordination of economic policies and budgetary positions. - Regulation 1467/97 on implementation of the excessive deficit procedure.</p> <p>b2) Macroeconomic Dialogue (Cologne Process).</p> <p>b3) Cardiff Process (Structural Reform)</p> <p>c) Eurogroup (1 representative per euro-area MS + Commissioner for ECOFIN + often President of ECB).</p>	<p>Objective: Promote a high level of employment (Art. 2 EU, Art. 2 EC, Art. 127 EC); full employment (Lisbon Summit)</p> <p>a) Art. 125-128 EC: coordinated employment strategy - Art. 125: qualified manpower and adaptable labour markets - Art. 126: promotion of employment compatible with the BEPG - Art. 127(1): subsidiarity - Art. 127(2): "mainstreaming" of employment in other policies - Art. 128: monitoring, surveillance and annual evaluation mechanism</p> <p>Art. 129 EC: adoption of support measures to promote cooperation between MS and their action on employment (co-decision proc.)</p> <p>Art. 130 EC: creation of Employment Committee (2 representatives per MS plus Commission) to promote coordination of MS policies on employment and labour market, formulate opinions and prepare the ground for Council.</p>	<p>a) Art. 135 EC Customs Cooperation: adoption of measures to strengthen customs cooperation with the MS and with the Commission. Art. 90-93 EC tax provisions: adoption of provisions for harmonisation of legislation on indirect taxation. Art. 94-97 Approximation of legislation/single market.</p> <p>b) Recourse to legally non-binding instruments (soft law, e.g. codes of conduct).</p> <p>d) CJEC case law (e.g. judgments on consistency of tax systems).</p>	<p>Objective: Make the EU an area of freedom, security and justice (Art. 29 EU, Art. 61 EC, Tampere European Council, 1999)</p> <p>a) Art. 61-69 EC: common policy on visas, immigration, asylum + judicial cooperation in civil matters c) Art. 29-42 EU: police and judicial cooperation in criminal matters - Art. 30: police cooperation (Europol) - Art. 31: judicial cooperation in criminal matters - Art. 36: Council Coordinating Committee - Art. 40: enhanced cooperation - Art. 42: bridge for action from Art. 29 EU to Title IV EC.</p>
<p>Main features of the tools or methods</p>	<p>a) The central instrument of coordination is the Broad Economic Policy Guidelines (BEPG). These are politically committing overall and country-specific policy recommendations, drawn up annually by the Commission after the Spring European Council meeting and submitted to the ECOFIN Council. Acting on the Commission recommendation, the Council formulates a draft for the European Council, which in turn discusses a conclusion on the BEPG. Then formal adoption of the BEPG by the ECOFIN Council in the form of a recommendation.</p> <p>Multilateral surveillance. Country-based examinations of economic policies. Failure by a MS to conform to the BEPG</p>	<p>Luxembourg process (European Employment Strategy): Regular annual process of "multilateral surveillance" of MS employment policies, based on: Council guidelines on a proposal from Commission; <u>National Action Plans</u>: annual Joint Employment Report by Commission and Council + recommendations from Council to the MS (on Commission prop.).</p> <p>Flexible instrument, leaving it to MS to implement coordination defined at European level; respect for the diversity of national industrial relations and labour market systems; continuity between Community and national level; involvement of a range of political and social actors at various levels.</p> <p>The recommendations on employment are not</p>	<p>a) - Customs cooperation: co-decision proc.; - Tax provisions: unanimity required within Council + consultation of EP. In the code of conduct (legally non-binding political agreement) MS are prohibited from creating new special business taxation schemes (sources of detrimental tax competition) and undertake to dismantle existing ones.</p> <p>The overall approach (all taxes and social security charges) proposed in Verona in 1996, is not being followed fully: the "package" agreed in Nice is very partial (3 direct taxation measures).</p>	<p>a) Art. 67 EC: Council adopts measures under Art. 61-63 EC unanimously on a proposal by Commission or a Member State, after consulting EP (in future, co-decision and qualified majority, Nice).</p> <p>c) Art. 34 EU: MS inform and consult each other within the Council to coordinate their action. On a proposal by a MS or the Commission, the Council can unanimously adopt common positions, framework decisions and decisions; it can draw up conventions and recommend their adoption by the MS.</p> <p>1) Traditional Treaty instruments for "Communitised" matters. In addition, the Commission proposed</p>

	<p>entails the possibility of a recommendation by the Council.</p> <p>b) Excessive deficit/SGP procedure Only in the event of "excessive deficits" is coordination based on rules (see Art. 104 EC), backed by sanctions.</p> <p>c) Eurogroup: Informal body not empowered to take decisions and functioning by consensus.</p>	<p>binding, nor accompanied by legal or financial sanctions. However, multilateral surveillance, calibration and the setting of common and comparable targets put strong political pressure on MS to achieve the strategy's objectives. They can also have an impact on the allocation of resources and the links between Community priorities.</p>		<p>the adoption of open policy coordination (detailed arrangements still to be specified) on immigration and asylum in its communications of November 2000.</p> <p>2) Adoption of common positions, framework decisions, decisions and conventions for matters under Title VI EU. In addition, MS inform and consult each other within the Council with a view to coordinating their action and establish collaboration to this end between relevant departments.</p>
<p>Links with other fields/processes</p>	<p>The BEPG are the framework for the economic policy coordination instruments and establish a close link with other cycles and processes: Luxembourg Process and European Employment Strategy; Cardiff process and structural reform; Cologne process and Macroeconomic Dialogue defined by the European Employment Pact, social protection, social inclusion.</p>	<p>Link between Luxembourg process and Broad Economic Policy Guidelines, social inclusion, social protection and education and training (see Art. 127). (opinion of Council ECOFIN and Education).</p>	<p>Increasing link between tax policies and coordination of MS economic and structural policies + employment and social protection.</p>	<p>CFSP, social affairs and employment, single market (free movement of persons), development policy, other Community policies where implemented through instruments of criminal law (e.g.: environmental crime, cybercrime)</p>
<p>Degree of parliamentary control (European Parliament; national parliaments)</p>	<ul style="list-style-type: none"> - The centre for economic policy coordination, and only body empowered to take formal decisions, is the ECOFIN Council. - The Treaty does not foresee a formal role for the European Parliament in the coordination process. - The EP adopts a resolution on the BEPG. With a view to allowing the EP to contribute to the preparation of the BEPG, the commission produces the "EU Economy Review" on which the EP also adopts a resolution. Also regular meetings between the ECOFIN Troika and a delegation of the EP's Committee on Economic and Monetary Affairs; - National parliaments are informed by national governments, if necessary consulted informally by the MS. 	<p>Council consults EP on the proposed decision on the Employment Guidelines. The Commission adopts an amended proposal on the guidelines taking EP's comments into account. This serves as a basis for the Council Decision on the guidelines.</p> <p>National parliaments can be consulted or informed about National Action Plans by MS governments.</p>	<p>None, except in legislative decisions.</p>	<p>EP must be consulted (from 2004: possibly co-decision in "Communitised" fields)</p> <p>c) EP can deliver an opinion.</p>
<p>Role of the Commission</p>	<ul style="list-style-type: none"> - Initiates and provides impetus for the process. Produces economic analyses; duty of neutrality. - Submits recommendation for the BEPG - Multilateral surveillance (implementation of the BEPG, Stability and Growth Pact, 	<p>Proposal for Guidelines, Employment Report and recommendations. The Commission plays a major role as initiator and coordinator among the various actors involved in the process. Provides impetus and expertise.</p>	<p>a) Right of initiative on legislation. Organises administrative cooperation between MS on tax and customs: provides MS with instruments for cooperation and encourages their use by the</p>	<p>a) Commission shares right of initiative with the Member States. It will have sole right of initiative from 2004.</p> <p>c) Commission is associated with</p>

	<p>structural reform, etc., including sanction mechanisms).</p> <ul style="list-style-type: none"> - Takes part in Macroeconomic Dialogue - Participates in the Eurogroup 	<p>Produces analyses, evaluation and comparisons between MS.</p>	<p>relevant authorities; centralises experience of MS e.g. on new means of tax avoidance.</p> <p>b) Monitoring fulfillment of commitments made by MS ⇒ report to "Primarolo Group" ⇒ peer pressure.</p>	<p>work under Title VI EU (Art. 36(2)) and has a right of initiative.</p>
<p>Involvement/ consultation of other actors concerned at the various levels (including ESC and CoR)</p>	<ul style="list-style-type: none"> - ECB (Art. 111 and 113) - European social partners (Macroeconomic Dialogue) - Economic and Social Committee - Committee of the Regions 	<ul style="list-style-type: none"> - The horizontal European social partners are consulted by the Employment Committee under its mandate, as well as in the Standing Committee on Employment (Employment Ministers, social partners, Commission). - Contributions to the Guidelines by the European social partners (interprofessional and sectoral social dialogue) strengthened under the 2001 Guidelines. The European social partners have primary responsibility for the implementation of certain guidelines, in particular as regards the adaptability pillar. They are also supposed to involve national social partners in devising and implementing the NAPs. - Involvement of local and regional players in the NAPs (authorities, social partners and civil society). - ECOSOC and CoR consulted by the Council on the Guidelines. 	<p>Yes, e.g. in customs matters</p>	
<p>Duration</p> <ul style="list-style-type: none"> - of the cycle; - of the procedure for consulting other institutions and bodies 	<p>BEPG annual cycle + multi-annual programming.</p>	<ul style="list-style-type: none"> - Monitoring process = annual cycle - Multiannual – medium-term (5 years?) – validity of defined common objectives (the 4 pillars of the Employment Guidelines) - EP procedures and deadlines poorly adapted to this type of rapid consultation on annual cycle. 		
<p>Monitoring/evaluation</p>	<p>Permanent monitoring and evaluation of economic policies (including budget and structural), <i>inter alia</i> through the annual report on implementation of the BEPG.</p>	<ul style="list-style-type: none"> - Permanent monitoring through the Joint Employment Report + recommendations to the MS and peer review of policies. - Mid-term review carried out in 2000 agreed on need to carry out impact assessment evaluation (planned for 1st part of 2002 in conjunction with the end of the first 5-year cycle). 	<ul style="list-style-type: none"> - Evaluation of Community programmes has just started; - Evaluation of policies (legislation and other action). <p>On indirect taxes, evaluation report on the operation of administrative cooperation every 2 years (Reg. 218/92).</p>	<p>EU scoreboard on JHA: communication from the Commission to Council and EP taking stock of progress between 2000 and 2004 (every six months):</p>

<p>Networking between national public and private actors</p>	<p>- Peer review (exchange of best practice between Member States).</p>	<p>- Peer review (exchange of best practice between Member States) - Links between national employment services (EURES)</p>	<p>Tax and customs applications of the CCN-CSI common platform managed by the Commission and used by the MS to exchange information.</p>	<p>- European judicial network on criminal matters and on civil and commercial matters</p>
<p>Ad hoc, high level and informal groups</p>	<p>Working groups within the framework of the two standing committees involved in economic policy coordination: - Economic and Financial Committee (Art. 114); - Economic Policy Committee (Council Decisions of 1974 and 2000).</p>	<p>- Employment Committee (Art. 130 EC) = Group on indicators and <i>ad hoc</i> group on policies - ARC group (Analysis, Research and Cooperation Committee) (Art. 129 EC) - High Level Group on Industrial Relations and Change</p>	<p>Committees on customs, VAT, excise duties, etc. Tax Policy Group; Customs Policy Group; "Code of conduct" group ("Primarolo Group"); Group of Directors-General on customs and taxation; "Consistency" group (taxation-customs): very technical approach. SCAC (Standing Committee on Administrative Cooperation): comprising MS representatives and chaired by a Commission representative, takes decisions on legal, organisational and financial aspects of the VIES project and deals with administrative cooperation on indirect taxes.</p>	<p>- High-level Working Party on Immigration and Asylum: implementation of an overall approach to migratory flows in relation to third countries of origin and transit. - "Eurojust" (Art. 31 EU, as amended by the Treaty of Nice): unit comprising prosecutors on secondment, with the task of promoting close coordination between national authorities in the context of cooperation on criminal matters. - Task force of European police commissioners: closer cooperation between MS police forces in the ongoing fight against crime.</p>
<p>Financial support measures/overall budget</p>		<p>Structural Funds that can be used (especially ESF). Art. 129 EC provides for encouragement measures.</p>	<p>Community administrative cooperation programmes and measures (FISCALIS, DOJANE 2002) (exchanges/training).</p>	<p>Multinational, small-scale cooperation programmes on asylum, immigration and borders (ODYSSEUS); judicial matters (GROTJUS), policing (OISIN, FALCONE), combating trade in human beings (STOP LIGHT, DAPHNE) (NB: This structure is being reviewed at the request of the EP) Solidarity instrument in the field of asylum (European Refugee Fund) and new forms of cooperation with third countries on management of migratory flows. Development and management of the EURODAC system and possibility of the Community budget bearing the cost of the Schengen Information System.</p>
<p>Conditions for effectiveness (e.g. in terms of objective to be achieved)</p>	<p>1) Close linkage between Community processes and consistency with the BEPG; better linkage with national decisions; 2) Improving further the understanding of</p>	<p>1) Defining comparable quantifiable objectives and comparable statistical tools for evaluating results, a timetable for implementing the measures planned under NAPs.</p>	<p>The aim is compatibility between national systems of social security charges, rather than convergence. Regarding the aims set in the fight</p>	<p>- Facilitating inter-institutional dialogue and defining relations between institutions, MS and bodies such as Europol and Eurojust. - Improving EP's role.</p>

	<p>economic developments and reaching common views, <i>inter alia</i> by improving the quality and comparability of statistics;</p> <p>3) Ensuring full implementation of the BEPG and policy coordination through adequate surveillance and peer pressure;</p> <p>4) Improving the functioning and visibility of the Eurogroup;</p> <p>5) Moreover, transparency and credibility could be enhanced further by developing common rules of conduct for economic policies.</p>	<p>2) Defining simpler and more effective ways of involving national social partners and local actors properly in the development and implementation phase of NAPS.</p> <p>3) Incorporating the employment objectives in ESF programming and synchronising the respective timetables</p> <p>4) Establishing effective coordination with other structural policies;</p> <p>5) Improving methods for monitoring and dissemination, giving more visibility to the process.</p> <p>The Luxembourg process guidelines will be better coordinated with other processes through the decisions of the spring summit. A meeting with the social partners will also take place in the margins of the spring summit to evaluate and monitor their contribution to the process. Updating will be carried out in 2002 following an impact assessment.</p>	<p>against fraud, need to:</p> <ul style="list-style-type: none"> - develop multilateral controls; - improve cooperation between the MS, especially on providing precise details of tax debts uncovered through exchanges of information and on requests for assistance with recovery. 	<p>- Sound management of Member States' right of initiative, since their different approaches can lead to a lack of consistency at European level.</p>
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<p>INSTRUMENTS</p> <p>a) Areas where a legal basis exists (primary law)</p> <p>b) Innovative approaches</p> <p>c) Other forms of cooperation</p>	<p>Education, vocational training</p> <p>Objective: To contribute to the development of quality education (Art. 149 EC)</p> <p>"Education and training for living and working in the knowledge society" (Presidency conclusions – Lisbon Summit)</p>	<p>Social protection</p> <p>Objective: To provide appropriate social protection (Art. 2 EC); "Modernising social protection" (Lisbon Summit); Better jobs and secure income; secure retirement and viable pension schemes; social integration; high and sustainable level of health protection (Communication of 14.07.99)</p>	<p>Social inclusion</p> <p>Objective: Combat social exclusion/promote social inclusion (Art. 136 EC)</p> <p>Promote participation in the labour market and access for all to resources, rights, goods and services; forestall the danger of exclusion; act for the most vulnerable; mobilise all those involved (Nice Summit)</p>	<p>R&DT</p> <p>Objective: Strengthen the scientific and technological bases of European industry and boost its international competitiveness</p>	<p>Enterprise policy</p> <p>Objective: Promote entrepreneurship and the competitiveness of European industry (Art. 157 EC)</p>
	<p>a) Art. 149-150 EC</p> <p>"The Community shall contribute to the development of quality education, by encouraging cooperation between MS and, if necessary, supporting and supplementing their action", while fully respecting their responsibility.</p>	<p>a) Art. 136-139 EC adoption of measures on social security and social protection of workers limited to the objectives of the single market.</p> <p>b) Lisbon Summit: enhanced cooperation between MS by exchanging experience and best practice through</p>	<p>a) Art. 136-139 EC: gradual identification, recognition and promotion of minimum conditions of integration in all the MS, which can be transposed into minimum requirements in the form of European Directives; adoption of measures to encourage cooperation</p>	<p>a) Art. 163-173 EC: the Community integrates MS action by implementing research programmes, promoting cooperation, disseminating and exploiting results, encouraging training and mobility for research workers. The EC and MS</p>	<p>a) 1. Art 95 EC: "New Approach": technical harmonisation directives on industrial products for completion of Single Market</p> <p>2. Art 157 EC (Title "Industry") legal basis for the MAP (Multi-Annual Programme) and the Commission's role: "The MS</p>

<p>d) CJEC case law (Areas of +/- Community competence; cooperation/ coordination, etc.)</p>	<p>b) <u>Open coordination method</u> (Lisbon Summit)</p> <p>c) <u>Intergovernmental cooperation</u></p> <p>d) CJEC case law (e.g. judgements on access to training or university).</p>	<p>improved networks:</p> <p>c) Policy cooperation process: conclusions of the Employment and Social Affairs Council of 17/12/99 + Council Decision of 29/6/00 to establish the Social Protection Committee (SPC). Now enshrined in the Treaty of Nice (new Art. 144 EC).</p>	<p>between MS (Community programme on cooperation in the fight against social exclusion, planned 5-year duration).</p> <p>b) <u>Open coordination method</u> (Lisbon Summit) – combining NAPs and the Community programme against social exclusion.</p> <p>c) Council Decision of 29/6/00 to establish the Social Protection Committee (SPC).</p>	<p>coordinate their action on research and technological development to ensure consistency between national and Community policies.</p> <p>b) <u>Open coordination method</u> (Lisbon Summit)</p>	<p>shall consult each other in liaison with the Commission and, where necessary, coordinate their action. The Commission may take any useful initiative to promote such coordination".</p> <p>3. Art 157 and 164 EC: Innovation policy forms part of DG ENTR's remit since Jan 2000 while continuing to be one of the main objectives pursued in the RTD framework programme OCM (Lisbon)</p>
<p>Main features of the tools or methods (+/- binding nature of the process)</p>	<p>a) - Adoption of education + vocational training measures by co-decision procedure (recommendations and Community action programmes : Socrates Leonardo da Vinci and Youth);</p> <p>- White Papers with preliminary consultation of the parties concerned.</p> <p>b) The application of the OCM to education and vocational training is being defined by the Commission and the MS.</p> <p>c) E.g.: Bologna Process, for the creation of a "European area of higher education".</p>	<p>b) In early 2001 MS will present their strategies to achieve the objectives of their retirement systems to the Social Protection Committee. On this basis, and in the light of financial projections by the Economic Policy Committee, it will adopt a Report for the Gothenburg European Council (6/01).</p> <p>c) The task of the SPC (2 repr. MS + Commission) is to:</p> <ul style="list-style-type: none"> - monitor development of social protection policies in MS+EC; - promote exchange of information and good practice between MS + Commission; - prepare an <u>annual report</u> on social protection to the Council. 	<p>b) The social inclusion process is based on national action plans (to be presented by June 2001) covering a two-year period and designed to implement the common aims of fight against poverty and social exclusion. With a view to producing a joint report with the Council, the Commission will submit a summary report on the basis of these plans, identifying good practices and innovative approaches that are of common interest to the MS.</p> <ul style="list-style-type: none"> - This process will be supported by a new cooperation programme against exclusion, which the Commission proposed in June 2000 and is now at the second reading in Parliament. The aim of the programme is to strengthen European cooperation in order to learn more about the phenomena of exclusion, to encourage exchanges of good practice, to seek alignment and consistency between indicators. - Implementation of the programme against social exclusion is to be guided by a Joint Committee. - The Social Protection Committee (SPC) will play a central role in this exercise 	<p>a) Adoption of Multiannual Framework Programme + specific implementing measures (co-dec. proc.)</p> <p>b) Commission communication "Towards a European research area": develop consistency between activities and national research policies in Europe => use of the OCM for:</p> <ol style="list-style-type: none"> 1. benchmarking national RTD policies (defining priorities, methodology and list of indicators) to identify and disseminate best practice (voluntary policy cooperation); 2. networking of national research programmes on a voluntary basis by MS. 	<p>a) 1. "New Approach" full harmonisation Directives and voluntary standardisation (access to markets);</p> <p>a) 2. MAP + b) OCM: Integration of the various instruments used so far in the <u>Best procedure</u>, including:</p> <ul style="list-style-type: none"> - scoreboards (e.g. enterprise policy scoreboard) and the Competitiveness Report for effective identification of problems; - wide involvement of MS in definition and implementation of projects for the exchange of best practice using <u>benchmarking</u> or other appropriate means; - adoption of conclusions and follow-up through Recommendations of the Commission and reports to the Council. - monitoring implementation through scoreboard and bilateral meetings with MS; <p>a) 3. <u>European Innovation Scoreboard</u>, benchmarking innovation policies, periodic report on Europe's innovation performance.</p> <p>b) Communication on "Innovation in a knowledge-</p>

<p>Links with other fields/processes</p>	<p>- Liaison between Council Committee on Education and Employment Committee; - Link with Summary Report; - Define implementation of the OCM in education & vocational training in a manner consistent with other fields where it is applied (employment, RTD, social inclusion, etc).</p>	<p>Liaison between SPC, EPC and Employment Committee. Link with the Summary Report and structural indicators (spring summit)</p>	<p>(political control). - On all questions of employment, the SPC works in cooperation with the Employment Committee. - Possible link with the Economic Policy Committee (EPC) especially on indicators and structural indicators (spring summit)</p>	<p>Close link with enterprise and innovation policy.</p>	<p>driven economy" (20.09.2000) setting the broad policy guidelines for enhancing innovation in Europe</p> <p>The current benchmarking exercise on MS enterprise policy and the innovation Scoreboard will be coordinated with the benchmarking activities on national research policies.</p> <p>Coordination with other policy areas (e.g. <u>Employment NARs entrepreneurship pillar</u>) also takes place.</p>
<p>Degree of parliamentary control (European Parliament; national parliaments)</p>	<p>a) EP involvement in Community programmes (adoption phase) is limited, because of their long duration (e.g. Sociates: 7 years); - always involved in recommendations; b) OCM: consultation of the EP planned on detailed work programme requested by the Stockholm European Council; not involved in intergovernmental cooperation.</p>	<p>b) + c) No provision for EP involvement in the Social Protection Committee or in enhanced cooperation defined in Lisbon, but agreement that the SPC will be in contact via a new EP contact group.</p>	<p>a) Art. 137: co-decision (Council+PE + consult ECOSOC and CoR), for the programme against social exclusion. b) OCM: at the present stage, only Commission and Council involved.</p>	<p>1. New Approach Directives: co-decision procedure. a) 2. Consultation procedure for approval of Multiannual Programme for Enterprise and Entrepreneurship (2001-2005)/Art 157 (3) EC a) 3. (see RTD)</p>	<p>a) 1. Commission initiates legislative procedure; Community control of national measures taken against products covered by the Directives. a) 2. Initiates and provides impetus for the process - MAP implementation a) 3. (see RTD)</p>
<p>Role of the Commission</p>	<p>b) Providing impetus under the OCM. c) Providing outside expertise in the Bologna Process.</p>	<p>c) Providing impetus and expertise in the SPC.</p>	<p>b) Providing support and impetus under the OCM. The Commission must prepare the first summary report taking stock of the NARs on social inclusion (due for adoption in October 2001).</p>	<p>a) Annual communication from Commission to EP and Council on previous year's activity and on work programme for current year. b) Acts as catalyst and provides technical support for 'benchmarking' and dissemination of the results of the exercise. Produces interim and final reports on the benchmarking cycle. Acts as catalyst for networking of research programmes.</p>	<p>a) 1. Commission initiates legislative procedure; Community control of national measures taken against products covered by the Directives. a) 2. Initiates and provides impetus for the process - MAP implementation a) 3. (see RTD)</p>
<p>Involvement/consultation of the other</p>	<p>a) Involved in the preparatory phase for</p>	<p>- Social partners to be involved in the work of the SPC (Art.1(2))</p>	<p>a) Under the Community Programme there is a Round</p>	<p>Increasing importance of the regional dimension in RTD</p>	<p>New Approach directives are drafted after consultation of the</p>

<p>actors concerned at the various levels (including ESC and CoR)</p>	<p>recommendations/White Papers Involved in the management/evaluation of Community programmes. Not clearly and unequivocally defined in both cases.</p> <p>b) to be defined in the OCM</p>	<p>Decision 29/6/00). - NGOs will be consulted (suitable mechanisms to be defined).</p>	<p>Table with the Presidency each year, prepared in consultation with all the actors concerned.</p> <p>b) OCM: Social partners, NGOs and national, regional and local actors must be associated with action at all levels, but beyond the possibilities for action laid down in the Community Programme, arrangements have to be defined.</p>	<p>policy (WD, DG RDT).</p>	<p>relevant stakeholders; moreover, the harmonised standards (standardisation process) are developed by the stakeholders themselves.</p> <p>Under the Best procedure, consultation with MS and business takes place in the framework of the EPG (Enterprise Policy Group)</p>
<p>Duration - of the cycle; - of consultation with other institutions and bodies</p>	<p>All the tools cited involve a long-term aspect (from recommendations, to the OCM, to Community programmes).</p>	<p>b) No cycle clearly provided for under enhanced cooperation between the MS. Submission of MS contributions on national strategies for retirement at the beginning of 2001.</p>	<p>- OCM: Multiannual iterative process (on the basis of 2-year cycles).</p>	<p>b) <u>Two-year benchmarking cycle</u>. Progress report presented annually to the Council and the EP by the Commission + final report to the EP and Council, after discussion within the High Level Group.</p>	<p>a) 2. - 5-year multiannual programme of work - Approval of Best projects, including Best projects, on a yearly basis by MS.</p>
<p>Monitoring/evaluation</p>	<p>a) Included in the Community action programmes; b) To be defined in concrete terms in the OCM.</p>	<p>The primary objective remains the intention to align work on shared objectives and principles. The second stage requires the creation of comparable indicators. Monitoring/evaluation not foreseen yet.</p>	<p>- Monitoring progress in the context of the annual Joint Report – to be reflected in the Summary Report (link with "social cohesion") - Halfway evaluation of the programme (before end 3rd year) and at the end after 5 years.</p>	<p>b) - Benchmarking exercise has no binding consequence, even where there is evaluation in the Commission Report; - Voluntary nature of networking of research programmes; Monitoring to be developed.</p>	<p>1. Under the New Approach Member States must carry out market surveillance activities, on products placed on the market and on the certification bodies designated to perform conformity assessment activities. a) 2. - Monitoring planned for implementation of the results and recommendations arising from action under Best; - Evaluation report on MAP to be submitted to EP and Council by Commission.</p>
<p>Networking between national public/ private actors</p>	<p>- NARIC, in particular in the management of the SOCRATES programme and on academic mutual recognition; - Consultative Committee on Vocational Training (tripartite – with social partners).</p>	<p>(...)</p>	<p>Possibly networking of national observatories or the like</p>		<p>- IDA-networks between public administrations to develop instruments in different fields. - Moreover, under the New Approach, Member States should ensure effective communication and coordination at national level between market surveillance authorities and other public authorities. In some directives this obligation is already explicit.</p>
<p>Ad hoc, high level and</p>	<p>Network of Directors-General on</p>	<p>Social Protection Committee</p>	<p>Social Protection Committee</p>	<p>High Level Group on RDT</p>	<p>New Approach: Senior Officials Group on Standardisation and</p>

informal groups	education and vocational training	(Council Decision, 29 June 2000)	(Council Decision, 29 June 2000)		Conformity Assessment Policy, SOGS; and under each specific directive working groups (public authorities and private sector), administrative cooperation groups (public authorities) and groups for the coordination of Notified Bodies (public and private sector).
Financial/support measures Overall budget	Community action programmes on education, and training; budget of approximately € 500 million p.a.	Not applicable	Community action (co-decision expected 2001) € 70 million programme (2002-2006) under the Commission proposal	EC participation in funding the general benchmarking exercise (expert groups and coordination/ organisation costs); collection of statistics and indicators and in-depth national analysis are the responsibility of the MS (together with Eurostat).	b) Actions carried out under the MAP c) (see RTD)
Conditions effectiveness for	<ul style="list-style-type: none"> - Active involvement of MS and EP, as well as public and private actors concerned for political support and concrete follow-up (consensual approach); - Attention to the complementarity of action at all levels (local, regional, national); - Good links with the Luxembourg process for employment. 	<ul style="list-style-type: none"> - Better balance in fixing targets between economic policy, employment and social protection. "This new cooperation should be a coherent action parallel to and interactive with, the European Employment Strategy and the Macroeconomic Dialogue", Council Decision 29/6/00). - Better definition of indicators and objectives relating to the modernisation of social protection, and especially in the fields of retirement and social exclusion. <p>The definition of common objectives and principles for the modernisation of social protection to help the MS manage their national reform processes, especially in the fields of retirement and social exclusion, remains the priority in the medium term.</p>	<p>Action will be effective if it leads to:</p> <ul style="list-style-type: none"> - a better understanding of social exclusion and poverty; exchanges on the policies followed and mutual learning on the basis of comparable parameters and in the context of the national action plans; a greater capacity on the part of those involved to tackle poverty and social exclusion effectively, in particular through networks at EU level; dialogue with all the actors. 	<ul style="list-style-type: none"> - Active involvement and contribution of MS and within the High Level Group. The latter must guarantee the coherence and quality of the benchmarking process; - Better access to information and exchange of information; - Need for a flexible, yet rigorous and focused process; - Need for reliable, comparable, up-to-date and policy-relevant data (indicators). 	<ul style="list-style-type: none"> - For benchmarking to work effectively there must be collaboration and high-level adherence to the process. - A clear focus on concrete results is another condition for success. - Performance indicators will be established for all projects launched under Best procedure.

Analysis of the data leads to the following findings.

- 1) The method for coordinating Member States' economic policies that was introduced by the Maastricht Treaty has had a *spillover* effect in other fields: inclusion of a new chapter on employment in the EC Treaty (Amsterdam); political decision (Lisbon) to apply this "open" coordination method to other structural policies of the Member States.
- 2) Action at all levels is complementary and interrelated. This demonstrates the need, for the effectiveness and legitimacy of the various coordination instruments, to ensure linkage between:
 - the procedures applied at European level and the decision-making cycles at national level, so that there is consistency between European guidelines and their implementation by the Member States in their own policies (e.g. the BEPG and national budgets);
 - the Community procedures for national policy coordination, to avoid gaps or overlaps between operations in different sectors and so to guarantee overall consistency of action at European level;
 - the instruments – including financial – contributing to attainment of the goals set in a given field (e.g. *European Employment Strategy* and strategic definition of the European Social Fund resources to be allocated for the agreed objectives);
 - the committees responsible for the various policy coordination procedures (in particular the Committee on Social Protection, Economic Policy Committee, Economic and Financial Committee and Employment Committee).
- 3) The concept of duration, and of cycle in particular, is of key importance for the coordination of structural policies within the Union. It is hardly ever found in traditional Community measures, but is typical of the structural and budgetary policies of the Member States. It adds a new dimension to the Union's action, and one that is vital as it enters the sphere of economic policy and social policy proper.

Preparing a measure under the Community method can take several years. Once adopted, however, and provided it is not undermined by subsequent delays in implementation, it enters into force fairly quickly. The OCM, on the other hand, involves strategies aimed at medium-term results and increasing in intensity over time. Updating these processes is more flexible thanks to the (generally annual) evaluation system. The twin aspects of increasing intensity and periodic evaluation entails continual active political responsibility at national level as regards progress in implementing the agreed objectives.

This new concept of duration also introduces new constraints into the European decision-making process. In particular, practical difficulties can arise because of the danger of discrepancy between the time constraints of the cycles and the introduction of effective consultation with the other European institutions (Parliament, Economic and Social Committee, and Committee of the Regions) and national authorities in the decision-making procedures.

- 4) The following factors play a major role in national policy coordination:
 - *benchmarking* is a key element (a process of mutual learning and continuously improving performance by exchanging information and good practice and identifying excellence according to objectives to which the parties have committed themselves), with peer review of the procedures for coordinating national structural policies (the mechanism to ensure implementation).

- comparability of data and transparency of indicators. Indicators, or common reference factors, that are reliable and comparable at European level are essential for defining quantifiable objectives, evaluating performance and ensuring effective multilateral monitoring (peer review) of coordination.
 - networking between national and regional authorities, public and private players, as a source of legitimacy and effectiveness in defining common objectives and implementing them on a decentralised basis through national action plans, as well as in benchmarking and the exchange of information. Networking is complementary to policy development and can contribute substantially to ensuring that the players are properly involved in coordination.²³
 - overall budgets at Community level, which can contribute greatly to the spread of good practice, confidence building and convergence towards the agreed objectives in many fields (e.g. JHA). The new forms of national policy coordination also have a major multiplier effect in terms of the European dimension, even from a budgetary point of view, since they mobilise and combine Community resources with national resources released under national action plans (NAPs) to achieve the goals laid down (e.g. employment, social inclusion).
- 5) The open coordination method, as defined in the ten-year strategy for economic, social and technological modernisation approved in Lisbon, is being applied in economic and structural policies where purely legislative action at Community level would not be possible.²⁴

In this context:

- the definition of detailed common objectives is a necessary preliminary step as soon as Member States decide that a certain field is a matter of common interest and one where they wish to coordinate their national policies;
 - the involvement of the Member States in (and their active contribution to) benchmarking is crucial to ensure the consistency and quality both of benchmarking itself and of the various multilateral surveillance procedures. For example, recommendations on employment are not binding nor are they accompanied by a genuine system of sanctions. But multilateral surveillance, *benchmarking*, and the fixing of common and comparable targets puts pressure on the Member States to achieve the targets set.
- 6) There are difficulties in involving *stakeholders* (economic, social and local players) in these processes, including, to some extent, the *Luxembourg process*, even though they are a vital precondition for legitimacy and effectiveness. Consequently there is a need for simple, transparent and coherent procedures that effectively involve all the parties concerned at the various levels.

Comparative analysis of the fields where some form of Europe cooperation/coordination applies makes it possible to draw some general initial conclusions that are of relevance in terms of governance.

²³ On the role of networks and their possible development as policy-making instruments in the European Union, see the report by Group 4.b, *Networking people for good governance in Europe*, and in particular Chapter 4 “A networked European Union”, p. 20 ff.

²⁴ Indeed, the OCM often presupposes integrated strategies, some elements of which may be the subject of traditional legislative action.

First, the sectoral dynamic and logic underlying each coordination/cooperation process in the various policy areas studied, makes it impossible to single out any one method above all others. The wide diversity of sectoral arrangements reflects the specific nature of each field where European coordination/cooperation is provided for and the specific objectives pursued. Similarly, there is no permanent feature that makes one method superior to the others and thus could justify transposing or applying it generally in other fields.

Secondly, there is no “law of evolution” leading unerringly and inescapably from cooperation to coordination and harmonisation at Community level. Though progress from one stage of integration to another may point in this direction, each advance has probably had more to do with factors specific to whichever sector was concerned. However, it may be possible to identify specific triggering factors relating to the European political and institutional system and recent developments in this area (note, for example, the changing role of the European Council).

Finally, from the operational point of view the analysis shows that to improve the effectiveness of national policy coordination methods at European level:

- The Commission (*Eurostat* in particular) and Member States should continue improving the comparability of statistics and indicators at European level, while involving all the parties concerned, if necessary, in an efficient and transparent manner.
- The Council and Parliament should support the Commission’s efforts towards greater transparency in national policy coordination. Information is the key element of a truly open coordination method, where the sharing of experience and the mutual learning that are its prime merit operate in every direction (top down, bottom up and horizontally).²⁵ More particularly:
 - the Commission should be able to carry out regular comparative analyses of the involvement of civil society and local authorities in defining national action plans, to publish the results and to conduct *benchmarking* among the Member States on the degree of consultation;
 - the Commission should develop its relations with the parties concerned (social partners, etc.) under its policy of fostering relations with civil society;²⁶
 - the Commission should consider forwarding more documents on the OCM to the Economic and Social Committee (ESC) to obtain a better societal evaluation²⁷ of policy coordination from the Committee.²⁸ However, it is recognised that this would require

²⁵ See the report by Group 1a, *Promoting dialogues, discussion and debate for a Citizen’s Europe*, Parts 3 and 4 (p. 10 ff.), and Part 6.c of the report by Group 1b, *Democratising expertise and establishing scientific reference systems*, p. 18 ff.

²⁶ This specific point was dealt with by Working Party 2a in its report *Consultation and participation of civil society*.

²⁷ For a more detailed discussion of this concept, see the report by Group 2b *Evaluation and transparency*, conclusions, pp. 32-33 and 36-37.

²⁸ In its opinion of 25 April 2001, on *Organised civil society and European governance –the Committee’s contribution to the drafting of the White Paper*, par. 2.2.4., the ESC stated that “The Committee will monitor the new coordination method to ensure it genuinely involves civil society organisations in relevant policy areas”.

changes in the way the ESC currently operates and a corresponding amendment to the EC Treaty;²⁹

- measures under NAPs and their evaluation should be publicised proactively as widely as possible at national level to ensure that information circulates at all levels and national policy coordination is truly open.

PART THREE

WHAT LEGITIMACY DO THE NEW COORDINATION PROCESSES HAVE?

Comparative analysis of some forms of national policy coordination at European level makes it possible to identify some interesting elements from the point of view of their legitimacy.

The first relates to the central role played by the Commission, as the driving force and catalyst, under the open coordination method in fostering the emergence of a “European dimension by defining European guidelines and it encourages management by objectives”.³⁰ Only the Commission has “the technical and organisational resources to ensure the continuity and regeneration of the common programmes and to coordinate the transformations under way in the public policies of the Member States”.³¹

At the same time, with the development of national policy coordination, the European Council has become more than ever a central provider of political impetus in the government of the Union. Evidence of this is the fact that each spring from 2001 onwards, there will be a summit of the Heads of State and of Government on the economic and social situation in the Union; a “sustainable development” dimension was added at the June 2001 Gothenburg Summit. This is bound to have an impact in institutional terms, in particular as regards the Commission’s power of initiative and Parliament’s prerogative of democratic control.

The new “governmental” function that the Council of Ministers is required to play under the OCM also raises other issues.

The role of national Parliaments in exercising democratic control over action by the Member States and the place of local authorities also need to be considered.

²⁹ See in particular paragraphs 3.4.2. (pp. 9 and 10) and 4.2.2.1 (p. 15) of the report by Group 2a.

³⁰ Council of the European Union (2000), *The ongoing experience of the open coordination method*, Note of the Portuguese Presidency, p. 6.

³¹ Telo, M., coordinator (2001), “Vers de nouvelles méthodes de gouvernance européenne. Perspectives et options pour la Commission européenne”, *Abstract*, Action Jean Monnet, Groupe Gouvernance, ULB, Brussels, p. 3.

1. OPEN COORDINATION AND DEMOCRATIC LEGITIMACY

1.1 Parliamentary control

The European Parliament is involved in the new national policy coordination arrangements, but only to a limited extent and not in any systematic way. This may confirm certain fears of intergovernmental drift associated with the adoption of these arrangements.

As regards economic policy coordination, Parliament is not formally mentioned by the Treaty. However, it has become established practice for Parliament to present a contribution in response to the Commission's annual report on the EU economy prior to the annual recommendation on the broad economic policy guidelines. A meeting between a delegation of Parliament's *Committee on Economic and Monetary Affairs* and the "troika"³² of the Economic and Financial Affairs Council also takes place, normally on the fringe of these Council meetings. Its involvement is therefore ensured informally.

In the coordination of national employment policies, on the other hand, the Treaty does provide for formal consultation of Parliament by the Council on the Employment Guidelines proposed each year by the Commission, and this may result in amendments to the Commission's proposal. But because of the rhythms and constraints of the annual European strategy cycle, practice demands that this consultation is completed in a very short time; too short for Parliament to follow the traditional procedure for delivering an opinion.

And since in these new fields it is not so much a question of pure legislation but rather of coordination and *soft-law*, not of amending legislation but rather of defining broad guidelines and political choices, Parliament should be able to adapt its own practices to become not merely a formal actor delivering opinions but an effective standard bearer in the political management of coordination at European level.

Lastly, the various forms of policy coordination call for increased involvement of national parliaments to provide democratic control and legitimisation of the national policies adopted under the OCM.³³ Although it is up to the Member States to ensure the involvement of their parliaments, some examples of good practice have been developed at European level. The Protocol to the Amsterdam Treaty on the role of national parliaments states that they should be regularly informed of any consultation document adopted by the Commission and provides for fairly long deadlines for the transmission of other documents to national governments. It also confirms the role of the COSAC (Conference of national parliamentary committees on Community affairs) and its twice-yearly meetings with the European Parliament. Lastly, certain European Parliament subcommittees organise regular working meetings on current topics with representatives of their national counterparts.

From the point of view of good governance:

- Generally, Parliament ought to reflect on how to optimise its participation in national policy coordination, to take a more proactive stance in this respect and to adapt its

³² The "troika" is made up of representatives of the Union's outgoing, current and next Presidency.

³³ Greater involvement of national Parliaments is being sought in economic policy coordination, for example. See, along the same lines, the Economic and Financial Affairs Council's report on the coordination of economic policies to the European Council of Helsinki of December 1999, par. 40.

practices and procedures, as the other institutions are being required to do, in line with the specific timing constraints of the OCM.

- Parliament could, *inter alia*, make a regular practice of holding a public debate on the economic and social modernisation strategy of the Union at a sitting before each year's special spring European Council. This ground for the debate should be prepared by each parliamentary subcommittee.
- The Commission could take greater account of Parliament's position in any relevant body under the coordination procedures (specific Councils, etc.).
- The specialist Ministers sitting in Councils involved in open coordination could appear regularly before the relevant parliamentary subcommittees to answer questions on the OCM;
- In the medium term, the Commission could consider evaluating the involvement of Parliament in these forms of coordination in the light of growing experience in several fields that are subject to European coordination.
- The practice of "multilateral" consultation of national parliaments by the European Parliament could be extended.

1.2. Sub-national authorities

The Lisbon European Council intended the open coordination method to make it possible to take detailed account of national diversities and regional particularities,³⁴ founded on the need for flexible coordination between the various levels and their interaction.

In practice, however, the OCM rests on evaluating the position of the Member States: the place of the local authorities which it comprises is not specifically defined, the organisation being left to the national level. That may result in difficulties as regards the involvement of regional/local bodies in European national policy coordination, especially in countries with a highly decentralised structure, where regions have genuine legislative and budgetary powers. Thus some regional/local authorities – notably in countries where they are regularly consulted on European law-making – react with scepticism to the use of techniques for policy coordinating at European level. This legitimate concern on their part should not, however, detract from the added value provided by the OCM; it should, however, prompt some reflection on how to ensure that all the actors involved in coordination are adequately represented.³⁵

³⁴ "A fully decentralised approach will be applied in line with the principle of subsidiarity, in which the Union, the Member States, the regional and local levels, as well as the social partners and civil society, will be actively involved, using variable forms of partnership". *Presidency Conclusions*, Lisbon European Council, 23 and 24 March 2000, point 38.

³⁵ Working Group 4c made a major contribution to this debate in its report, *Multi-level governance: linking and networking the various regional and local levels*. See in particular Chapter 4 (pp. 19-20) and paragraph 5.5 (p. 31).

2. THE SPECIFIC ROLE OF THE COMMISSION VIS-À-VIS THE EUROPEAN COUNCIL AND THE COUNCIL OF MINISTERS

As the Treaties have undergone successive amendments, the way the European Union is organised has changed radically. In particular, the European Council no longer serves just to provide general impetus and arbitrate on specific issues: although the Treaties do not confer on it any explicit decision-making powers, it has become a genuine political decision-maker in practice, in terms of defining broad strategic guidelines and monitoring their application.

- This development, stemming from the ever closer interpenetration of Union decisions and national policies, has become explicit in the fields covered by the open coordination method. Beyond the OCM itself, the Lisbon decision to give the spring European Council the task of reviewing the state of progress of the Union's economic and social modernisation strategy and updating its content each year threatens to undermine the institutional balance between Parliament, the Commission and the Council, and especially the Commission's position.
- Moreover, we are seeing a huge increase in the number of areas where the Council of Ministers intervenes, besides in its traditional legislative role, notably through the gradual extension of "governmental" functions in sectors covered by coordination. In addition there is the increasing superposition of national and European levels. And finally the various fields are becoming ever more interlinked with a view to an integrated approach to economic and social modernisation. The result is a multiplicity of Councils and preparatory bodies, placing new coordination challenges, in terms of consistency, procedural transparency and democratic control of the decision-making process.³⁶

On the one hand the European Council is expected to ensure the political coordination of implementation of the OCM but is not in a position to exercise day-to-day control – as it only meets once every few months. On the other hand, the Council of Ministers, in various formations, holds wide powers to take decisions, but only has a very sectoral and partial vision of coordination. In these circumstances, the Commission's role in the new forms of coordination as an independent player and guarantor of the Community interest remains crucial. It acts as the "catalyst", presenting broad guidelines, organising the exchange of best practice, proposing indicators, and arranging follow-up and peer review.

Continuity is essential for the effectiveness – and hence credibility – of European policies, requiring a combination of analytical, planning and proposal capacity which only the Commission can provide. The Commission is therefore coming to assume an active role promoting, innovating, providing impetus and even initiative in this new field. Moreover, thanks to its impartiality, it can act as arbitrator and supervisor, offering an important guarantee of neutrality (*inter alia* by drawing-up joint reports and setting European indicators) for the small Member States, for example.

Lastly, in its "governmental" function under the national policy coordination mechanisms, the Council should be able to hold genuine political debates on issues on its agenda, which is not (always) the case at present in the fields covered by the OCM.

³⁶ For some time the experts on European institutional affairs have been urging a reorganisation of the General Affairs Council. This should become a genuine External Affairs Council, alongside which a new Council, distinct from the Foreign Ministers, should be responsible for the consistency of Community action and the coordination of European policies. This new formula of a Council of European Affairs might be composed of deputy Prime Ministers or Ministers directly reporting to the Heads of Government.

- The Commission is expected to play an important role in professionalising the OCM and “politicising” discussions in the Council by producing preparatory documents offering genuine political proposals designed to prompt debate.
- Similarly, the entire process for producing the preparatory documents for the spring European Council should be reviewed, primarily by the Commission, so that it takes a genuinely political position.

More generally, to ensure that the Commission fully plays its role in the strategic direction of the new forms of coordination, it should:

- perform the new task it has in the fields covered by national policy coordination (management of *benchmarking*, defining indicators, joint and summary reports, etc.) to its best ability and with professionalism;
- have detailed knowledge of the political, economic and social realities of the Member States. This could, for example, be done by organising Commission departments so as to relativise current sectoral specialisation, with more horizontal structures enabling it to know better the specific features of the Member States.³⁷

PART FOUR

COORDINATING NATIONAL POLICIES AND EUROPEAN INTEGRATION: OUTLOOK IN TERMS OF GOVERNANCE

1. TRADITIONAL LEGISLATIVE APPROACH AND THE OPEN COORDINATION METHOD

The data gathered in this report show that the open coordination method and the traditional legislative approach are not alternatives, but complementary tools for integration.³⁸

In fact, three cases can be identified where the open coordination method is better suited for the purposes of European integration than the Community legislative method:

- The first is where the subject matter touches closely on national identity or culture; here Community harmonising legislation is clearly inappropriate. Examples are education and culture, which, as vectors of individual identity, are very closely tied to the circumstances and history of each country or region. Very often this is reflected in the fact that power in these subject areas is devolved to a sub-national level. On the other hand, the value of cooperation at European level is very widely recognised and the conclusions of the European Councils of Lisbon, Sta. Maria da Feira or Stockholm (to quote just three

³⁷ For a more detailed discussion of these ideas, see Chapter D “Consistency of policies” (p. 26 ff.) of the report by Group 6 *Policies for an enlarged Union*.

³⁸ “The open coordination method must be combined, according to the problems to be solved, with the other methods available. These go from integration and from the harmonisation to cooperation. The open coordination method occupies an intermediate position in these various methods. It constitutes an instrument which is added to an already broad range “. Council of the European Union (2000), *open coordination method: a current process*, Portuguese Note of the Presidency of the Union, city, p. 6.

examples) show the importance which the European Council attaches to seeing joint efforts develop;

- The second case is where the national arrangements are so diverse and/or complex that harmonisation would be out of all proportion to the objectives. The introduction of a coordination process for social protection at European level can be quoted as an example. Similarly, in the European Employment Strategy it is not a question of harmonising national policies, but of achieving common goals with a view to solving problems having a negative impact both on the Member States and on a European scale;
- Lastly, coordination may serve as a precursor to Community legislation – where the Member States are not ready to embrace common legislation in a given field immediately, but do have the political will to take very concrete steps towards an identified common objective. Examples are the common policies on visas or asylum and immigration, where Community legislative action is preceded by coordination of national policies with a fixed time limit.

Finally it should be pointed out that the existence of Community legislation in a given field does not by itself preclude policy coordination. One such case is the environment, where the Community has adopted various Directives governing (for instance) industrial waste processing but where, within the Community policy, the issue of reducing the quantities of waste to be processed is a matter of coordinated aims rather than a subject of legislation.

The OCM is less binding than legal provisions. It is, however, more than simple cooperation, since it contains the seeds of a truly European dimension, the intervention of Community authorities and the methods of soft *regulation* and periodic review.

The end product is not simply a one-off. Whereas Community legislation often focuses on specific issues of harmonisation, the OCM provides a coherent and integrated framework for action. Its key feature and added value is precisely the fact that applying the method in a given field sets in motion an iterative, circular and dynamic process of mutual learning, involving the setting of strategic guidelines, the fixing of common indicators, the definition of objectives tailored to specific national and local features, and the adoption of a monitoring system of *benchmarking* and progress evaluation through peer review.

By establishing a mutual learning process based on peer pressure and the desire for emulation, the OCM also favours a bottom-up approach to convergence.

Moreover, Community legislation is not necessarily appropriate in all fields: it is used in fields of Community competence where common rules need to be established.

The open coordination method is thus one among many instruments for integration. For a particular subject matter and within the limits of the Treaties, it may be combined with other Community instruments, including the traditional forms of legislation. Similarly, it must not in any circumstances be viewed as a competing alternative to the instruments of legislation, nor can its role be to replace them.

- It follows, first, that in order to embark on open coordination of national policies, it must support a defined Community objective or contribute to the implementation of an existing competence of the Union.

- Secondly, the principle should be spelled out that the open coordination method cannot be used in place of more binding Community regulatory methods simply in order to avoid using them.

More specifically, the range of instruments available raises the question of whether they are appropriate and what impact the method chosen will have. Consequently:

- the choice among the possible tools for integration should rest on the principle of proportionality and must be decided on a case-by-case basis. It would be up to the Commission, as guardian of the Treaties, to determine, after first assessing the *impact* of a planned measure, whether the legislative method or the coordination method would be most suitable to meet the needs identified;
- the conditions need to be defined where coordination would be acceptable, in particular as regards compliance with the '*acquis communautaire*' and the Treaties, observance of fundamental principles such as the single market and economic and social cohesion, and conformity with the limits of the Union's or European Community's powers. They should include the same conditions as those governing access to enhanced cooperation.

2. BRIDGES TO INTEGRATION

Sometimes national policy coordination may bring the European dimension and policy convergence in a given field to such a level of maturity that the political will emerges to define a minimum legal framework at Community level;³⁹ alternatively the open coordination method may be used in accompaniment to legislative measures to supplement their scope.

The open coordination method can therefore be viewed, depending on the circumstances, as a stage on the road to common policies or as a supporting instrument for them. This demonstrates its character as a complementary linking instrument leading to a genuine Community dimension.

Similarly, it might be worth exploring the possibility of linking the open coordination method and enhanced cooperation, perhaps using both at once. A suitable combination of national policy coordination and enhanced cooperation – for example, where the unanimity rule prevents progress via Community legislation – might offer a very valuable means to set in motion a centripetal dynamic leading in the long run to the adoption of a higher level of integration. On taxation, for example, cooperation between the Member States might prompt some countries to develop the will to take concerted action to resolve problems caused by the absence of coordination between their tax policies (for example, as regards double taxation of companies with cross-border operations or energy taxation).⁴⁰

³⁹ To formalise the switch from one method to the other, however, the Treaties would have to be amended if there were no specific power to legislate in the field in question. No move in the opposite direction, from the Community method towards a less binding level of national policy coordination, has ever occurred in practice. This would also require the EC Treaty to be amended. In fact, where use of a given method is clearly laid down in the Treaty, amendment would be the only way to reverse the process.

⁴⁰ Indeed, the particularly strong requirement for subsidiarity in the field of taxation has held back Community action here, whereas progress in other policy areas has been more rapid. To the extent that this discrepancy is source of inconsistencies, especially in connection with the single market, one of the aims of good governance must be to lessen the gap. Though deadlock over decisions on tax legislation may signal a

The flexibility and the creativity of the dynamic forces released by the use of the instruments available for integration should be preserved.

3. ENLARGEMENT AND COMPATIBILITY

The open coordination method, and associated tools such as *benchmarking*, may be useful in some fields as levelling instruments for the candidate countries. It could complement, but not replace the effort being made to incorporate the ‘*acquis communautaire*’ into their legal orders. Involving these countries, as observers, in some aspects of the mutual learning processes set in motion in areas where the open coordination method applies would enable the Union to see how candidates are performing and would allow them to contribute to the construction of a European dimension in these fields.⁴¹

It is therefore proposed that applicant countries be informed as widely as possible of progress in the use of open methods of coordination within the Union. Their active participation in anything to do with the definition of European guidelines and indicators under such methods should, however, be excluded during the accession negotiation phase.

need for other methods (comparative assessments, court action, coordination by “peer pressure”, or even enhanced cooperation), it cannot prevent analysis of the problem and of possible ways to get round the unanimity rule.

⁴¹ The Stockholm European Council “agreed to develop ways and means of actively involving the candidate countries in the goals and procedures of the Lisbon strategy”. *Presidency Conclusions*, Stockholm European Council, 23 and 24 March 2001, par. 3.

CONCLUSIONS

The work of the group has demonstrated the creativity of the Community system, and its capacity to adapt to changing needs. As new challenges arise within the European and world orders, as new policy fields have been added to the Treaty, and as Member States feel the need for new types of cooperation in these new policy fields, the Union's institutions have shown themselves able to adapt their practice and generate new types of process which add value to classic Community activity. These have enabled Member States to advance, in a number of fields, from the simple *compatibility* of their policies, through *cooperation* to *convergence* – and all of this within a structure of coordination based on the mutual confidence and objectivity which the institutions represent and guarantee.

The Group therefore takes the view that coordination processes are a valuable instrument to achieve some of the aims of the Treaty. Its views may be summarised as follows:

1. The “open method of coordination” and the classic “Community legislative method” are not competitors; and coordination is not a threat to the Union or the Commission. The two methods seek different ends, and achieve them by different means – but each can contribute, in its own way, to the ends set for the Union by the Treaty. Their relationship may be one of separation: e.g., there will be policy areas, such as employment or education, where EU activity is centred around coordination with little or no classic legislation; it may be chronological – in that coordination may give way to Community legislation, as will happen around immigration and asylum issues; or the two may operate in parallel, as (for example) we may see part of EU policy on the reduction of industrial and household waste operated through legislation and part through the acceptance of common (but coordinated) targets.

However, just as coordination should not be a way to escape the application of the classic Community legislative method, nor should it be a way to impose norms and obligations where the Treaty does not provide the necessary legal base. The Commission should consider, in the recommendations and guidelines which it proposes, whether the effect of these, perhaps as defined by the European Council, will not be to by-pass the limits of competence intended by the authors of the Treaty.

2. The Lisbon summit marks a turning point in the formal recognition of coordination as a process “designed to help Member States to progressively develop their own policies”.⁴² That recognition, in turn, stems from the fact that many of the aims which the Union seeks to achieve are not attainable through harmonising or other legislation at EU level; but that they remain important, and coordination of policy can enable Member States to achieve better performance. Examples include aspects of economic and employment policies, where coordination around common aims and through common instruments has enabled Member States to look again at the policy infrastructure of their activities, and to review this so as better to reach the aim of enhancing sustainable non-inflationary growth and reducing unemployment which they share.
3. Not every policy area lends itself to coordination. Coordination appears to be appropriate in two main sets of circumstances: where the subject matter is closely tied

⁴² *Presidency Conclusions*, Lisbon European Council, point 37.

to culture and identity, and therefore harmonisation is unsuitable for that reason; or where the underlying systems operated in the various Member States are so diverse that harmonisation would imply an effort quite disproportionate to the objective and results to be achieved. This might be the case, for example, in employment or social protection. The advantage of the open method of coordination is that it enables the different circumstances of each Member State to be taken into account and the tuning of the policy mix to be adjusted according to the needs of those varying circumstances.

4. Since the internal mechanics of the EU's institutions are based on the classic Community method and not on coordination, the latter does not always fit easily into the methods of work adopted by the institutions. The question of how to ensure a proper degree of parliamentary control over such processes is perhaps the most serious question arising here, but there is also the question of how far the Commission's own role of initiative is being "usurped" in these areas by the European Council. It must be said that the roles of the institutions are in any event not static, and some development is natural. However, each institution should therefore consider how best it can contribute to the policy aims which underlie the various coordination activities, and accept that this may imply changes compared to its current practice.
5. Since coordination of policy is, by definition, directed to (a restricted number of) policy makers, the question of presenting the activities to a wider interested public, and the involvement in them of wider interests, must also be faced. It would be inappropriate for such work to become the preserve of back-room experts, and never presented to the scrutiny of scientific or public gaze. Equally, a place must be found for the various partners of Ministries and the Commission (or its departments) – who may be local or regional authorities, the academic world, NGOs or other interest groups, social partners, etc. – in the development of national positions and strategies, and their coordination into a response at European level.⁴³ This implies a reflection on the ways in which this could be done, on the representativeness and accountability of such partners; and perhaps on their place in evaluating the results of the coordination process.
6. The specificity of policy coordination to improve performance, and its reliance not on legislation (with all the attendant needs of subsidiarity and fears of harmonisation) but on a relatively informal consensus, sets it apart from the classic Community legislative method. It follows, then, that in any consideration of the way in which different policy tasks might be attributed to different levels of authority, the coordination function should not be confused with the legislative function. The arguments for coordination at EU level are quite different to those for legislation, as the increasing interest of Member States in fields such as employment or education demonstrates. It might therefore be appropriate to explore further the issue of coordination in parallel with reflection on the attribution of competences. This should include the issue of how policy coordination can best function in regard to Member States with a strongly regional structure.

⁴³ See also the report by Group 1a, *Promoting dialogue, discussion and debate for a Citizen's Europe – How to stimulate both wider public discussion and a better informed debate on European issues*, especially pp. 10-11.

7. Finally, the Commission' s own internal expertise needs developing in these fields, which imply a clear understanding of the situations in each Member State, and a capacity to analyse and work with the data representing them.

ANNEX I

Members of interdepartmental working party 4A

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MONGIN Bernard, SJ
PAUCHET Lucien, OLAF
PIERINI Fabiana, TAXUD (Rapporteur)
SEGRS Marianne, TAXUD
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ANNEX II

External experts consulted

- Prof. Helen Wallace, Sussex European Institute (Sussex University, Brighton), Director of the programme “One Europe or several?”
- Prof. Renaud Dehousse, Paris University, Adviser to the Foundation “Notre Europe”
- Mrs Marie-Françoise Wilkinson, Director of the European Anti-Poverty Network and Vice-President of the Platform of social NGOs
- Mr Stephen Hughes, MEP
- Prof. Maria João Rodrigues, Lisbon University, Special Adviser to the Portuguese Prime Minister.

ANNEX III

MANDATE OF the WORKING 4 A PARTY

(9 November 2000)

The main issue to be examined is the question of *proportionality* between the nature of the political problems to be solved and possible forms of European action for ‘convergence’ between national policies.

The group must therefore inventory the increasingly frequent, but nuanced situations, where:

- Member States remain ‘masters in their own house’ but undertake collectively to carry out joint action, with fixed targets and, if necessary, assessment afterwards;
- the Commission has a role of formulating policy and managing cooperation between national public actors, as well as coordinating and *monitoring*; monitoring instruments include quantitative and qualitative indicators and *benchmarking*.

Once this inventory is carried out, the task is to analyse it, evaluate it, and possibly classify it by intensity.

Thus the “Luxembourg Process” for the convergence of national employment policies seems exemplary in many respects; but under what conditions and in which fields? What are the lessons for other structural policies? Similarly, can the *open coordination method* initiated at the Lisbon European Council (23-24/3/00) (cf. *e-Europe 2002 action plan*) be applied in every area of economic and structural policy without running up against the principle of subsidiarity? What does the expression “fully decentralised approach” really signify?

Similarly, are there useful lessons to be learned from ‘Schengen-type’ cooperation before its incorporation in the Treaty, with a view to possibly applying this in other fields?

What does the systematisation of ‘open cooperation’ involve in terms of the role of Parliament, the Council’s working methods, the organisation of the Commission, committee procedures, the ESC, the CoR?

In its final report, the group is asked to formulate proposals for various coordination-cooperation models bearing in mind the specific requirements of the fields where this approach is possible (budgetary convergence, taxation, justice and home affairs, social and employment policy, education, etc.). In other words, suitable frameworks will have to be devised to make it possible for the public authorities to respond adequately, according to nature and intensity of the problem, with a view to securing convergence of national choices in the common interest.