

## Handout N° 4

### Scope of the Treaty

1. Beyond purely economic matters
2. Framework to be filled by secondary legislation
3. Art. 2 & 3 describe the main objectives
4. Detailed obligations spelled out in specific provisions
5. General principles
  - prohibition of discrimination, Art. 12 EC (Art. 13 EC)
  - co-operation between member states, Art. 10 EC (Art. 11 EC)
  - subsidiarity, Art. 5 EC
    - Principle of attributed powers
    - Principle of subsidiarity
      - a) no exclusive competence as in Internal Market, Common Commercial Policy (CCP), Common Agricultural Policy (CAP)
      - b) transnational aspects which cannot satisfactorily regulated (comparative efficiency)
      - c) conflict of actions by single member states with Treaty requirements
      - d) action by Community would produce clear benefits by reason of scale or effect of proposed action
  - environmental protection, Art. 6 EC
6. Community policies
  - social policy, Art. 136–145 EC
  - employment, Art. 125–130 EC
  - free movement of individuals (Schengen Agreement), Art. 61–69
7. External competence
  - legal personality, Art. 281 EC
  - Commission negotiates, Council concludes, Art. 300 EC
  - Art. 133 EC: agreements relating to the CCP

### Law making

1. through the EP, Council and Commission (subject to review by the ECJ)
2. within the framework of the treaty (some provisions are sufficiently clear to be directly applicable)
  - broad provisions for action: Art. 94, 95 and 308 EC
  - implied powers
    - narrowly: the existence of a power implies the existence of any other power that is reasonably necessary for the exercise of the original power
    - broadly: the power necessary for carrying out a task must be inferred

3. Procedures

- a) Consultation procedure
- b) Co-operation procedure, Art. 252 EC
- c) Co-decision procedure, Art. 251 EC
- d) Assent , Art. 300 EC

4. Treaty provision specifies form of procedure

5. Treaty provision specifies voting requirements