IGC 2004: issues surrounding UK ratification of the European Constitution

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On 20 April 2004 the Prime Minister announced that "the people" would "have the final say" on any agreement reached at the European Council in June on the final text of the European constitution. Parliament would first debate the treaty text in detail and decide upon it.

This Note considers ratification issues and possible routes to UK ratification of the European constitution, in the light of the Government's announcement on a referendum.

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A. Introduction

The Intergovernmental Conference (IGC) which opened in October 2003 failed to agree a final constitutional text on 12-13 December 2003. The Italian Presidency produced various compromise texts in November and December 2003, but there was no consensus on the whole package. After the IGC it was difficult to ascertain exactly what had been agreed and what had not, with the exception of some of the contentious issues, such as weighted votes in the Council of Ministers and the size of the Commission. The UK Minister for Europe, Denis MacShane, wrote to the European Scrutiny Committee in January 2004 to clarify the situation:

> I undertook at my appearance before your Committee on 17 December to write to clarify whether the Presidency's declaration at the last European Council, on points where the IGC had reached a near-consensus, was referring to a specific text and whether that text covered all of Britain's "red lines".
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> Proposals published by the Italian Presidency on 9 December (and placed in the Library of the House) covered a wide range of separate issues of concern to one or more EU Member States. In respect of most, though not all, of these issues the outcome was satisfactory for the United Kingdom, including on the "passerelle" clause (Article I.24(4)) and modalities for future revisions of Title III of Part III of the Treaty (a new proposed Article IV-7b).
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> In his summing up at the IGC on Saturday 13 December, Mr Berlusconi did not list each of the individual points on which there was near consensus. Nor is there any definitive text that does so. He did say however that they included unanimity for taxation, criminal justice, own resources decisions and social security.
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> He did not suggest that there was near-consensus on every issue, and we had already made clear that there were some other outstanding issues on which we would require satisfaction before we could agree a draft Treaty. The Prime Minister also made clear at the IGC, as he did in his Statement of 15 December in the House, that nothing would be agreed until everything was agreed. [1]

B. Recent progress under the Irish Presidency[2]

The Irish Presidency held a series of bilateral meetings with Member State and the then accession state governments from January to April 2004 in an effort to reach agreement on the outstanding issues.[3] At the General Affairs and External Relations Council (GAERC) on

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1 Letter from Denis MacShane, 12 January 2004 at http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmselect/cmeuleg/155/3121705.htm

2 For development up to mid-March 2004, see *Draft EU Constitution: developments under the Irish Presidency*, SN/IA/2963, 17 March 2004 at http://hcl1.hclibrary.parliament.uk/notes/iads/snia-02963.pdf

3 See SN/IA/2963, *Draft EU Constitution: developments under the Irish Presidency*, 17 March 2004 at http://hcl1.hclibrary.parliament.uk/notes/iads/snia-02963.pdf

26 April the Irish Foreign Affairs Minister, Brian Cowen, announced that the IGC would reconvene with discussion at official level "involving a meeting of the IGC in the margins of the Council meeting on 17 and 18 May"[4] and would continue at the GAERC on 14-15 June 2004. The Presidency would produce a paper on the less important issues, which it hoped to settle at a Focal Points meeting in Dublin on 4 May. If necessary, there would be an additional IGC meeting of Foreign Ministers in the week of 24 May.

The Presidency is expected to make some concessions on the QMV double majority formula in order to secure agreement from Poland and Spain. France and Germany have not yielded so far on reducing the size of the Commission, but there have been reports that some of the smaller new Member States are no longer insisting on one Commissioner per Member State.

Other important, but as yet unresolved, issues include the procedure for agreeing the EU's annual budget and legislation on police and judicial co-operation in criminal matters. On the budget, France, Germany and the UK defend ECOFIN proposals which would reduce the EP's budgetary influence, whereas the Convention proposal under III-310, which gives the EP more budgetary powers.

The *Financial Times* reported on 12 April 2004 that Denis MacShane was considering a proposal to strengthen the subsidiarity early warning mechanism, but it is not clear whether the Government will put this formally to the IGC. It would involve deleting the word 'maintain' from paragraph 7 of the Subsidiarity Protocol. The Commission would then not be able to go ahead with a legislative proposal if one-third of national parliaments submitted a reasoned amendment, but would have to amend or withdraw it. This would go some way towards alleviating the fears expressed by several British MPs that the Commission could ignore the will of national parliaments under the present arrangements. The European Scrutiny Committee (ESC) was not happy with the draft Protocol on Subsidiarity and Proportionality attached to the draft EU constitution. In its 24th Report, published in June 2003, the Committee concluded:

> 30. The Protocol is important in that for the first time national parliaments would have a formal role in the EU's legislative process. However, we regard the proposal as inadequate because objections by the specified proportion of national parliaments could simply be overridden by the Commission.[5]

Anne McIntosh asked Mr Hain on 16 July 2003:

> Can I ask a question of the Minister that straddles both his present hats? There is the early warning mechanism on subsidiarity and there is a six week deadline within

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4 Conclusions (Provisional version) 8566/04 (Presse 115), 26 April 2004 at http://www.ue2004.ie/templates/news.asp?sNavlocator=66&list_id=615

5 European Scrutiny Committee 24th Report, *The Convention on the Future of Europe and the Role of National Parliaments*, HC 63-xxiv, 16 June 2003 at http://www.publications.parliament.uk/pa/cm200203/cmselect/cmeuleg/63-xxiv/6306.htm#n24

> which this House or any national Parliament has to review any Commission proposal in view of the fact that it is not deemed appropriate to be dealt with at Union level. Have you as Leader of the House and as Welsh Secretary given some thought to what body in this place would be used as the early warning mechanism, bearing in mind we only have six weeks from the date of transmission not six weeks from the date of receipt, and also whether there would be discussions between this place and the other place and what formal channel you would use between this place, both Houses, and both the Welsh Assembly and the Scottish Parliament, on paragraph 5 of the protocol which you are obliged to give some thought to? Also, why do you think that the Commission would pay a blind bit of notice and how do you believe that we will convince the Commission that it needs to review its proposal, or in fact perhaps even accept that it is not the competent authority, and which other Member States would you look to on particular issues such as, for example, criminal law?[6]

Mr Hain replied: "On whether the Commission will take a blind bit of notice if a third of national parliaments say "No, they do not like it", I think they will have to".

Recent reports indicate that the IGC is still not much closer to agreement on an overall package than last December. The *EUObserver* reported on 7 May 2004: "As the deadline for the end of the Constitution negotiations grows closer, so the list of problems that still have to be solved appears to be growing longer".[7] According to this report, the sticking points are:

- Weighted votes in the Council of Ministers
- Vetoes on decisions on the rights of migrant workers and on judicial co-operation in criminal law
- Unanimous voting on the EU budget and structural funds
- Reference to Christianity
- The organisation of 'team presidencies'
- Composition of the Commission
- Spanish demands for an enhanced status for Catalan and other regional languages
- French calls for a Social Summit to be written into the constitution
- Irish Presidency suggestion that the EU could propose legislation against smoking and alcohol abuse

The IGC Working document of 29 April 2004 containing the Presidency's proposals can be accessed at http://ue.eu.int/igcpdf/en/04/cg00/cg00073.en04.pdf.

C. Draft constitution articles on ratification

Article IV-8 of the draft constitution covers ratification and entry into force. Like most major multilateral treaties, the draft constitution is subject to ratification. It will enter into force on

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6 Minutes of evidence, 16 July 2003, at http://www.publications.parliament.uk/pa/cm200203/cmselect/cmeuleg/1030/3071602.htm

7 http://euobserver.com/?aid=15519&rk=1

a date as yet unspecified, provided that all 25 EU Member States have ratified it by that time. If they have not, the draft constitutional text following editorial and legal adjustments by the Working Party of IGC Legal Experts states:[8]

Article IV-8 (ex Articles 52 TEU and 313 TEC)
~~Adoption,~~ Ratification and entry into force ~~of the Treaty establishing the Constitution~~

1. ~~The~~ **This** Treaty ~~establishing the Constitution~~ shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The instruments of ratification shall be deposited with the Government of the Italian Republic.

2. ~~The~~ **This** Treaty ~~establishing the Constitution~~ shall enter into force on ...., provided that all the instruments of ratification have been deposited, or, failing that, on the first day of the **second** month following the deposit of the instrument of ratification by the last signatory State to take this step.

Entry into force depends on universal ratification. It would be controversial to allow the Treaty to come into force without unanimity. It would also be impracticable, since the Treaty repeals the existing Treaties, but these can be repealed only if all Member States consent. If the new Treaty came into force before all Member States had ratified, then its provisions on repeal would become paradoxical. Its content would have to be treated as a form of amendment on a grand scale, and this too would be subject to universal ratification, under present Article 48 TEU.

A Declaration attached to the draft constitution makes provision for a situation in which not all Member States have ratified the constitution two years after signature:

> If, two years after the signature of the Treaty establishing the Constitution, four fifths of the Member States have ratified it and one or more Member States have encountered difficulties in proceeding with ratification, the matter will be referred to the European Council.[9]

In earlier drafts of the constitution this provision was contained in paragraph 3 of the ratification article.[10] The Praesidium suggested that paragraph 3 should be reproduced in a declaration annexed to the final act of signature for the treaty, in order to make the paragraph applicable to the ratification of the Treaty itself. This was because paragraph 3 envisaged a situation that could arise only before entry into force of the constitution, and it set out steps to be taken in that event. To make those steps operative, they had to be embodied in some instrument effective prior to entry into force for the Treaty. Article IV-8 would not be in force itself, as it is part of the Treaty. A declaration annexed to the act of signature would provide the necessary authority. Paragraph 3 has therefore been removed from the body of the treaty and its provisions are annexed to the Convention text in the "Declaration in the Final Act of Signature of the Treaty Establishing the Constitution".

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8 25 November 2003 at http://ue.eu.int/igcpdf/en/03/cg00/cg00050.en03.pdf

9 http://european-convention.eu.int/docs/Treaty/cv00850.en03.pdf

10 CONV 725/03, 27 May 2003

There was a similar provision in Article 99(3) of the *Treaty Establishing the European Coal and Steel Community* which stated: "If all the instruments of ratification have not been deposited within six months of the signature of this Treaty, the governments of the States which have deposited their instruments shall consult each other on the measures to be taken".[11]

The precise meaning of referral to the European Council in the present Declaration is not clear, but it could not override the requirement for universal ratification in article IV-8. It would probably mean that Member States, meeting as the European Council, would discuss possible solutions to ratification problems, without undermining the validity of existing ratifications.[12] Eric Philippart, of the European Policy Centre, drew attention to some ambiguities in the wording of this article in the earlier Praesidium version:

> The Praesidium's proposal for the adoption, ratification and entry into force of the constitutional treaty (article G) is not without ambiguity on this point. On the one hand, the Praesidium underlines in its Note to the Convention of 2 April (647/03) that, according to article 48 TEU, the Constitutional Treaty cannot enter into force "unless it has been ratified by all the Member States which signed it" and "if at least one of the signatory States did not ratify the Constitutional Treaty, it could not enter into force and the current Treaties would continue to apply." On the other hand, the second paragraph of the Praesidium proposal refers to the entry into force of the Constitutional Treaty "... following the deposit of the instrument of ratification by the last signatory state to take this step." Some members of the Convention maintain that this wording would allow the Treaty to enter into force without the unanimous approval of the Member States (see David Heathcoat-Amory and Bonde amendment).
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> This interpretation is strengthened by the fact that the Praesidium's proposal includes a clause for a meeting to discuss possible ratification problems (article G paragraph 3). This could suggest that the Treaty would indeed come into effect when four fifths of the Member States had ratified. This could also be a simple flaw in the proposal. As Haenel and Badinter emphasise in their amendment to Part III, "the assumption is that this arrangement [the meeting clause] will only become effective with the Constitutional Treaty itself, which presupposes that it has been ratified by all the Member States."[13]

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[11] ECSC, signed 18 April 1951

[12] This has happened on previous occasions when Member States have had difficulty ratifying Treaty amendments. After the Danish 'no-vote' on the Maastricht Treaty the European Council, under the UK Presidency, adopted arrangements which subsequently allowed Denmark to ratify. This did not happen after the Irish 'no-vote' on the Treaty of Nice, however, when the Irish Government undertook to submit the same Treaty to a second referendum after an intense Government campaign in favour of ratification.

[13] http://www.euractiv.com/cgi-bin/cgint.exe?204&OIDN=250919. Eric Philippart is a researcher at the Belgian National Fund for Scientific Research (FNRS - Université Libre de Bruxelles), visiting professor at the College of Europe (Bruges) and Senior Associate Fellow at the Centre for European Policy Studies (CEPS). This article is based on one of the sections of Philippart Eric and Sie Dhian Ho Monika, "Flexibility and the new constitutional treaty of the European Union, Scientific Council for Government Policy", The Hague, May 2003.

The French President, Jacques Chirac, said at a press conference on 28 April 2004 that he was in favour of exerting "friendly pressure" on Member States that failed to ratify the constitutional treaty within two years of its signature.[14] He thought that such States could be forced to 'leave' the EU. He apparently wants a 'ratify or leave' clause to be written into the constitution. The *Financial Times* reported on 30 April:

> British officials said last night that Mr Chirac appeared to be reviving a proposal first made by the European Commission last year for the new treaty to contain such a clause.
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> The officials said they expected the proposal to be tabled next month in the final stages of talks on the treaty but were confident it would be rejected by the UK and other member states seeking to hold such a referendum.
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> "This isn't negotiable," said one Whitehall figure. "There are several EU governments - for example the Netherlands - which would not want to be in the position of having to contemplate leaving the Union if they lost the referendum."
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> Nevertheless, the UK officials conceded that Mr Chirac's call for a "ratify or quit" clause was a sign of how serious the stakes could be for the UK's future in Europe if there was a No vote in a British referendum.[15]

D. EC treaty ratification in the UK

In the UK treaties are ratified by the Foreign Secretary or his/her representative, acting on behalf of the Crown (the so-called 'Royal Prerogative'). Parliament does not have a direct role in treaty ratification but there can be parliamentary activity relevant to it. Starting in the 1920s, and continuously since the 1930s, there has been a constitutional practice (not a law) known as the 'Ponsonby Rule', which requires that treaties subject to ratification should be laid before Parliament for 21 sitting days before ratification, for information and to give Parliament an opportunity (not always taken) to debate them.[16]

When the UK joined the European Community in 1973, accession was preceded by the passing of an Act of Parliament which made the obligations under the Treaty and the law deriving from it applicable within the UK. This was the *European Communities Act 1972*

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[14] *Financial Times.com*, 29 April 2004 at http://news.ft.com/servlet/ContentServer?pagename=FT.com/StoryFT/FullStory&c=StoryFT&cid=1083180176038&p=1012571727166

[15] http://news.ft.com/servlet/ContentServer?pagename=FT.com/StoryFT/FullStory&c=StoryFT&cid=1083180190351&p=1012571727166

[16] For detailed information on treaty ratification in the UK and the Ponsonby Rule, see the FCO website at http://www.fco.gov.uk/Files/kfile/ponsonbyrule,0.pdf

(ECA).[17] On all subsequent occasions when new treaties have been agreed, including treaties of accession, there has been new legislation in the UK to amend the 1972 Act so that those parts of the new treaties which are intended to have domestic legal effect are also made applicable within the UK.

The passage of the implementing legislation is not formally part of ratification, but it is necessary if ratification is to proceed smoothly. Without legislation, the Government might be faced with a conflict between its obligations under the treaty and the domestic legal order.

EC treaties cannot be amended by the action of any Member State or its national parliament during the ratification process. If any Member State cannot ratify a treaty because of a negative parliamentary vote or referendum result, then the whole treaty cannot come into force and the situation must be resolved by further negotiation, and, if necessary, further amendment by the European Council.

European Communities (Amendment) Bills are not identical with the treaties they seek to authorise. Rather, they consist of provisions 'consequential' on those treaties. The bills can therefore be amended like any other bill, the only proviso being that were they to be amended such that they no longer made provision in UK law for those treaty elements intended to form part of the Community legal order, then the Government would be prevented from ratifying.

On the whole, European Communities (Amendment) Bills have not been greatly amended, with the exception of the 1992-3 Bill relating to the *Treaty on European Union* (TEU or Maastricht Treaty). This was amended quite significantly during its somewhat stormy passage through Parliament, but not, in the end, in any way which prevented UK ratification of that Treaty. The most controversial amendment varied the scope of the Bill to exclude the Protocol on Social Policy, by which the UK acquiesced in the decision of the other Member States to proceed with an agreement on Social Policy. Since the substantive agreement did not in itself apply to the UK, the then Attorney General was eventually able to assure the House, contrary to the original advice of the Foreign and Commonwealth Office, that the amendment did not prevent ratification.[18]

Other successful Maastricht amendments:

- required the Government and the Bank of England to report annually to Parliament on a range of matters relating to Economic and Monetary Union;
- provided that only elected members of local authorities could be nominated to represent the UK on the Committee of the Regions;
- provided that the Act would come into force only when both Houses of Parliament had come to a further resolution on the question of adopting the Protocol on Social Policy.[19]

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[17] Chapter 68

[18] For details see *The Maastricht Debate: Further Developments in the Argument over Ratification*, House of Commons Library Research Paper 93/24, Part 1.

[19] See Research Paper 97/112, *The European Communities (Amendment) Bill: Implementing the Amsterdam Treaty* [Bill No. 71], 5 November 1997 at http://hcl1.hclibrary.parliament.uk/rp97/rp97-112.pdf

Details of the legislative procedures for previous bills to prepare for EC treaty ratification are set out in the Appendix.

E. Referendums

There is no constitutional requirement to hold a referendum for any purpose in the UK, but Parliament is free to legislate for a referendum on any question at any time. Parliament cannot be formally bound by the outcome of a referendum, but a referendum could be made to have other legal effects. For example, referendum legislation might stipulate that, depending on the outcome, a minister will lay before Parliament an Order in Council which would either bring into force or repeal an Act of Parliament. Such a provision could, if Parliament so decided, be added to the bill relating to the European constitution referendum.

There were proposals for a referendum on the Maastricht Treaty, which were defeated[20] and on the Treaties of Amsterdam[21] and Nice.[22] The Prime Minister, Tony Blair, rejected all such requests in 1997[23] and 2000-1.[24] The Government had insisted that it would not hold a referendum on the European constitution. The Minister for Europe, Denis MacShane, said in reply to a question from Boris Johnson in February 2003:

> This country does not have a tradition of plebiscites that allow populists to range over plebiscitary politics, using their weekly magazines to pump out endless anti-European propaganda. Every previous treaty from the treaty of accession in 1973 to Maastricht, Nice and Amsterdam has been debated properly in the House, and I think that ratification by Parliament is the right way forward.[25]

The Government had ruled out a referendum on the grounds that the draft constitution raised no particularly difficult constitutional issues and "the proposed changes, though important, do not involve any fundamental change in the relationship between the European Union and the Member States".[26]

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[20] Richard Shepherd's Private Member's Bill (*Referendum Bill*, Bill 21 of 1991-92), which did not achieve a Second Reading (HC Deb vol 204 cc 581-650) and Tony Benn's *Treaty of Maastricht (Referendum) Bill*, Bill 63 of 1992-93 (HC Deb vol 212, c117) as well as New Clause 49 (a referendum provision to the *European Communities (Amendment) Bill 1992*, moved by Bryan Gould and defeated by 363-124 (c 483)). For details see Library Research Paper 93/80, *Referendum*, 20 July 1993

[21] William Hague, then leader of the Opposition, called for a referendum on Amsterdam in 1997, reiterated by the Shadow Foreign Secretary, Michael Howard, as the Conservative Party Conference on 8 October 1997. Several MPs called for a referendum on the Treaty of Nice in 2000-2001.

[22] For example, HC Deb 10 July 2001 c 648; HC Deb 7 December 2000 c 127

[23] For example, HC Deb 2 July 1997 c 289 and 9 July 1997, c 933

[24] For example, HC Deb 11 December 2000 c356

[25] HC Deb 25 Feb 2003 c114

[26] Government White Paper, *A Constitutional Treaty for the EU: The British Approach to the European Union Intergovernmental Conference*, Cm 5934 p. 24. See also *Guardian*, 19 April 2004 at http://politics.guardian.co.uk/eu/comment/0,9236,1194988,00.html

There were calls for a referendum from the Conservative and Liberal Democrat leaders and some Labour backbenchers. On 21 May 2003 Frank Field presented a Private Member's Bill, the *Draft Constitutional Treaty on the Future of Europe (Referendum) Bill*[27] "to make provision for a referendum on the draft Constitutional Treaty on the Future of Europe". The Bill was to have had a Second Reading on 11 July but following an objection, the Second Reading was rescheduled for 21 November 2003. The House was prorogued on 20 November and the bill made no further progress. John Maples' Ten Minute Rule Bill, the *Constitution for Europe (Referendum) Bill*, was read on 12 November 2003[28] and had its Second Reading on 23 April 2004. Michael Ancram's motion calling for a referendum on the European constitution was defeated by 328 to 212 on 30 March 2004.[29]

In October 2003 UK press reports suggested that the British Government might bow to media pressure and public concerns over the implications of the constitution for national sovereignty and decide to hold a referendum. Press reports claiming that the Queen was taking legal advice about its possible effect on her status as Sovereign[30] also prompted speculation that the Government might yield, particularly if it lost the battle over non-negotiable 'red lines'[31] at the Intergovernmental Conference. The *EUObserver* reported on 16 October 2003

> Pressure increased on the Prime Minister to hold a popular vote after his senior advisor on Europe, Sir Stephen Wall, was reported to have said that his determination not to hold a referendum is 'untenable'.[32]

The Government did not lose over 'red line' issues at the December 2003 IGC, which ended without agreement. However, media speculation about a referendum continued in early 2004. The Prime Minister announced on 20 April 2004 that after the parliamentary debate on the constitution, "Then, let the people have the final say".[33]

The Leader of the Opposition, Michael Howard, was glad that the Prime Minister had "at long last, seen sense" and accused Mr Blair of eating his words on the referendum issue.[34] The Liberal Democrat Leader, Charles Kennedy, welcomed the news, whatever the motives, but hoped for a slicker and more polished referendum campaign than the coordination that had led to the present announcement.[35]

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27 Bill 114, HC Deb 21 May 2003, c 1017, supported by Graham Allen, Tony Wright, Geoffrey Robinson, Kate Hoey, Alan Howarth, Graham Stringer, John Cryer, David Drew, Ian Davidson, Denzil Davies and Gwyneth Dunwoody

28 HC Deb 12 November 2003, cc 307-315

29 HC Deb 30 March 2004 c 1531

30 Fears which Mr Straw apparently described as "hairs and scares", *BBC News*, 17 October 2003 at http://news.bbc.co.uk/1/hi/uk_politics/3195016.stm

31 Defence, foreign policy, social security and taxation

32 http://euobs.com/?aid=13078&rk=1

33 HC Deb 20 April 2004 c 157

34 Ibid

35 Ibid c162

The *Guardian* reported that the former Conservative Chancellor, Ken Clarke, thought the decision to hold a referendum was "a terrible blow to parliamentary sovereignty. I foresee that in 10 years' time we can expect to have referendums on every subject where some of the newspapers don't agree with parliament".[36]

F. Timing of parliamentary process and referendum

1. Possible UK scenarios

The Queen's Speech on 26 November 2003 announced the Government's intention to introduce legislation linked to the European constitution.[37] The collapse of the IGC means that the legislative timetable has changed. If the constitution is agreed in June 2004, legislation could be introduced after the final text of the new treaty has been published officially and has been laid before the House. A text agreed in June would be subject to final translation and technical revision to make sure it meant the same in all 20 official EU languages. It could be a couple of months before the final treaty appears in the Official Journal of the European Union, by which time most Member State parliaments, including the British Parliament, will be in recess. In this event, the earliest the treaty could be laid before Parliament would be September-October 2004. Legislation is more likely to be introduced next session, perhaps including the referendum question,[38] with the aim, perhaps, of achieving Royal Assent before a general election in May 2005.[39]

The referendum could be held early in the next Parliament. However, some commentators believe it might be pushed back to 2006 because of the likelihood of a general election in May 2005 and because the second half of 2005 will be the UK Presidency of the EU, which would not be a good time to put the country's EU credentials to the test. The Leader of the Opposition, Michael Howard, wanted a pre-legislative referendum and believed there was "no case whatever for asking Parliament to spend months on ratification legislation before obtaining the consent of the British people".[40] The Liberal Democrat Leader, Charles Kennedy, agreed with the Government that the referendum should come "after due parliamentary consideration".

The matter of timing was raised on several occasions during the debate that followed the Prime Minister's referendum announcement, with the Conservative leadership keen to put the constitution to the vote as early as possible, presumably based on the assumption that this would result in a negative vote.

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36 *Guardian* 22 April 2004

37 HC Deb 26 November 2003 c 6 at http://pubs1.tso.parliament.uk/pa/cm200304/cmhansrd/cm031126/debtext/31126-02.htm

38 This is possible, though unlikely. This and other scenarios for the referendum will be the subject of a separate Standard Note.

39 An election is not actually required until mid-2006

40 HC Deb 20 April 2004 c 159. The EU Scrutiny Committee Chairman, Jimmy Hood, thought it historically important that the Opposition had called for a referendum before parliamentary scrutiny and debate, c.163

2. Referendum and/or parliamentary process in other Member States: the Treaty of Nice[41]

So far, Ireland, Denmark, the Netherlands, Spain, Portugal, Luxembourg and the Czech Republic have all said they will have a referendum.[42] During his re-election campaign, President Chirac pledged to hold a referendum on the constitution. At a press conference on 29 April Mr Chirac still said it was too soon to decide whether France would hold a referendum.[43] In Germany constitutional barriers to the holding of referendums have not prevented calls for the German Constitution to be changed to allow referendums at federal level. Politicians in the conservative Christian Social Party (CSU) and the FDP (liberals) have called for a referendum, but the Social Democratic (SPD) Government and the opposition Christian Democrats (CDU) remain opposed. Of the new Member States, it is possible that Poland will hold a referendum.

The following table shows how the parliamentary and/or referendum processes were carried out for the last EC Treaty, the Treaty of Nice.

	Procedure	State of the procedure (on 19.12.2002) *	Date of lodging [1]
Belgium	Parliamentary (ratification by the seven parliaments at the various levels of authority (Federal level [Senate and Chamber] + 2 Communities and 3 Regions)	**Adopted by the Senate** on 7 March 2002. **Adopted by the Chamber** on 28 March (106 for, 24 against, 7 abstentions). **Adopted by the Conseil de la Communauté française** on 23 April. **Adopted by the Conseil régional wallon** on 29 May. **Adopted by the Vlaamse Raad** on 19 June. **Adopted by the Rat der Deutschsprachigen Gemeinschaft** on 24 June. **Adopted by the Parlement de la Région de Bruxelles-Capitale** on 2 July 2002.	26 August 2002
Denmark	Parliamentary (Folketing)	Draft ratification law **adopted** by the **Folketing** on 1 June 2001 (98 for, 14 against, 1 abstention). Signed by the Queen on 7 June 2001 (Act No 499).	13 June 2001
Germany	Parliamentary (Bundestag + Bundesrat)	**Adopted by the Bundestag** on 18 October 2001 (570 for, 32 against, 2 abstentions). **Adopted by the Bundesrat** on 9 November 2001 (unanimously). Signed by the President on 21 December 2001.	11 February 2002
Greece	Parliamentary	**Adopted by the Chamber** on 20 March 2002 (253 for, 10 against, 3 abstentions).	3 June 2002
Spain	Parliamentary (Congreso+Senado)	**Adopted by the Congreso** on 4 October 2001 (290 for, 6 abstentions). **Adopted by the Senado** on 24 October 2001 (213 for, 2 abstentions). Royal assent given on 10 December 2001.	27 December 2001
France	Parliamentary (Assemblée nationale + Sénat)	**Draft ratification law adopted by the Assemblée Nationale** on 12 June 2001 (407 for, 27 against, 113 abstentions). **Adopted by the Sénat** on 28 June 2001 (288 for, 8 against).	19 October 2001
Ireland	Parliamentary (Seanad + Dail) and referendum	Publication of the ratification bill on 29 March 2001. **Referendum** (7 June 2001): **NO** (53.87%). National debate. Second referendum on 19 October 2002: YES (62.89%). Adopted by the Seanad on 20 November. Adopted by the Dáil on 28 November. Signed by the President and the Taoiseach on 10 December 2002.	18 December 2002
Italy	Parliamentary (Camera + Senato)	Submission of the draft ratification law to the Camera on 17 September 2001. **Adopted by the Camera** on 26 March 2002 (298 for, 7 against, 6 abstentions). **Adopted by the Senato** by a very large majority (show of hands) on 7 May 2002	9 July 2002
Luxembourg	Parliamentary (Chamber of Deputies)	**Adopted by the Chamber of Deputies** on 12 July 2001 (57 for, 1 against, 2 abstentions). Act sanctioned by the Grand Duke on 1 August 2001.	24 September 2001
Netherlands	Parliamentary (Eerste Kamer + Tweede Kamer)	Draft ratification law submitted to the Tweede Kamer on 18 June 2001. **Adopted** by the **Tweede Kamer** on 22 November 2001 (vote by show of hands: very large majority "for"). **Adopted by the Eerste Kamer** on 19 December 2001.	28 December 2001
Austria	Parliamentary (Nationalrat + Bundesrat)	Draft constitutional law adopted unanimously by the Nationalrat on 23 October 2001 and by the Bundesrat on 8 November 2001. Draft ratification law **adopted** unanimously by **the Nationalrat** on 21 November 2001 and **adopted by the Bundesrat** on 6 December 2001. Signed by the President on 14 December 2001.	8 January 2002
Portugal	Parliamentary (Assembleia da República)	Draft ratification law **adopted by the Assembleia da República** on 25 October 2001 (211 for, 19 against). Signed by the President of the Republic on 11 December 2001.	18 January 2002

[1] Date of lodging of ratification instrument. The Treaty of Nice will enter into force on the first day of the second month after the lodging of the ratification instrument by the Member State which is the last to complete this formality.

41 http://europa.eu.int/comm/nice_treaty/ratiftable_en.pdf

42 See *Referendums on the Draft European Constitution*, Standard Note: SN/IA/2748, 13 November 2003 at http://hcl1.hclibrary.parliament.uk/notes/iads/snia-02748.pdf

43 *BBC News* 29 April 2004 at http://news.bbc.co.uk/1/hi/world/europe/3670693.stm

Finland	Parliamentary (Eduskunta)	**Adopted by Parliament (Eduskunta)** on 14 December 2001 (170 for, 9 against, 20 abstentions). Signed by the President on 4 January 2002. Adopted by the Åland Assembly on 25 January 2002.	29 January 2002
Sweden	Parliamentary (Riksdag)	Draft ratification law presented in September 2001. **Adopted by Parliament (Riksdag)** on 6 December 2001 (249 for, 51 against, 4 abstentions).	25 January 2002
United Kingdom	Parliamentary (House of Commons + House of Lords)	Presentation of ratification bill and 1st reading in the House of Commons on 21 June 2001. Second reading on 4 July 2001. **Adopted by the House of Commons** on 17 October 2001 (392 for, 158 against). Second reading in the House of Lords: 1 November 2001 (no vote). **Adopted by the House of Lords** at third reading (no vote) on 28 January 2002. Royal assent: 26 February 2002.	25 July 2002

G. Comparison with the 1975 referendum

The referendum on the European constitution will be part of a different process to the one in 1975. The 1975 vote was on the UK's continued membership of the then EEC, following a renegotiation of the UK's terms of entry, but was not linked to legislation to implement a new EC treaty. The referendum was the campaign platform on which Labour fought and won the February 1974 general election. The Government White Paper published in January 1975 referred briefly to the constitutional implications of a referendum:

> The referendum is to be held because of the unique nature of the issue, which has fundamental implications for the future of this country, for the political relationship between the United Kingdom and the other Member Governments of the Community, and for the constitutional position of Parliament.[44]

Tony Blair has consistently rejected any suggestion that the European constitution presents a 'unique' situation, insisting that "the treaty does not and will not alter the fundamental nature of the relationship between Member States and the European Union".[45] Asked why the Government had changed its mind over holding a referendum, Mr Straw said:

> We found that the arguments on the merits of the Constitution and our relationship were being drowned out by distortions and fabrications about what was in the document and anxieties about the nature of the relationship, and also anxieties and suspicions about whether we were trying to get something passed the British public without asking them. […] we still do not believe a referendum was merited on the base that it changed fundamentally the relationship between the United Kingdom and member states. Let's be clear about that. But we do believe that a referendum is now needed in order to break through the myths and distortions about what is in this document so we can, if you like, establish a new commitment between the British elector voter and the European Union about our future within Europe.[46]

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44 Cmnd 5925, January 1975

45 HC Deb 20 April 2004 c 155

46 FCO website at http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391629&aid=1079979753555

Mr Blair maintained "It is a constitutional treaty, and it is therefore a treaty in the same way that the other treaties are treaties. […] a significant part of it simply replicates the existing treaty basis".[47]

A report in the *Sunday Telegraph* compared the two referendums:

> Pro-federalists often cite the precedent of the 1975 referendum, when a Euro-sceptic majority was converted into a two-to-one "Yes" vote by polling day. This parallel seems to ignore many fundamental changes between then and now, including the attitude of business, the stance of the newspapers, the fact that one of the two big parties would campaign for a "No" vote this time and, not least, the electorate's increased understanding of the European project which, in 1975, was still seen principally in commercial terms.[48]

H. A constitution bill

The basis for UK membership of the EC/EU is the *European Communities Act 1972*. Hitherto, comparable EC treaties requiring ratification (e.g. the Single European Act, the Maastricht, Amsterdam and Nice Treaties) have been Treaty-amending treaties. That is to say, they have consisted of amendments to the existing EC Treaties. The UK bills to authorise these treaties have sought to amend the 1972 Act to take account of certain of these amendments (those relating to the Community 'pillar' under the Treaty of Rome and therefore requiring the force of law in the UK, not the intergovernmental aspects). Thus, we have had a succession of European Communities (Amendment) Bills to amend the 1972 Act.

With a view to ratifying the European constitution the Government could introduce a similar amendment bill which only amended the 1972 Act. This might go some way towards minimising the Parliamentary exposure and focus debate on the constitution, rather than on the UK's membership of the EU. This could be a fairly short bill with some specific amendments and some kind of 'catch-all' facility that would allow all the new elements of the constitution to become law in the UK (including, perhaps, a "for this, read that" approach, replacing references to the EC Treaties with references to the constitution, for instance).

However, the European constitution is not merely a collection of amendments like its predecessors. It is a treaty which explicitly repeals and replaces the earlier EC Treaties, and consists of a complete, revised constitutional text, including much from the existing EC Treaties and several new elements (the Charter of Fundamental Rights, for example). Draft article IV-2 of the constitution states:[49]

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47 HC Deb 21 April 2004 c 294

48 *Sunday Telegraph*, 18 April 2004

49 CIG 50/03, 2003 IGC– Draft Treaty establishing a Constitution for Europe (following editorial and legal adjustments by the Working Party of IGC Legal Experts), 25 November 2003 at http://ue.eu.int/igcpdf/en/03/cg00/cg00050.en03.pdf

Article IV-2 (new)
Repeal of earlier Treaties

1. This Treaty establishing a Constitution for Europe shall repeal ~~T~~the Treaty establishing the European Community, the Treaty on European Union and, under the conditions set out in Protocol **[X]** [2], the acts and treaties which have supplemented or amended them ~~and are listed in the Protocol annexed to the Treaty establishing the Constitution shall be repealed, as from the date of entry into force of the Treaty establishing the Constitution~~.

[2. Without prejudice to paragraph 1, the Treaties on the Accession:

(a) of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland,

(b) of the Hellenic Republic,

(c) of the Kingdom of Spain and the Portuguese Republic,

(d) of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, and

(e) of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic,

shall be repealed.

The provisions of the Treaties referred to in the first subparagraph and set out in Protocol [XX] [3] **shall remain in force and their legal effects shall be preserved under the conditions laid down in that Protocol.]**

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1 ~~The Convention considers that this Article would be better situated in Part I.~~
2 Protocol [X] has yet to be drawn up.
3 Protocol [XX] has yet to be drawn up.

For this reason, the Government might take another approach. For the sake of neatness, and to reflect the far-reaching nature of the constitution, a new bill, perhaps a European Union Constitution Bill, might be introduced to repeal and replace the 1972 Act. If the Government took this path, however, the bill would inevitably give rise to a renewed consideration of the basis for UK membership, the transposition and application of EC law in the UK etc. For instance, it might be possible to put down an amendment deleting all parts of the bill except for the repeal of the 1972 Act. There would also be greater scope for discussion of the UK's membership of the EU on Second Reading.

Ratification could be prepared either way, and it might in any case become academic if the IGC does not agree a text in June.

I. The referendum outcome: scenarios

1. 'Yes-vote'

If a majority vote in favour of the constitution and Parliament has passed the relevant legislation, the Government could proceed towards ratification.

2. 'No-vote'

If the required majority in favour of the constitution is not achieved, and if the constitution or the referendum act contains a clause requiring a positive referendum outcome before ratification, it would not be possible to ratify the treaty.

Tony Blair said in response to a question from Michael Howard that in the event of a 'no-vote', "We will be in exactly the same position as, for example, Ireland after its rejection, the first time round, of the Nice Treaty".[50] He went on to say that, if in government "we would sit down and discuss the way forward with other European countries".[51] He would not say whether the Government would reject the constitutional treaty under these circumstances, but only that the treaty could not be ratified "on that basis". The Government pledged to hold a referendum on the constitution, even if another Member State had already rejected it in a referendum.[52]

The Leader of the House, and former Convention member, Peter Hain, agreed with the assessment by the Convention Chairman, Valéry Giscard d'Estaing, on the "Today Programme" on 29 April, that "If the other 24 countries agreed to it and Britain did not, we would be left behind and there would be consequences".[53]

3. Interview with Jack Straw, 20 April 2004

The Foreign Secretary answered questions about the referendum in an interview on 20 April 2004. [54] Asked what would happen if Parliament voted one way and the public another, Mr Straw replied, rather confusingly, that "Parliament would approve the ratification, if Parliament did approve the ratification, subject to it then being approved in a referendum." He said the referendum question would be "simple and straightforward" for or against the constitution. However, he did not specify whether the question would refer directly to the constitution on the table or to the principle of having a constitution for Europe. The referendum question in this respect could have important consequences in the event of a 'no-vote'.

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50 HC Deb 21 April 2004 c 288
51 Ibid
52 HC Deb 20 April 2004 c 164
53 HC Deb 29 April 2004 c 1006
54 FCO website at http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391629&aid=1079979753555

4. European Policy Centre: ratification crisis scenarios

The following extracts from an article by Eric Philippart of the European Policy Centre looks at various scenarios for dealing with a ratification crisis:[55]

> If the electorate of a Member State rejects ratification of the Treaty adopted by the IGC, those Member States who have already ratified it, or intend to do so, could, under the current rules:
>
> - make do with the post-Nice Treaties (i.e. abandon the results of the ICG and the hope of revising the institutions and procedures of the Union; resort to existing modes of flexibility – such as 'enhanced cooperation' or constructive abstention – for developing new policies);
>
> - request the government concerned to seek further ratification of the rejected text. Choosing this path rests on one of the following assumptions: the setback was a problem of timing and one only needs to await a more propitious electoral climate; the setback was the result of government failing to provide adequate explanation of the treaty amendments (information deficit) or lack of political commitment (political deficit); in these circumstances a more vigorous information campaign or greater political effort to construct a coalition of the willing would be sufficient (e.g. Nice Treaty and the resolution of the problem in Ireland 2001-2);
>
> - issue a political declaration clarifying certain points, offer reassurance or even derogations to the recalcitrant state and so 'buy' its ratification (e.g. Maastricht Treaty and the Danish problem 1992-3 resolved following a political agreement at the Edinburgh European Council December 2002). These agreements have no legal basis (in the case of the derogations they are even anti constitutional). Such political declarations could also include a promise to incorporate these assurances and derogations in the Treaties on the occasion of their next revision;
>
> - withdraw the text and, within the framework of article 48 TEU, convene a new IGC to consider a new plan of amendments that would include various schemes for differentiated integration – ad hoc forms of flexibility and/or a revised mechanism for 'enhanced cooperation' (1) (i.e. system allowing a group of Member States to use the EU framework to develop new policies that only bind the participating Member States);
>
> - invite the recalcitrant state to leave the Union. The current Treaties have no mechanism for such action, which does not mean that it is impossible to leave the Union (e.g. the Greenland case). Important members of the Convention are now suggesting that the invitation to leave should become an obligation. The amendment to article G put forward by Andrew Duff et al, proposes that the European Constitution will enter into force after approval by the European Parliament and ratification by five sixths of the Member States. Those Member States not wishing to ratify the new treaty will be able to negotiate an association status with the Union. Similar amendments have also been tabled at the Convention in the name of the European People's Party by Elmar Brok and others as well as by Borrell and Carnero y Lopez Garrido, proposing entry into force after approval by four fifths of the Member States.

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[55] http://www.euractiv.com/cgi-bin/cgint.exe?204&OIDN=250919, May 2003.

He suggested a possible enhanced cooperation arrangement under a separate treaty agreed by a group of states, in the event of only partial ratification of the constitution. Member States wishing to go further could:

> adopt a constitution-building approach, in other words establish among themselves a new multi-sectoral treaty for the consenting parties, superimposed on the existing treaties. This would constitute a sort of regional union but with the ambition of becoming Europe wide. By analogy with enhanced cooperation, one could therefore talk of an 'enhanced Union'.[56]

As he says, states wishing to pursue this route would not be subject to Article 48TEU and they would be able to establish their own negotiation, adoption and ratification rules for an additional treaty. However, he adds:

> This does not mean that their approach would have to be purely intergovernmental. They could choose the option of a convention preparing the diplomatic phase or even the option of a constituent assembly. Representatives from the European Commission and/or the European Parliament could also be invited so that early consideration could be given to exactly how the European Union would interact with the future enhanced Union.[57]

Professor Philippart goes on to suggest what a new treaty for an enhanced Union might contain:

> Those countries in favour of an additional treaty could use the conclusions of the 2003 IGC. This would have the advantage of being quick and easy, as well as relatively centripetal (recalcitrant states are more likely to be attracted by a scheme they help design than by a new framework entirely defined around pro-integrationist preferences). However, adopting the agreement produced by the IGC would not necessarily provide the best basis for the enhanced Union.
>
> Why, indeed, use a text that had, of necessity, been influenced by concessions made to states with different ambitions and logic? Not to mention the fact that IGCs often end up in hectic package dealing among heads of state and government, which does no good for policy coherence. Therefore it would be preferable to use instead the European Convention's proposal (because of its particular legitimacy) or to draw up a new text, based completely on the ambitions of those countries wanting to move forward.
>
> In any case the new treaty will need to fulfil certain conditions, i.e. not be in contravention of obligations required by EU/EC treaties, nor hinder EU/EC policies. The exclusive competences of the EU will, by definition, be off limits. The enhanced Union could follow the Schengen format, focusing on a specific objective, or embrace several dormant or underdeveloped policies. The ambition could, for instance, be to set a 'security +' Union dealing with defence, border guards, police, social security and so on.[58]

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56 http://www.euractiv.com/cgi-bin/cgint.exe?204&OIDN=250919

57 Ibid

58 http://www.euractiv.com/cgi-bin/cgint.exe?204&OIDN=250919

As for the institutional links between the EU and the enhanced Union, he thought there would be two options: cohabitation, using the present institutional arrangements, which could present "some major problems"; or splitting away from them and using a "separate set of institutions" He goes on to consider the nature of the relationship between the EU and the enhanced Union:

> The nature of this relationship will largely depend on the size and weight of the group making up the enhanced Union. If this group is able to command a qualified majority in the European Union, the establishment of a system of concentric circles will be possible. In most areas, decisions will be taken by the enhanced Union and afterwards 'transferred' to the European Union. This sort of relationship, in which there is a clear distinction between decision-makers and decision-takers, is rather akin to the one that currently exists between the EU and Norway in the context of the agreement on the European Economic Area.
>
> If the group making up the enhanced Union is powerful but not capable of wielding a majority at the European Union level, it will be possible for it to pursue its interests through 'institutional shopping'. In this case, as nothing can happen without its support, the group can choose where to operate. Acting on its preferences, it will be able to decide in which forum policies will be developed first. The European system would then comprise one part built for all (the common acquis) and one part developed to meet the needs of a specific group. It would appear in this case that the metaphor of a multi-stage rocket would be more appropriate than that of concentric circles.
>
> If those engaged in an enhanced union are clearly only a minority of the European Union, one could well see the reappearance of a system that pits the differently structured groups against each other. This minority group will not only be unable to set the European agenda but its size will be insufficiently 'dissuasive': a large coalition diminishes the value of staying out, while a small coalition often invites the formation of counter-groups or blocking coalitions (e.g. the threat of Franco Frattini, the Italian foreign affairs Minister, to organize a defence summit with Spain and the UK if Belgium, France, Germany and Luxembourg were to create a mini-military alliance following their summit of 28 April 2003).
>
> Fragmentation would follow. Relations among European states would turn into a multi-centred system organized through variable geometry, with a common base upon which parallel or competing acquis would develop. This would be the signal for a return to the 1960s, i.e. a situation characterized by the coexistence of an integrationist group ('founder countries + x'), an intergovernmentalist group and free agents practising unilateralism.

Mr Philippart also presents scenarios for states that wanted to integrate still further, including leaving the Union and setting up a new community among themselves.

Appendix: UK Parliamentary processes for other EC bills

The parliamentary processes for the main EC Treaty amendments (except for accession treaties) are described below, together with a brief outline of the bill content:

1. The Single European Act

The *European Communities (Amendment) Bill* (Bill 126 of 1985-86) was a four-clause Bill to give legal effect to parts of the Single European Act (SEA),[59] which had been agreed by an IGC on 27 January 1986 and signed on 17 and 28 February 1986. The Bill amended the 1972 Act to include among the 'Community Treaties' some provisions of the SEA. The Bill also:

- Amended the 1972 Act to allow the SEA to create a new court attached to the Court of Justice (the Court of First Instance)
- Approved the SEA for the purposes of Section 6 of the *European Assembly Elections Act 1978*, which stipulated that "No Treaty which provides for any increase in the powers of the Assembly shall be ratified by the United Kingdom unless it has been approved by an Act of Parliament"; and
- Amended all relevant legislation to substitute the name 'European Parliament' for 'European Assembly' as provided in the SEA.

The House had discussed the SEA in a debate on 5 March 1986 on the Government's six-monthly White Paper, *Report on Developments in the Community* for January to June 1985[60] and to some extent in a debate on the Commission's opinion on amendments to the EEC Treaty.[61] The Bill's parliamentary history was as follows:

Commons First Reading (Bill 126)	27 March 1986
Commons Second Reading	23 April 1986 (agreed to on division 319-160)
Committee of Whole House, first day	16 June 1986
Committee stage, second day	26 June 1986
Committee stage, third day	27 June 1986
Allocation of Time motion & debate	30 June & 1 July 1986
Remaining Stages, sent to Lords	10 July 1986 (agreed to on division 149-43)
Lords First Reading (Bill 223)	11 July 1986
Lords Second Reading	31 July 1986 (agreed to on question)
Committee of Whole House, first day	8 October 1986
Committee stage, second day	17 October 1986 (Bill reported without amendment)
Lords Report stage (formal)	27 October 1986
Lords Third Reading	3 November 1986

[59] Cmnd 9758
[60] Cmnd 9627
[61] HC Deb 5 March 1986 cc 337-404

Royal Assent	*European Communities (Amendment) Act* 7 November 1986 (CAP 58)
Entry into force of SEA	1 July 1987

2. Maastricht Treaty

The Maastricht Bill was a short European Communities (Amendment) Bill to amend the 1972 Act to take account of the TEU. It only dealt with the parts of the TEU that required amendments to the EC Treaty, the Treaty of Rome. The new provisions in Second and Third Pillar areas (Common Foreign and Security Policy; Justice and Home Affairs) did not require a change in UK legislation as decisions would be made on an intergovernmental basis and therefore did not give rise to Community rights and obligations.

The passage of the Bill through Parliament was as follows:

Commons First Reading	7 May 1992
Commons Second Reading	20-21 May 1992
Six-month suspension of Bill pending outcome of resolution of Danish 'no-vote'	
Paving Motion	4 November 1992
Committee of Whole House	2 December 1992 13, 14, 18, 19, 20, 27, 28 January 1993 1, 4, 22, 25 February 1993 4, 8, 11, 24, 25, 30 March 1993 15, 19, 21, 22 April 1993
Report stage	4, 5 May 1993
Third Reading	20 May 1993
Lords First Reading	24 May 1993
Lords Second Reading	7, 8 June 1993
Committee stage	22, 23, 24, 28, 29, 30 June 1993
Report stage	12, 13, 14 July 1993
Royal Assent	20 July 1993, CAP 32
Resolution on Social Protocol	22 July 1993
Confidence Motion on Protocol	23 July 1993
Entry into force of Treaty	1 November 1993

3. Treaty of Amsterdam

The *European Communities (Amendment) Bill* was a short bill with two main clauses. It specified in Clause 1 that Amsterdam Articles 2-9, 12 and "other provisions of the treaty so far as they relate to those articles," and all the protocols except for the one addressed to Article J.7 should be included in the list of treaties covered by the 1972 Act. Clause 2 approved the Amsterdam Treaty for the purposes of Section 6 of the *European Parliament Elections Act 1978*.

The passage of the Bill through Parliament was as follows:

Commons First Reading	30 October 1997
Second Reading	12 November 1997
Committee of the Whole House	27 November 1997
	2, 3 December 1997
Guillotine Motion	17 December 1997
Committee stage	15 January 1998
Remaining stages	19 January 1998
Lords First Reading	20 January 1998
Second Reading	16 February 1998
Committee stage	12, 24, 26 March 1998
	27, 28 April 1998
Report	14 May 1998
Third Reading	21 May 1998
Guillotine Motion & Lords Amendments	9 June 1998
Commons Amendments	11 June 1998
Royal Assent	11 June 1998, CAP 21 1998
Entry into force of Treaty	1 January 1995

4. Treaty of Nice

Second Reading and Programme Motion	4 July 2001
Committee of the Whole House	11, 17, 18 July 2001
Report stage	18 July 2001
Third Reading	17 October 2001
Lords First Reading	18 October 2001
Second Reading	1 November 2001
Committee of the Whole House	15, 20, 26 November 2001
Report	22 January 2002
Third Reading	28 January 2002
Royal Assent	26 February 2002, CHAP 3 2002
Entry into force of Treaty	1 February 2003