Course Name	**: International Law**
Course Code	**: BIRD 116**
Course level	**: level 1**
Credit Units	**: 4 CU**
Contact Hours	**: 60 Hrs**

Course Objective
By the end of this course unit, students should be able to define international law and Describe the sources of International law. They should comprehend some treaties as a result of codifying existing customary law and therefore ddistinguish between Judicial decisions and Juristic writings as used in international law. Participants should also get to understand the benefit of economic integrations by borrowing a leaf from the "European Union" and derive lessons for the East African Community?

Course Contents
Introduction to administrative law
Administrative law in US and Europe
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Governance
Military and defense
Monetary unions
Regional developments
Education and Research
Religion and culture
East Africa Community
International legal theory
Supranational law

Mode of delivery
Personal Study
Face to face lectures
VHS and DVDS

Assessment
Course work 40%
Exams 60%

Total Mark 100%

International Law

Administrative Law integrates several areas of law, which include administrative rules, regulations and procedures for government agencies and bodies; the scope of agency authority, in particular individual privacy; and enforcement powers of agencies. In the United States, access to information about the government is also an integral part of administrative regulations. Government (general), **Constitutional Law** and **Civil Rights** are treated separately, as is **Privacy Law**. Administrative law in the United States often relates to, or arises from, so-called "independent agencies"- such as the Federal Trade Commission ("FTC"). Here is FTC's headquarters in Washington D.C.

Administrative law is the body of law that governs the activities of administrative agencies of government. Government agency action can include rulemaking, adjudication, or the enforcement of a specific regulatory agenda. Administrative law is considered a branch of public law. As a body of law, administrative law deals with the decision-making of administrative units of government (e.g., tribunals, boards or commissions) that are part of a national regulatory scheme in such areas as police law, international trade, manufacturing, the environment, taxation, broadcasting, immigration and transport. Administrative law expanded greatly during the twentieth century, as legislative bodies worldwide created more government agencies to regulate the increasingly complex social, economic and political spheres of human interaction.

Taxation decisions are the decisions based on administrative law that are most often contested in courts. Civil law countries often have specialized courts, administrative courts, that review these decisions.

The agricultural sector is one of the most heavily regulated sectors in the U.S. economy, as it is regulated in various ways at the international, federal, state, and local levels. Consequently, administrative law is a significant component of the discipline of Agricultural Law. The United States Department of Agriculture and its myriad agencies such as the Agricultural Marketing Serviceare the primary sources of regulatory activity, although other administrative bodies such as the Environmental Protection Agency play a significant regulatory role as well. An extensive treatment of the administrative laws and regulations pertaining to the agricultural sector is provided by the The National Agricultural Law Center in its Administrative Law Reading Room.

Administrative Law - US

- Administrative Law - Cornell

Administrative law encompasses laws and legal principles governing the administration and regulation of government agencies (both Federal and state). Such agencies are delegated power by Congress (or in the case of a state agency, the state legislature) to act as agents for the executive. Generally, administrative agencies are created to protect a public interest rather than to vindicate private rights.

- Administrative Law - Wikipedia
  Administrative law is the body of law that governs the activities of administrative agencies of government. Government agency action can include rulemaking, adjudication, or the enforcement of a specific regulatory agenda. Administrative law is considered a branch of public law.
- Administrative Law Guide - Library of Congress
  Administrative law, commonly called regulatory law, is created and enforced by an administrative body, i.e., Department of Labor, the Federal Communications Commission, or the President. Depending on whether the agency is executive, legislative or independent will determine from whom it derives its power to issue regulations and its right to enforce them.

Administrative Law Judge

An administrative law judge (ALJ) in the United States is an official who presides at an administrative trial-type hearing to resolve a dispute between a government agency and someone affected by a decision of that agency.

- Administrative Law Outline
  Administrative Law: basically procedural. Each agency is responsible for a particular body of substantive law, but certain procedural principles apply to all agencies.
- Administrative Law Research Tutorial
  This tutorial will introduce you to the topic of administrative law research. If you plan to work in a regulatory practice, the skills covered in this training session will be essential to your research.
- Administrative Procedure Database Archive - ABA
  This site was designed to facilitate the exchange of information about federal and state administrative law among legislators, lawyers, hearing officers, judges, and citizens. While much of the original material is now available from other sources, the ABA Administrative Procedure Database Archive provides access to resources not readily available elsewhere.
- Continuing Task of Administative Law
  Columbus discovered America, but it was sitting here a long time before he found it. The same is true of the recent discovery of administrative law. Even though many politicians have only discovered it in the last few years, administrative law has been around a long time.
- Federal Administrative Law
  Administrative law focuses on the exercise of government authority by the executive branch and its agencies. These agencies are created by Congress through “enabling legislation”, and are authorized to promulgate regulations which have the same force as statutory law. Federal agencies have steadily grown in number and importance in the United States, and affect a wide

variety of social issues, such as telecommunications, the financial market, and racial discrimination. The term “administrative law” encompasses the procedures under which these agencies operate, as well as external constraints upon them (such as the Administrative Procedure Act, constitutional limitations, and judicial review).

- Federal Administrative Procedure Act
- Fiction and Tyranny of "Administrative Law"
  The conservative columnist Joseph Sobran has a lecture on audio tape called "How Tyranny Came to America." This seems like a shocking and absurd claim. How could anyone believe that "tyranny" exists in America? Sobran must be some kind of extremist nut.
- What is Federal Administrative Law?
  Federal administrative agencies are given existence and powers by the Congress through enabling legislation. These agencies, in turn, promulgate administrative regulations which, if promulgated within the authority given the agency by its enabling legislation, have the force and effect of law.

Administrative Law - Europe

- Administrative Law Bar Association - UK
  Members provide specialist advice to public bodies on their duties and powers and act as specialist advocates for and against public authorities, including the government.
- Constitutional and Administrative Law Bar Association - UK
  The Constitutional and Administrative Law Bar Association is a Specialist Bar Association of the Bar of England and Wales. ALBA is the professional association for practitioners of public law. It exists to further knowledge about administrative law amongst its members and to promote the observance of its principles.
- Constitutional and Administrative Law of the European Communities and the European Union
  The Preamble to the SEA set out the Member States’ commitment to transform relations as a whole between the Member States into a European Union; a Union which would have activities way beyond the solely economic sphere. Political cooperation between the Member States was considered to be of paramount importance in the creation of this European Union.
- European Administrative Law and the Global Challenge
  This article looks at the development of EC Administrative Law, identifying two main theoretical trends. The first, or 'control' theory, approaches administrative law from the angle of citizen-state relations and from the viewpoint of the citizen. The second, or functional, approach is to treat administrative law as a body of rules designed for the implementation of policies. The article suggests that EC administrative law originated inside the second theory, in part because of its French antecedents. Over the years, however, the first theory has gained the ascendant.

- Participatory Governance and European Administrative Law: New Legal Benchmarks for the New European Public Order
  European Governance is more than just a policy instrument without legal significance. Its regulatory sub-divisions, such as Comitology, the Lamfalussy procedure, and the growing number of European administrative agencies, have colonised substantive parts of the law-shaping and law-making processes.
- Review of European Administrative Law
  Review of European Administrative Law (REALaw) is a law review, published twice a year (online and in print), in the English language edited at the Department of Administrative Law and Public Administration of the University of Groningen and the Institute of Constitutional and Administrative Law and the Europa Instituut of Utrecht University. Review of European Administrative Law provides a forum for the discussion of issues in the development of European administrative law. The journal aims to cover all aspects of European administrative law, reflecting the role of the European Union, the role of domestic legal orders and their mutual relation and influence.
- Section of Administrative Law & Regulatory Practice of the EU - ABA
  In this interconnected world, the impacts of administrative processes in other countries transcend their national boundaries, affecting US citizens, US economic interests, and US regulatory choices. In particular, the European Union's (EU) legislative and regulatory initiatives acutely affect US interests because of the magnitude of US-EU trade and investment.

Administrative Law - International

- Administrative Law - Australia
  Administrative law is the body of law regulating government decision-making. Review of administrative decisions can take place internally and externally.
- Administrative Law - Canada
  The major purpose of administrative law is to ensure that the activities of government are authorized by Parliament or by provincial legislatures, and that laws are implemented and administered in a fair and reasonable manner. Administrative law is based on the principle that government action, whatever form it takes, must (strictly speaking) be legal, and that citizens who are affected by unlawful acts of government officials must have effective remedies if the Canadian system of public administration is to be accepted and maintained.
- Administrative Law in the People's Republic of China
  Administrative law in the People's Republic of China was virtually non-existent before the economic reform era. Since the 1980s, the People's Republic of China has constructed a new legal framework for administrative law, establishing control mechanisms for reining in the bureaucracy and disciplinary committees for the Communist Party of China. However, many have argued that the usefulness of these laws are vastly inferior in terms of controlling government actions due largely to institutional and systemic

obstacles like a weak judiciary, poorly trained judges and lawyers, and corruption.

- Co-Option and Resistance: Two Faces of Global Administrative Law
  This Article addresses some issues relating to the emergence of global administrative law from a third world perspective. The essential idea is to determine the nature, character, and limits of an evolving global administrative law (GAL).
- Global Administrative Law
  A blog dedicated to the continuing development of the Global Administrative Law (GAL) Project.
- Law of Administration for the State of Iraq
  The people of Iraq, striving to reclaim their freedom, which was usurped by the previous tyrannical regime, rejecting violence and coercion in all their forms, and particularly when used as instruments of governance, have determined that they shall hereafter remain a free people governed under the rule of law.
- Naming Global Administrative Law
  With "global administrative law" comes an agenda for conceptual reflection, empirical study, and institutional redesign that gives shape and focus to an immense range of large and small questions about the legal control of decisionmaking in the contemporary world.
- New Public Management for Latin America
  State Reform has become the main topic on the world's political agenda. This process dates from the late seventies, with the onset of the crisis in the State model, which had been created by developed countries during the postwar and set off an unprecedented era of capitalist prosperity. The first response to the crisis was a neo-liberal-conservative reaction.
- Remedying the Accountability Gap in Global Administrative Law
  The organisations seem to regard public participation as a principle of good governance rather than a democratic necessity. However, in order to prevent global administrative law from becoming the prerogative of technocrats it is important that the administered play an active role. For the sake of the discussion I will therefore recommend two ways of achieving this, i.e. introducing the American notice & comment procedure and reliance on judicial review.

Organizations Related to Administrative Law

- Administrative Codes and Registers (ACR) Section of the NASS
  The Administrative Codes and Registers (ACR) Section of the National Association of Secretaries of State (NASS) is the organization of persons in government and the private sector interested in administrative law. Some of ACR's objectives include: gathering, exchanging and disseminating facts, information and ideas relating to the publication and distribution of administrative codes and registers; enhancing the quality of administrative codes and registers through better style, format and design; encouraging the

development of administrative codes and registers in jurisdictions where none exist; fostering the development of better rulewriting skills and rule review techniques, and more effective management of the rule promulgation process; and increasing knowledge of administrative law among ACR Section members and within the general public.

- Administrative Law Section - American Bar Association
  The Administrative Law Section serves its members, the bar and the public at-large, by providing a congenial forum to share new ideas and the most recent information on substantive and procedural developments in Administrative Law and Regulatory Practice.
- Association of Administrative Law Judges
  An independent and honorable administrative judiciary is indispensable to justice in our society. Administrative Law Judges have the authority to conduct constitutional due process hearings under the process provided by the Administrative Procedure Act. Administrative Law Judges should participate in establishing, maintaining, enforcing, and observing high standards of conduct, so that the integrity and independence of the administrative judiciary may be preserved.
- Federal Administrative Law Judges Conference
  Federal Administrative Law Judges, often referred to as the Federal Administrative Trial Judiciary, perform judicial functions within the Executive Branch of the Government. In adjudicating cases before them, Administrative Law Judges conduct formal trial-type hearings, make findings of fact and law, apply agency regulations, and issue either initial or recommended decisions.
- National Association of Administrative Law Judiciary
  The National Association of Administrative Law Judiciary (NAALJ) is the largest professional organization devoted exclusively to administrative adjudication devoted to the executive branch of government.
- National Association of Secretaries of State
  Founded in 1904, the National Association of Secretaries of State (NASS) is the nation's oldest nonpartisan, professional organization for public officials. The association serves as a medium for the exchange of information and fosters cooperation between states governments in the development of public policy. NASS has key initiatives in the areas of elections and voting, state business services, electronic government and digital archiving.
- National Conference of Commissioners on Uniform State Laws
  The National Conference of Commissioners on Uniform State Laws (NCCUSL), now 116 years old, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of the law. NCCUSL’s work supports the federal system and facilitates the movement of individuals and the business of organizations with rules that are consistent from state to state.
- National Conference of the Administrative Law Judiciary
  The National Conference of the Administrative Law Judiciary (NCALJ) is the voice of the administrative judiciary within the American Bar Association (ABA). As a Conference of the ABA Judicial Division, NCALJ works closely

with the other Conferences of the ABA Judicial Division and the ABA Section of Administrative Law and Regulatory Practice to improve all facets of state and federal administrative adjudication. NCALJ also works closely with outside organizations, including the National Association of Administrative Law Judiciary (NAALJ), the Association of Administrative Law Judges (AALJ), the Canadian Council of Administrative Tribunals (CCAT), and the National Judicial College (NJC).

- Subcommittee on Commercial and Administrative Law - US House of Representatives
  The Subcommittee on Commercial and Administrative Law shall have jurisdiction over the following subject matters: bankruptcy and commercial law, bankruptcy judgeships, administrative law, independent counsel, state taxation affecting interstate commerce, interstate compacts, other appropriate matters as referred by the Chairman, and relevant oversight.

Administrative law in common law countries

Generally speaking, most countries that follow the principles of common law have developed procedures for judicial review that limit the reviewability of decisions made by administrative law bodies. Often these procedures are coupled with legislation or other common law doctrines that establish standards for proper rulemaking. Administrative law may also apply to review of decisions of so-called semi-public bodies, such as non-profit corporations, disciplinary boards, and other decision-making bodies that affect the legal rights of members of a particular group or entity.

While administrative decision-making bodies are often controlled by larger governmental units, their decisions could be reviewed by a court of general jurisdiction under some principle of judicial review based upon due process (United States) or fundamental justice (Canada). Judicial review of administrative decisions, it must be noted, is different from an appeal. When sitting in review of a decision, the Court will only look at the method in which the decision was arrived at, whereas in appeal the correctness of the decision itself will be under question. This difference is vital in appreciating administrative law in common law countries.

The scope of judicial review may be limited to certain questions of fairness, or whether the administrative action is *ultra vires*. In terms of ultra vires actions in the broad sense, a reviewing court may set aside an administrative decision if it is unreasonable (under Canadian law, following the rejection of the "Patently Unreasonable" standard by the Supreme Court in *Dunsmuir v. New Brunswick*), *Wednesbury* unreasonable (under British law), or arbitrary and capricious (under U.S. Administrative Procedure Act and New York State law). Administrative law, as laid down by the Supreme Court of India, has also recognized two more grounds of judicial review which were recognized but not applied by English Courts viz. legitimate expectation and proportionality.

The powers to review administrative decisions are usually established by statute, but were originally developed from the royal prerogative writs of English law, such as the writ of mandamus and the writ of certiorari. In certain Common Law jurisdictions, such as India or Pakistan, the power to pass such writs is a Constitutionally guaranteed power. This power is seen as fundamental to the power of judicial review and an aspect of the independent judiciary.

United States

In the United States, many government agencies are organized under the executive branch of government, although a few are part of the judicial or legislative branches.

In the federal government, the executive branch, led by the president, controls the federal executive departments, which are led by secretaries who are members of the United States Cabinet. The many important independent agencies of the United States government created by statutes enacted by the Congress that are exist outside of the federal executive departments but are still part of the executive branch.

Congress has also created some special judicial bodies known as Article I tribunals to handle some areas of administrative law.

The actions of executive agencies and independent agencies are the main focus of American administrative law. In response to the rapid creation of new independent agencies in the early twentieth century (see discussion below), Congress enacted the Administrative Procedure Act (APA) in 1946. Many of the independent agencies operate as miniature versions[*citation needed*] of the tripartite federal government, with the authority to "legislate" (through rulemaking; see Federal Register and Code of Federal Regulations), "adjudicate" (through administrative hearings), and to "execute" administrative goals (through agency enforcement personnel). Because the United States Constitution sets no limits on this tripartite authority of administrative agencies, Congress enacted the APA to establish fair administrative law procedures to comply with the constitutional requirements of due process.

The American Bar Association's official journal concerning administrative law is *Administrative Law Review*.

Historical development

Stephen Breyer, a U.S. Supreme Court Justice since 1994, divides the history of administrative law in the United States into six discrete periods, according to his book, *Administrative Law & Regulatory Policy* (3d Ed., 1992):

- English antecedents & the American experience to 1875
- 1875 - 1930: the rise of regulation & the traditional model of administrative law
- The New Deal
- 1945 - 1965: the Administrative Procedure Act & the maturation of the traditional model of administrative law
- 1965 - 1985: critique and transformation of the administrative process
- 1985 - ?: retreat or consolidation

Administrative law in civil law countries

Unlike most Common-law jurisdictions, the majority of civil law jurisdictions have specialized courts or sections to deal with administrative cases which, as a rule, will apply procedural rules specifically designed for such cases and different from that applied in private-law proceedings, such as contract or tort claims.

France

In France, most claims against the national or local governments are handled by administrative courts, which use the *Conseil d'État* (State Council) as a court of last resort. The main administrative courts are the "Tribunaux Administratifs" and appeal courts are the "Cours Administratives d'Appel".

Germany

In Germany, the highest administrative court for most matters is the federal administrative court Bundesverwaltungsgericht. There are federal courts with special jurisdiction in the fields of social security law (Bundessozialgericht) and tax law (Bundesfinanzhof).

The Netherlands

In The Netherlands, administrative law provisions are usually contained in separate laws. There is however a single General Administrative Law Act ("Algemene wet bestuursrecht" or Awb) that applies both to the making of administrative decisions and the judicial review of these decisions in courts. On the basis of the Awb, citizens can oppose a decision ('besluit') made by a public body ('bestuursorgaan') within the administration and apply for judicial review in courts if unsuccessful.

Unlike France or Germany, there are no special administrative courts of first instance in the Netherlands, but regular courts have an administrative "chamber" which specializes in administrative appeals. The courts of appeal in administrative cases however are specialized depending on the case, but most administrative appeals end up in the judicial section of the Council of State (Raad van State).

In addition to the system described above there is another part of administrative law which is called "administratief beroep" (administrative appeal). This procedure is available only if the law on which the primary decision is based specifically provides for it and involves an appeal to a higher ranking administrative body. If administrative appeal is available, no appeal to the judicial system may be made.

Sweden

In Sweden, there is a system of general administrative courts which only handles administrative law cases, and which is completely separate from the system of general courts. This system has three tiers, with 23 county administrative courts (*länsrätt*) as the first tier, four administrative courts of

appeal (*kammarrätt*) as the second tier, and the Supreme Administrative Court of Sweden (*Regeringsrätten*) as the third tier.
Migration cases are handled in a two-tier system, effectively within the system general administrative courts. Three of the county administrative courts serve as migration courts (*migrationsdomstol*) with the Administrative Court of Appeal in Stockholm serving as the Migration Court of Appeal (*Migrationsöverdomstolen*).

Brazil
In Brazil, unlike most Civil-law jurisdictions, there is no specialized court or section to deal with administrative cases. In 1998, a constitutional reform, lead by the government of the President Fernando Henrique Cardoso, introduced regulatory agencies as a part of the executive branch. Since 1988, Brazilian administrative law has been strongly influenced by the judicial interpretations of the constitutional principles of public administration (art. 37 of Federal Constitution): legality, impersonality, publicity of administrative acts, morality and efficiency.

Chile
The President of the Republic exercises the administrative function, in collaboration with several Ministries or other authorities with *ministerial rank*. Each Ministry has one or more sub secretaries which perform through public services the actual satisfaction of public needs.
All Ministries and public services have a body of workers or administrative personnel (*funcionarios públicos*), but with different contractual statutes.
Public entities act through administrative procedures, that is, processes with formal stages where opportunities to deliver evidence and exercise appeals are granted to the citizens. The recent basic law of administrative procedures deals with most of the general matters pertaining the administrative procedures of all public entities.
There is no specialized court to deal with actions against the Administrative entities, but the civil courts have jurisdiction over all matter that are not in the scope of other court, such as public liability and the overturn of single administrative acts.

People's Republic of China
Administrative law in the People's Republic of China was virtually non-existent before the economic reform era initiated by Deng Xiaoping. Since the 1980s, the People's Republic of China has constructed a new legal framework for administrative law, establishing control mechanisms for overseeing the bureaucracy and disciplinary committees for the Communist Party of China. However, many have argued that the usefulness of these laws are vastly inferior in terms of controlling government actions, largely because of institutional and systemic obstacles like a weak judiciary, poorly trained judges and lawyers, and corruption.

In 1990, the Administrative Supervision Regulations and the Administrative Reconsideration Regulation were passed. Both regulations have since been amended and upgraded into laws. The 1993 State Civil Servant Provisional Regulations changed the way government officials were selected and promoted, requiring that they pass exams and yearly appraisals, and introduced a rotation system. In 1994, the State Compensation Law was passed, followed by the Administrative Penalties Law in 1996.

International law

A major force in public international law, the United Nations was conceived during World War II

International law is the term commonly used for referring to the system of implicit and explicit agreements that bind together sovereign states in adherence to recognized values and standards. It differs from other legal systems in that it primarily concerns states rather than private citizens[1]. However, the term "international law" can refer to three distinct legal disciplines:

- Public international law, which governs the relationship between states and international entities, either as an individual or as a group. It includes the following specific legal field such as the treaty law, law of sea, international criminal law and the international humanitarian law.
- Private international law, or conflict of laws, which addresses the questions of (1) in which legal jurisdiction may a case be heard; and (2) the law concerning which jurisdiction(s) apply to the issues in the case.
- Supranational law or the law of supranational organizations, which concerns at present regional agreements where the special distinguishing quality is that laws of nation states are held inapplicable when conflicting with a supranational legal system.

The two traditional branches of the field are:

- *jus gentium* — law of nations
- *jus inter gentes* — agreements among nations

Sources of international law

Sources of international law are the materials and processes out of which the rules and principles regulating the international community are developed. They have been influenced by a range of political and legal theories. During the 19th century, it was recognised by legal positivists that a sovereign could limit its authority to act by consenting to an agreement according to the principle *pacta sunt servanda*. This consensual view of international law was reflected in the 1920 Statute of the Permanent Court of International Justice, and preserved in Article 38(1) of the 1946 Statute of the International Court of Justice.[1]

Article 38(1) is generally recognised as a definitive statement of the sources of international law. It requires the Court to apply, among other things, (a)

international conventions "expressly recognized by the contesting states", and (b) "international custom, as evidence of a general practice accepted as law". To avoid the possibility of *non liquet*, sub-paragraph (c) added the requirement that the general principles applied by the Court were those that had been "the general principles of the law recognized by civilized nations". As it is states that by consent determine the content of international law, sub-paragraph (d) acknowledges that the Court is entitled to refer to "judicial decisions" and the most highly qualified juristic writings "as subsidiary means for the determination of rules of law".

On the question of preference between sources of international law, rules established by treaty will take preference if such an instrument exists. It is also argued however that international treaties and international custom are sources of international law of equal validity; this is that new custom may supersede older treaties and new treaties may override older custom. Certainly, judicial decisions and juristic writings are regarded as auxiliary sources of international, whereas it is unclear whether the general principles of law recognized by 'civilized nations' should be recognized as a principal or auxiliary source of international law.

It may be argued that the practice of international organizations, most notably that of the United Nations, as it appears in the resolutions of the Security Council and the General Assembly, are an additional source of international law, even though it is not mentioned as such in Article 38(1) of the 1946 Statute of the International Court of Justice. Article 38(1) is closely based on the corresponding provision of the 1920 Statute of the Permanent Court of International Justice, thus predating the role that international organizations have come to play in the international plane. That is, the provision of Article 38(1) may be regarded as *dated*, and this can most vividly be seen in the mention made to 'civilized nations', a mentioning that appears all the more quaint after the decolonization process that took place in the early 1960s and the participation of nearly all nations of the world in the United Nations.

It is also possible, though less common, for a treaty to be modified by practices arising between the parties to that treaty. The other situation in which a rule would take precedence over a treaty provision would be where the rule has the special status of being part of the *jus cogens*.

International custom

Article 38.1(b) of the ICJ Statute refers to "international custom" as a source of international law, specifically emphasizing the two requirements of state practice plus acceptance of the practice as obligatory or *opinio juris sive necessitatis* (usually abbreviated as *opinio juris*).

Derived from the consistent practice of (originally) Western states accompanied by opinio juris (the conviction of States that the consistent practice is required by a legal obligation), customary international law is differentiated from acts of comity by the presence of *opinio juris* (although in some instances, acts of comity have developed into customary international law, i.e. diplomatic immunity). Treaties have gradually displaced much customary international

law. This development is similar to the replacement of customary or common law by codified law in municipal legal settings, but customary international law continues to play a significant role in international law.

State practice

When examining state practice to determine relevant rules of international law, it is necessary to take into account every activity of the organs and officials of states that relate to that purpose. There has been continuing debate over where a distinction should be drawn as to the weight that should be attributed to what states do, rather than what they say represents the law. In its most extreme form, this would involve rejecting what states say as practice and relegating it to the status of evidence of *opinio juris*.[2] A more moderate version would evaluate what a state says by reference to the occasion on which the statement was made.[3] It is only relatively powerful countries with extensive international contacts and interests that have regular opportunities of contributing by deed to the practice of international law. The principal means of contribution to state practice for the majority of states will be at meetings of international organisations, particularly the UN General Assembly, by voting and otherwise expressing their view on matters under consideration. Moreover, there are circumstances in which what states say may be the only evidence of their view as to what conduct is required in a particular situation.[4]

The notion of practice establishing a customary rule implies that the practice is followed regularly, or that such state practice must be "common, consistent and concordant".[5] Given the size of the international community, the practice does not have to encompass all states or be completely uniform. There has to be a sufficient degree of participation, especially on the part of states whose interests are likely be most affected,[6] and an absence of substantial dissent.[7] There have been a number of occasions on which the ICJ has rejected claims that a customary rule existed because of a lack of consistency in the practice brought to its attention.[8]

Within the context of a specific dispute, however, it is not necessary to establish the generality of practice. A rule may apply if a state has accepted the rule as applicable to it individually, or because the two states belong to a group of states between which the rule applies.[9]

A dissenting state is entitled to deny the opposability of a rule in question if it can demonstrate its persistent objection to that rule,[10] either as a member of a regional group[11] or by virtue of its membership of the international community.[12] It is not easy for a single state to maintain its dissent. Also, rules of the *jus cogens* have a universal character and apply to all states, irrespective of their wishes.[13]

Demand for rules that are responsive to increasingly rapid changes has led to the suggestion that there can be, in appropriate circumstances, such a concept as "instant custom". Even within traditional doctrine, the ICJ has recognised that passage of a short period of time is not necessarily a bar to the formation of a new rule.[14] Because of this, the question is sometimes raised as to

whether the word "custom" is suitable to a process that could occur with great rapidity.

Opinio juris

A wealth of state practice does not usually carry with it a presumption that *opinio juris* exists. “Not only must the acts concerned amount to a settled practice, but they must also be such, or be carried out in such a way, as to be evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it.”[15]

In cases where practice (of which evidence is given) comprises abstentions from acting, consistency of conduct might not establish the existence of a rule of customary international law. The fact that no nuclear weapons have been used since 1945, for example, does not render their use illegal on the basis of a customary obligation because the necessary *opinio juris* was lacking.[16]

Although the ICJ has frequently referred to *opinio juris* as being an equal footing with state practice,[17] the role of the psychological element in the creation of customary law is uncertain...

Jus cogens

A peremptory norm or *jus cogens* (Latin for "compelling law" or "strong law") is a principle of international law considered so fundamental that it overrides all other sources of international law, including even the Charter of the United Nations. The principle of *jus cogens* is enshrined in Article 53 of the Vienna Convention on the Law of Treaties:

> For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognised by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.[1]

Rules of *jus cogens* generally require or forbid the state to do particular acts or respect certain rights. However, some define criminal offences which the state must enforce against individuals. Generally included on lists of such norms are prohibitions of such crimes and internationally wrongful acts as waging aggressive war, war crimes, crimes against humanity, piracy, genocide, apartheid, slavery and torture.

The evidence supporting the emergence of a rule of *jus cogens* will be essentially similar to that required to establish the creation of a new rule of customary international law. Indeed, *jus cogens* could be thought of as a special principle of custom with a superadded *opinio juris*. The European Court of Human Rights has stressed the international public policy aspect of the *jus cogens*.

Treaties as law

Treaties can play the role of contracts between two or more parties, such as an extradition treaty or a defence pact. They can also be legislation to regulate a particular aspect of international relations, or form the constitutions of international organisations. Whether or not all treaties can be regarded as sources of law, they are sources of obligation for the parties to them. Article

38(1)(a), which uses the term "international conventions", concentrates upon treaties as a source of contractual obligation but also acknowledges the possibility of a state expressly accepting the obligations of a treaty to which it is not formally a party.
For a treaty-based rule to be a source of law, rather than simply a source of obligation, it must either be capable of affecting non-parties or have consequences for parties more extensive than those specifically imposed by the treaty itself.

Treaties as custom
Some treaties are the result of codifying existing customary law, such as laws governing the global commons, and *jus ad bellum*. While the purpose is to establish a code of general application, its effectiveness depends upon the number of states that ratify or accede to the particular convention. Relatively few such instruments have a sufficient number of parties to be regarded as international law in their own right. The most obvious examples are the 1949 Geneva Conventions for the Protection of War Victims.
Most multi-lateral treaties fall short of achieving such a near universal degree of formal acceptance, and are dependent upon their provisions being regarded as representing customary international law and, by this indirect route, as binding upon non-parties. This outcome is possible in a number of ways:

- When the treaty rule reproduces an existing rule of customary law, the rule will be clarified in terms of the treaty provision. A notable example is the Vienna Convention on the Law of Treaties 1969, which was considered by the ICJ to be law even before it had been brought into force.[18]
- When a customary rule is in the process of development, its incorporation in a multilateral treaty may have the effect of consolidating or crystallising the law in the form of that rule. It is not always easy to identify when this occurs. Where the practice is less developed, the treaty provision may not be enough to crystallise the rule as part of customary international law.[19]
- Even if the rule is new, the drafting of the treaty provision may be the impetus for its adoption in the practice of states, and it is the subsequent acceptance of the rule by states that renders it effective as part of customary law.[20] If a broad definition is adopted of state practice, the making of a treaty would fall within the definition. Alternatively, it is possible to regard the treaty as the final act of state practice required to establish the rule in question, or as the necessary articulation of the rule to give it the *opinio juris* of customary international law.
- Convention-based "instant custom" has been identified by the ICJ on several occasions as representing customary law without explanation of whether the provision in question was supported by state practice. This has happened with respect to a number of provisions of the Vienna Convention on the Law of Treaties 1969. If "instant custom" is valid as

law, it could deny to third parties the normal consequences of non-accession to the treaty.

General principles of law

The scope of general principles of law, to which Article 38(1) of the Statute of the ICJ refers, is unclear and controversial but may include such legal principles that are common to a large number of systems of municipal law. Given the limits of treaties or custom as sources of international law, Article 38(1) may be looked upon as a directive to the Court to fill any gap in the law and prevent a non liquet by reference to the general principles.

In earlier stages of the development of international law, rules were frequently drawn from municipal law. In the 19th century, legal positivists rejected the idea that international law could come from any source that did not involve state will or consent, but were prepared to allow for the application of general principles of law, provided that they had in some way been accepted by states as part of the legal order. Thus Article 38(1)(c), for example, speaks of general principles "recognised" by states. An area that demonstrates the adoption of municipal approaches is the law applied to the relationship between international officials and their employing organisations,[21] although today the principles are regarded as established international law.

The significance of general principles has undoubtedly been lessened by the increased intensity of treaty and institutional relations between states. Nevertheless, the concepts of estoppel and equity have been employed in the adjudication of international disputes. For example, a state that has, by its conduct, encouraged another state to believe in the existence of a certain legal or factual situation, and to rely upon that belief, may be estopped from asserting a contrary situation in its dealings.[22] The principle of good faith was said by the ICJ to be "[o]ne of the basic principles governing the creation and performance of legal obligations".[23] Similarly, there have been frequent references to equity.[24] It is generally agreed that equity cannot be employed to subvert legal rules (that is, operate *contra legem*).[25] This "equity as law" perception is reinforced by references to equitable principles in the text of the United Nations Convention on the Law of the Sea 1982, though this may be little more than an admission as to the existence, and legitimation, of the discretion of the adjudicator.

However, the principles of estoppel and equity in the international context do not retain all the connotations they do under common law. The reference to the principles as "general" signify that, if rules were to be adapted from municipal law, they should be at a sufficient level of generality to encompass similar rules existing in many municipal systems. Principles of municipal law should be regarded as sources of inspiration rather than as sources of rules of direct application.[26]

Judicial decisions and juristic writings

According to Article 38(1)(d) of its Statute, the ICJ is also to apply "judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law". It is difficult to tell what influence these materials have on the development of the

law. Pleadings in cases before the ICJ are often replete with references to case law and to legal literature.

Judicial decisions

The decisions of international and municipal courts and the publications of academics can be referred to, not as a source of law as such, but as a means of recognizing the law established in other sources. In practice the International Court of Justice does not refer to domestic decisions although it does invoke its previous case-law.

There is no rule of stare decisis in international law. The decision of the Court has no binding force except between the parties and in respect of that particular case.[27] Nevertheless, often the Court would refer to its past decisions and advisory opinions to support its explanation of a present case.

The International Court of Justice will often consider the draft Articles on international law published by the International Law Commission as authoritative statements[*dubious – discuss*] on international law. Often they will consider General Assembly resolutions as indicative of customary international law.

Juristic writings

Article 38(1)(d) of the *International Court of Justice Statute* states that the 'teachings of the most highly qualified publicists of the various nations' are also among the 'subsidiary means for the determination of the rules of law'. The scholarly works of prominent jurists are not sources of international law but are essential in developing the rules that are sourced in treaties, custom and the general principles of law. This is accepted practice in the interpretation of international law and was utilised by the United States Supreme Court in *The Paquete Habana* case (175 US (1900) 677 at 700-1).

Sources of International Law are the maeteria and processes out of which the rules and principles regulating the international community developed. They have been influenced by a range of political and legal theories. During the 20th century, it was recognised by legal positivists that a sovereign state could limit its authority to act by consenting to an agreement according to the principle pacta sunt servanda. This consensual view of international law was reflected in the 1920 Statute of the Permanent Court of International Justice, and preserved in Article 7 of the 1946 Statute of the International Court of Justice.

Public international law

Public international law (or international public law) concerns the relationships between the entities or legal persons which are considered the subjects of international law, including sovereign nations, the Holy See, international organizations (including especially intergovernmental organizations such as the United Nations), and in some cases, movements of national liberation (wars of national liberation) and armed insurrectional movements (see insurgency). Norms of international law have their source in either 1) *custom*, or customary

international law (consistent state practice accompanied by *opinio juris*), 2) globally accepted standards of behaviour (peremptory norms known as *jus cogens* or *ius cogens*), or 3) codifications contained in conventional agreements, generally termed treaties. Article 13 of the United Nations Charter obligates the UN General Assembly to initiate studies and make recommendations which encourage the progressive development of international law and its codification. Evidence of consensus or state practice can sometimes be derived from intergovernmental resolutions or academic and expert legal opinions (sometimes collectively termed soft law).

International law has existed since the Middle Ages (see Islamic international law), but much of its modern corpus began developing from the mid-19th century. In the 20th century, the two World Wars and the formation of the League of Nations (and other international organizations such as the International Labor Organization) all contributed to accelerate this process and established much of the foundations of modern public international law. After the failure of the Treaty of Versailles and World War II, the League of Nations was replaced by the United Nations, founded under the UN Charter. The UN has also been the locus for the development of new advisory (non-binding) standards, such as the Universal Declaration of Human Rights. Other international norms and laws have been established through international agreements, including the Geneva Conventions on the conduct of war or armed conflict, as well as by agreements implemented by other international organizations such as the ILO, the World Health Organization, the World Intellectual Property Organization, the International Telecommunication Union, UNESCO, the World Trade Organization, and the International Monetary Fund. The development and consolidation of such conventions and agreements has proven to be of great importance in the realm of international relations.

Conflict of laws

Conflict of laws, often called "private international law" in civil law jurisdictions, is less international than public international law. It is distinguished from public international law because it governs conflicts between private persons, rather than states (or other international bodies with standing). It concerns the questions of which jurisdiction should be permitted to hear a legal dispute between private parties, and which jurisdiction's law should be applied, therefore raising issues of international law. Today corporations are increasingly capable of shifting capital and labor supply chains across borders, as well as trading with overseas corporations. This increases the number of disputes of an inter-state nature outside a unified legal framework, and raises issues of the enforceability of standard practices. Increasing numbers of businesses use commercial arbitration under the *New York Convention 1958*.

European Union

Motto: United in diversity[1][2][3]

Anthem: *Ode to Joy*[2] (orchestral)

Political centres	Brussels Luxembourg Strasbourg
Official languages	23[show]
Demonym	European[4]
Members	27[show]
Leaders	
- Commission	José Manuel Barroso (EPP)
- Council of Ministers	Miguel Ángel Moratinos (Spain)
- European Council	Herman Van Rompuy (EPP)
- Parliament	Jerzy Buzek (EPP)
Establishment	
- Paris Treaty	18 April 1951
- Rome Treaty	25 March 1957
- Maastricht Treaty	7 February 1992
- Lisbon Treaty	13 December 2007
Area	
- Total	4,324,782 km^2 1,669,807 sq mi
- Water (%)	3.08
Population	
- 2010 estimate	501,259,840
- Density	114/km^2 289/sq mi
GDP (PPP)	2008 (IMF) estimate
- Total	$15.247 trillion
- Per capita	$30,513

GDP (nominal)	2008 (IMF) estimate
- Total	$18.394 trillion
- Per capita	$36,812
Gini (2009)	30.7 (EU25)[5] (High)
HDI (2007)	0.937 (High)
Currency	Euro + 11[show]
Time zone	(UTC+0 to +2)
- Summer (DST)	(UTC+1 to +3[6])
Internet TLD	.eu[7]
Website	europa.eu
Calling code	See list

The **European Union** (**EU**) is an economic and political union of 27 member states,[8] located primarily in Europe. Committed to regional integration, the EU was established by the Treaty of Maastricht on 1 November 1993 upon the foundations of the European Communities.[9] With over 500 million citizens[10], the EU combined generates an estimated 30% share (US$ 18.4 trillion in 2008) of the nominal gross world product and about 22% (US$15.2 trillion in 2008) of the PPP gross world product.[11]

The EU has developed a single market through a standardised system of laws which apply in all member states, ensuring the free movement of people, goods, services, and capital.[12] It maintains common policies on trade,[13] agriculture, fisheries[14] and regional development.[15] Sixteen member states have adopted a common currency, the euro, constituting the Eurozone. The EU has developed a limited role in foreign policy, having representation at the World Trade Organization, G8, G-20 major economies and at the United Nations. It enacts legislation in justice and home affairs, including the abolition of passport controls by the Schengen agreement between 22 EU and 3 non-EU states.[16]

As an international organisation, the EU operates through a hybrid system of supranationalism and intergovernmentalism.[17][18][19] In certain areas, decisions are made through negotiation between member states, while in others, independent supranational institutions are responsible without a requirement for unanimity between member states. Important institutions of the EU include the European Commission, the Council of the European Union, the European Council, the Court of Justice of the European Union, and the European Central Bank. The European Parliament is elected every five years by member states' citizens, to whom the citizenship of the European Union is guaranteed.

The EU traces its origins from the European Coal and Steel Community formed among six countries in 1951 and the Treaty of Rome formed in 1957 by the same states. Since then, the EU has grown in size through enlargement, and in power through the addition of policy areas to its remit.

History

After the end of the Second World War, moves towards European integration were seen by many as an escape from the extreme forms of nationalism which had devastated the continent.[20] One such attempt to unite Europeans was the European Coal and Steel Community which, while having the modest aim of centralised control of the previously national coal and steel industries of its member states, was declared to be "a first step in the federation of Europe".[21] The originators and supporters of the Community include Jean Monnet, Robert Schuman, Paul Henri Spaak and Alcide de Gasperi. The founding members of the Community were Belgium, France, Italy, Luxembourg, the Netherlands and West Germany.[22]

In 1957, these six countries signed the Treaties of Rome which extended the earlier cooperation within the European Coal and Steel Community and created the European Economic Community, (EEC) establishing a customs union and the European Atomic Energy Community (Euratom) for cooperation in developing nuclear energy.[22] In 1967 the Merger Treaty created a single set of institutions for the three communities, which were collectively referred to as the *European Communities* (EC), although commonly just as the *European Community*.[23]

In 1973, the Communities enlarged to include Denmark, Ireland and the United Kingdom.[24] Norway had negotiated to join at the same time but Norwegian voters rejected membership in a referendum and so Norway remained outside. In 1979 the first direct, democratic elections to the European Parliament were held.[25]

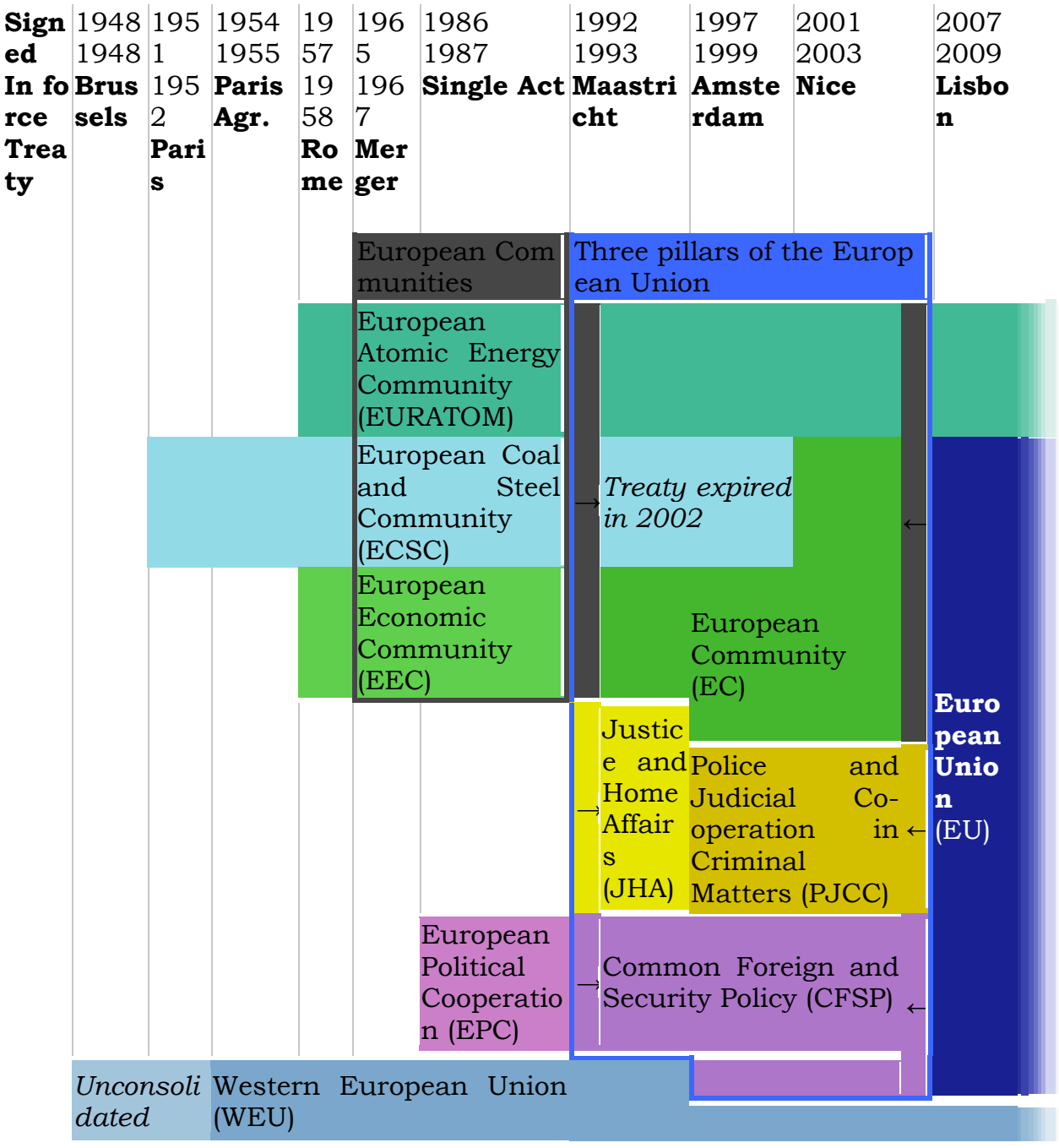
Greece joined in 1981, and Spain and Portugal in 1986.[26] In 1985 the Schengen Agreement led the way toward the creation of open borders without passport controls between most member states and some non-member states.[27] In 1986 the European flag began to be used by the Community[28] and the Single European Act was signed.

In 1990, after the fall of the Iron Curtain, the former East Germany became part of the Community as part of a newly united Germany.[29] With enlargement toward Eastern and Central Europe on the agenda, the Copenhagen criteria for candidate members to join the European Union were agreed.

The European Union was formally established when the Maastricht Treaty came into force on 1 November 1993,[9] and in 1995 Austria, Sweden and Finland joined the newly established EU. In 2002, euro notes and coins replaced national currencies in 12 of the member states. Since then, the eurozone has increased to encompass sixteen countries, with Slovakia joining the eurozone on 1 January 2009. In 2004, the EU saw its biggest enlargement to date when Malta, Cyprus, Slovenia, Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, and Hungary joined the Union.[30]

On 1 January 2007, Romania and Bulgaria became the EU's newest members and Slovenia adopted the euro.[30] In June 2009 the 2009 elections which later led to a renewal of Barroso's Commission Presidency and in July of that year Iceland formally applied for EU membership. On 1 December 2009 the Lisbon Treaty came into force after a protracted and controversial birth. This reformed many aspects of the EU but in particular created a permanent President of the European Council, the first of which is Herman van Rompuy, and a strengthened High Representative, Catherine Ashton.

Treaties timeline



Member states

The Union's membership has grown from the original six founding states–Belgium, France, (then-West) Germany, Italy, Luxembourg and the Netherlands–to the present day 27 by successive enlargements as countries acceded to the treaties and by doing so, pooled their sovereignty in exchange for representation in the institutions.[32]

To join the EU a country must meet the Copenhagen criteria, defined at the 1993 Copenhagen European Council. These require a stable democracy that respects human rights and the rule of law; a functioning market economy capable of competition within the EU; and the acceptance of the obligations of membership, including EU law. Evaluation of a country's fulfilment of the criteria is the responsibility of the European Council.[33]

No member state has ever left the Union, although Greenland (an autonomous province of Denmark) withdrew in 1985. The Lisbon Treaty now provides a clause dealing with how a member leaves the EU.

There are three official candidate countries, Croatia, Macedonia and Turkey. Albania, Bosnia and Herzegovina, Montenegro, Serbia and Iceland are officially recognised as potential candidates.[34] Kosovo is also listed as a potential candidate but the European Commission does not list it as an independent country because not all member states recognise it as an independent country separate from Serbia.[35]

Four Western European countries that have chosen not to join the EU have partly committed to the EU's economy and regulations: Iceland, which has now applied for membership, Liechtenstein and Norway, which are a part of the single market through the European Economic Area, and Switzerland, which has similar ties through bilateral treaties.[36][37] The relationships of the European microstates, Andorra, Monaco, San Marino and the Vatican include the use of the euro and other areas of co-operation.[38]

Geography

The territory of the EU consists of the combined territories of its 27 member states with some exceptions, outlined below. The territory of the EU is not the same as that of Europe, as parts of the continent are outside the EU, such as Switzerland, Norway, European Russia, and Iceland. Some parts of member states are not part of the EU, despite forming part of the European continent (for example the Isle of Man and Channel Islands (two Crown Dependencies), and the Faroe Islands, a territory of Denmark). The island country of Cyprus, a member of the EU, is closer to Turkey than to mainland Europe and is often considered part of Asia.[39][40]

Several territories associated with member states that are outside geographic Europe are also not part of the EU (such as Greenland, Aruba, the Netherlands Antilles, and all the non-European British overseas territories). Some overseas territories are part of the EU even though geographically not part of Europe,

such as the Azores, the Canary Islands, Madeira, Lampedusa, French Guiana, Guadeloupe, Saint Barthélemy, Martinique and Réunion, Ceuta and Melilla. As well, although being technically part of the EU,[41] EU law is suspended in Northern Cyprus as it is under the *de facto* control of the *Turkish Republic of North Cyprus*, a self-proclaimed state that is recognised only by Turkey.
The EU's member states cover an area of 4,422,773 square kilometres (1,707,642 sq mi).[42] The EU is larger in area than all but six countries, and its highest peak is Mont Blanc in the Graian Alps, 4,807 metres (15,771 ft) above sea level. The landscape, climate, and economy of the EU are influenced by its coastline, which is 65,993 kilometres (41,006 mi) long. The EU has the world's second-longest coastline, after Canada. The combined member states share land borders with 19 non-member states for a total of 12,441 kilometres (7,730 mi), the fifth-longest border in the world.[18][43][44]
Including the overseas territories of member states, the EU experiences most types of climate from Arctic to tropical, rendering meteorological averages for the EU as a whole meaningless. The majority of the population lives in areas with a Mediterranean climate (Southern Europe), a temperate maritime climate (Western Europe), or a warm summer continental or hemiboreal climate (Eastern Europe).[45]

Governance
The institutions of the EU operate solely within those competencies conferred on it upon the treaties and according to the principle of subsidiarity (which dictates that action by the EU should only be taken where an objective cannot be sufficiently achieved by the member states alone). Law made by the EU institutions is passed in a variety of forms, primarily that which comes into direct force and that which must be passed in a refined form by national parliaments.
Legislative competencies are divided equally, with some exceptions, between the European Parliament and the Council of the European Union while executive tasks are carried out by the European Commission and in a limited capacity by the European Council (not to be confused with the aforementioned Council of the European Union). The interpretation and the application of EU law and the treaties are ensured by the Court of Justice of the European Union. There are also a number of ancillary bodies which advise the EU or operate in a specific area.
The EU receives its political leadership from the European Council, which usually meets four times a year. It comprises one representative per member state—either its head of state or head of government—plus its President as well as the President of the Commission. The member states' representatives are assisted by their Foreign Ministers. The European Council uses its leadership role to sort out disputes between member states and the institutions, and to resolve political crises and disagreements over controversial issues and policies. The European Council should not be mistaken for the Council of Europe, an international organisation independent from the EU.

On 19 November 2009, Herman Van Rompuy was chosen as the first President of the European Council and Catherine Ashton was chosen as the High Representative of the Union for Foreign Affairs and Security Policy. They both assumed office on 1 December 2009.

Council

The Council (also called "Council of the European Union"[46] and sometimes referred to as the "Council of Ministers"[47]) forms one half of the EU's legislature. It consists of a government minister from each member state and meets in different compositions depending on the policy area being addressed. Notwithstanding its different compositions, it is considered to be one single body.[48] In addition to its legislative functions, the Council also exercises executive functions in relations to the Common Foreign and Security Policy.

The European Commission acts as the EU's executive arm and is responsible for initiating legislation and the day-to-day running of the EU. It is intended to act solely in the interest of the EU as a whole, as opposed to the Council which consists of leaders of member states who reflect national interests. The commission is also seen as the motor of European integration. It is currently composed of 27 commissioners for different areas of policy, one from each member state. The President of the Commission and all the other commissioners are nominated by the Council. Appointment of the Commission President, and also the Commission in its entirety, have to be confirmed by Parliament.[49]

Parliament

The European Parliament forms the other half of the EU's legislature. The 736 (soon to be 750) Members of the European Parliament (MEPs) are directly elected by EU citizens every five years. Although MEPs are elected on a national basis, they sit according to political groups rather than their nationality. Each country has a set number of seats and in some cases is divided into sub-national constituencies. The Parliament and the Council of Ministers pass legislation jointly in nearly all areas under the ordinary legislative procedure. This also applies to the EU budget. Finally, the Commission is accountable to Parliament, requiring its approval to take office, having to report back to it and subject to motions of censure from it. The President of the European Parliament carries out the role of speaker in parliament and represents it externally. The president and vice presidents are elected by MEPs every two and a half years.[50]

Courts

The judicial branch of the EU—formally called the Court of Justice of the European Union—consists of three courts: the Court of Justice, the General Court, and the European Union Civil Service Tribunal. Together they interpret and apply the treaties and the law of the EU.[51]

The Court of Justice primarily deals with cases taken by member states, the institutions, and cases referred to it by the courts of member states.[52] The

General Court mainly deals with cases taken by individuals and companies directly before the EU's courts,[53] and the European Union Civil Service Tribunal adjudicates in disputes between the European Union and its civil service.[54] Decisions from the General Court can be appealed to the Court of Justice but only on a point of law.[55]

Legal system

The EU is based on a series of treaties. These first established the European Community and the EU, and then made amendments to those founding treaties.[56] These are power-giving treaties which set broad policy goals and establish institutions with the necessary legal powers to implement those goals. These legal powers include the ability to enact legislation[57] which can directly affect all member states and their inhabitants.[58] Under the principle of supremacy, national courts are required to enforce the treaties that their member states have ratified, and thus the laws enacted under them, even if doing so requires them to ignore conflicting national law, and (within limits) even constitutional provisions.[59]

The main legal acts of the EU come in three forms: regulations, directives, and decisions. Regulations become law in all member states the moment they come into force, without the requirement for any implementing measures,[60] and automatically override conflicting domestic provisions.[57] Directives require member states to achieve a certain result while leaving them discretion as to how to achieve the result. The details of how they are to be implemented are left to member states.[61]

When the time limit for implementing directives passes, they may, under certain conditions, have direct effect in national law against member states. Decisions offer an alternative to the two above modes of legislation. They are legal acts which only apply to specified individuals, companies or a particular member state. They are most often used in Competition Law, or on rulings on State Aid, but are also frequently used for procedural or administrative matters within the institutions. Regulations, directives, and decisions are of equal legal value and apply without any formal hierarchy.

One of the complicating features of the EU's legal system is the multiplicity of legislative procedures used to enact legislation. The treaties micro-manage the EU's powers, indicating different ways of adopting legislation for different policy areas and for different areas within the same policy areas.[62] A common feature of the EU's legislative procedures, however, is that almost all legislation must be initiated by the Commission, rather than member states or European parliamentarians.[63] The two most common procedures are co-decision, under which the European Parliament can veto proposed legislation, and consultation, under which Parliament is only permitted to give an opinion which can be ignored by European leaders. In most cases legislation must be agreed by the council.[64]

National courts within the member states play a key role in the EU as enforcers of EU law, and a "spirit of cooperation" between EU and national courts is laid down in the Treaties. National courts can apply EU law in domestic cases, and

if they require clarification on the interpretation or validity of any EU legislation related to the case it may make a reference for a preliminary ruling to the Court of Justice. The right to declare EU legislation invalid however is reserved to the EU courts.

Fundamental rights

As a product of efforts to establish a written fundamental rights code, the EU drew up the Charter of Fundamental Rights in 2000. The Charter is legally binding since the Lisbon Treaty has come into force.[65] Also, the Court of Justice gives judgements on fundamental rights derived from the "constitutional traditions common to the member states,"[66] and may even invalidate EU legislation based on its failure to adhere to these fundamental rights.[67]

Although signing the European Convention on Human Rights (ECHR) is a condition for EU membership,[68] the EU itself is not covered by the convention as it is neither a state[69] nor has the competence to accede.[70] Nonetheless the Court of Justice and European Court of Human Rights co-operate to ensure their case-law does not conflict.[71] Since the entry into force of the Lisbon Treaty, the EU has been required to accede to the ECHR.[72] The EU opposes the death penalty and promotes its world wide abolition.[73] Abolition of the death penalty is a condition for EU membership.[74]

Foreign relations

EU member states have a standardised passport design, burgundy coloured with the name of the member state, Coat of Arms and with the words "European Union" given in their official language(s) at the top; in this case those of Ireland.

Foreign policy cooperation between member states dates from the establishment of the Community in 1957, when member states negotiated as a bloc in international trade negotiations under the Common Commercial Policy.[75] Steps for a more wide ranging coordination in foreign relations began in 1970 with the establishment of European Political Cooperation which created an informal consultation process between member states with the aim of forming common foreign policies. It was not, however, until 1987 when European Political Cooperation was introduced on a formal basis by the Single European Act. EPC was renamed as the *Common Foreign and Security Policy* (CFSP) by the Maastricht Treaty.[76]

The Maastricht Treaty gives the CFSP the aims of promoting both the EU's own interests and those of the international community as a whole. This includes promoting international co-operation, respect for human rights, democracy, and the rule of law.[77]

The Amsterdam Treaty created the office of the High Representative for the Common Foreign and Security Policy (currently held by Catherine Ashton) to co-ordinate the EU's foreign policy.[78] The High Representative, in conjunction with the current Presidency, speaks on behalf of the EU in foreign policy matters and can have the task of articulating ambiguous policy positions

created by disagreements among member states. The Common Foreign and Security Policy requires unanimity among the now 27 member states on the appropriate policy to follow on any particular issue. The unanimity and difficult issues treated under the CFSP makes disagreements, such as those which occurred over the war in Iraq,[79] not uncommon.
Besides the emerging international policy of the European Union, the international influence of the EU is also felt through enlargement. The perceived benefits of becoming a member of the EU act as an incentive for both political and economic reform in states wishing to fulfil the EU's accession criteria, and are considered an important factor contributing to the reform of former Communist countries in Central and Eastern Europe.[80] This influence on the internal affairs of other countries is generally referred to as "soft power", as opposed to military "hard power".[81]
In the UN, as an observer and working together, the EU has gained influence in areas such as aid due to its large contributions in that field (see below).[82] In the G8, the EU has rights of membership besides chairing/hosting summit meetings and is represented at meetings by the presidents of the Commission and the Council.[83] In the World Trade Organisation (WTO), where all 27 member states are represented, the EU as a body is represented by Trade Commissioner Benita Ferrero-Waldner.[84]

Military and defence
The predecessors of the European Union were not devised as a strong military alliance because NATO was largely seen as appropriate and sufficient for defence purposes.[85] Twenty-one EU members are members of NATO[86] while the remaining member states follow policies of neutrality.[87] The Western European Union (WEU) is a European security organisation related to the EU. In 1992, the WEU's relationship with the EU was defined, when the EU assigned it the "Petersberg tasks" (humanitarian missions such as peacekeeping and crisis management). These tasks were later transferred from the WEU to the EU by the Amsterdam Treaty and now form part of the Common Foreign and Security Policy and the Common Security and Defence Policy. Elements of the WEU are currently being merged into the Common Foreign and Security Policy, and the President of the WEU is currently the EU's foreign policy chief.[88][89]
Following the Kosovo War in 1999, the European Council agreed that "the Union must have the capacity for autonomous action, backed by credible military forces, the means to decide to use them, and the readiness to do so, in order to respond to international crises without prejudice to actions by NATO". To that end, a number of efforts were made to increase the EU's military capability, notably the Helsinki Headline Goal process. After much discussion, the most concrete result was the EU Battlegroups initiative, each of which is planned to be able to deploy quickly about 1500 men.[90]
EU forces have been deployed on peacekeeping missions from Africa to the former Yugoslavia and the Middle East.[91] EU military operations are supported by a number of bodies, including the European Defence Agency,

satellite centre and the military staff.[92] In an EU consisting of 27 members, substantial security and defence cooperation is increasingly relying on great power cooperation[93].

Humanitarian aid

Collectively, the EU is the largest contributor of foreign aid in the world.

The European Community Humanitarian Aid Office, or "ECHO", provides humanitarian aid from the EU to developing countries. In 2006 its budget amounted to €671 million, 48% of which went to the African, Caribbean and Pacific countries.[94] Counting the EU's own contributions and those of its member states together, the EU is the largest aid donor in the world.[95]

The EU's aid has previously been criticised by the eurosceptic think-tank Open Europe for being inefficient, mis-targeted and linked to economic objectives.[96] Furthermore, some charities have claimed European governments have inflated the amount they have spent on aid by incorrectly including money spent on debt relief, foreign students, and refugees. Under the de-inflated figures, the EU as a whole did not reach its internal aid target in 2006[97] and is expected not to reach the international target of 0.7% of gross national income until 2015.[98]

However, four countries have reached that target, most notably Sweden, Luxembourg, the Netherlands and Denmark.[95] In 2005 EU aid was 0.34% of the GNP which was higher than that of either the United States or Japan.[99] The previous commissioner for aid, Louis Michel, has called for aid to be delivered more rapidly, to greater effect, and on humanitarian principles.[100]

Justice and home affairs

Over the years, the EU has developed a wide competence in the area of justice and home affairs. To this end, agencies have been established that co-ordinate associated actions: Europol for co-operation of police forces,[101] Eurojust for co-operation between prosecutors,[102] and Frontex for co-operation between border control authorities.[103] The EU also operates the Schengen Information System[104] which provides a common database for police and immigration authorities.

Furthermore, the Union has legislated in areas such as extradition,[105] family law,[106] asylum law,[107] and criminal justice.[108] Prohibitions against sexual and nationality discrimination have a long standing in the treaties.[109] In more recent years, these have been supplemented by powers to legislate against discrimination based on race, religion, disability, age, and sexual orientation.[110] By virtue of these powers, the EU has enacted legislation on sexual discrimination in the work-place, age discrimination, and racial discrimination.[111]

Economy

Since its origin, the EU has established a single economic market across the territory of all its members. Currently, a single currency is in use between the 16 members of the eurozone.[112][113] If considered as a single economy, the EU

generated an estimated nominal gross domestic product (GDP) of US$18.39 trillion (15.247 trillion international dollars based on purchasing power parity) in 2008, amounting to over 22% of the world's total economic output in terms of purchasing power parity,[11] which makes it the largest economy in the world by nominal GDP and the second largest trade bloc economy in the world by PPP valuation of GDP. It is also the largest exporter ,[114] and largest importer[115] of goods and services, and the biggest trading partner to several large countries such as China and India.[116][117][118]
178 of the top 500 largest corporations measured by revenue (Fortune Global 500) have their headquarters in the EU.[119]
In May 2007 unemployment in the EU stood at 7%[120] while investment was at 21.4% of GDP, inflation at 2.2% and public deficit at −0.9% of GDP.[121] There is a great deal of variance for annual per capita income within individual EU states, these range from US$7,000 to US$69,000.[122]

Single market
Two of the original core objectives of the European Economic Community were the development of a common market, subsequently renamed the single market, and a customs union between its member states. The single market involves the free circulation of goods, capital, people and services within the EU,[113] and the customs union involves the application of a common external tariff on all goods entering the market. Once goods have been admitted into the market they can not be subjected to customs duties, discriminatory taxes or import quotas, as they travel internally. The non-EU member states of Iceland, Norway, Liechtenstein and Switzerland participate in the single market but not in the customs union.[36] Half the trade in the EU is covered by legislation harmonised by the EU.[123]
Free movement of capital is intended to permit movement of investments such as property purchases and buying of shares between countries.[124] Until the drive towards Economic and Monetary Union the development of the capital provisions had been slow. Post-Maastricht there has been a rapidly developing corpus of ECJ judgements regarding this initially neglected freedom. The free movement of capital is unique insofar as that it is granted equally to non-member states.
The free movement of persons means citizens can move freely between member states to live, work, study or retire in another country. This required the lowering of administrative formalities and recognition of professional qualifications of other states.[125]
The free movement of services and of establishment allows self-employed persons to move between member states in order to provide services on a temporary or permanent basis. While services account for between sixty and seventy percent of GDP, legislation in the area is not as developed as in other areas. This lacuna has been addressed by the recently passed Directive on services in the internal market which aims to liberalise the cross border provision of services.[126] According to the Treaty the provision of services is a residual freedom that only applies if no other freedom is being exercised.

Monetary union

The creation of a European single currency became an official objective of the EU in 1969. However, it was only with the advent of the Maastricht Treaty in 1993 that member states were legally bound to start the monetary union no later than 1 January 1999. On this date the euro was duly launched by eleven of the then fifteen member states of the EU. It remained an accounting currency until 1 January 2002, when euro notes and coins were issued and national currencies began to phase out in the eurozone, which by then consisted of twelve member states. The eurozone has since grown to sixteen countries, the most recent being Slovakia which joined on 1 January 2009.

16 EU countries have introduced the euro as default currency.

All other EU member states, except Denmark and the United Kingdom, are legally bound to join the euro[127] when the convergence criteria are met, however only a few countries have set target dates for accession. Sweden has circumvented the requirement to join the euro by not meeting the membership criteria.[128]

The euro is designed to help build a single market by, for example: easing travel of citizens and goods, eliminating exchange rate problems, providing price transparency, creating a single financial market, price stability and low interest rates, and providing a currency used internationally and protected against shocks by the large amount of internal trade within the eurozone. It is also intended as a political symbol of integration and stimulus for more.[112] Since its launch the euro has become the second reserve currency in the world with a quarter of foreign exchanges reserves being in euro.[129]

The euro, and the monetary policies of those who have adopted it in agreement with the EU, are under the control of the European Central Bank (ECB).[130] There are eleven other currencies used in the EU.[112] A number of other countries outside the EU, such as Montenegro, use the euro without formal agreement with the ECB.[38]

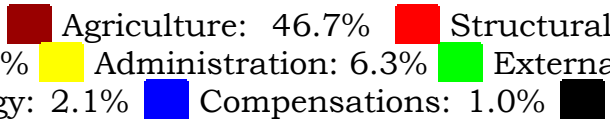
Competition

The EU operates a competition policy intended to ensure undistorted competition within the single market.[131] The Commission as the competition regulator for the single market is responsible for antitrust issues, approving mergers, breaking up cartels, working for economic liberalisation and preventing state aid.[132]

The Competition Commissioner, currently Neelie Kroes, is one of the most powerful positions in the Commission, notable for the ability to affect the commercial interests of trans-national corporations.[133] For example, in 2001 the Commission for the first time prevented a merger between two companies based in the United States (GE and Honeywell) which had already been approved by their national authority.[134] Another high profile case against Microsoft, resulted in the Commission fining Microsoft over €777 million following nine years of legal action.[135]

In negotiations on the Treaty of Lisbon, French President Nicolas Sarkozy succeeded in removing the words "free and undistorted competition" from the treaties. However, the requirement is maintained in an annex and it is unclear whether this will have any practical effect on EU policy.[136]

Budget


2006 EU total expenditure. Agriculture: 46.7% Structural Actions: 30.4% Internal Policies: 8.5% Administration: 6.3% External Actions: 4.9% Pre-Accession Strategy: 2.1% Compensations: 1.0% Reserves: 0.1%

The twenty-seven member state EU had an agreed budget of €120.7 billion for the year 2007 and €864.3 billion for the period 2007–2013,[137] representing 1.10% and 1.05% of the EU-27's GNI forecast for the respective periods. By comparison, the United Kingdom's expenditure for 2004 was estimated to be €759 billion, and France was estimated to have spent €801 billion. In 1960, the budget of the then European Economic Community was 0.03% of GDP.[138]

In the 2006 budget, the largest single expenditure item was agriculture with around 46.7% of the total budget.[139] Next came structural and cohesion funds with approximately 30.4% of the total.[139] Internal policies took up around 8.5%. Administration accounted for around 6.3%. External actions, the pre-accession strategy, compensations and reserves brought up the rear with approximately 4.9%, 2.1%, 1% and 0.1% respectively.[139]

Development

The Common Agricultural Policy (CAP) is one of the oldest policies of the European Community, and was one of its core aims.[140] The policy has the objectives of increasing agricultural production, providing certainty in food supplies, ensuring a high quality of life for farmers, stabilising markets, and ensuring reasonable prices for consumers (article 33 of the Treaty of Rome).[141] It was, until recently, operated by a system of subsidies and market intervention. Until the 1990s, the policy accounted for over 60% of the then European Community's annual budget, and still accounts for around 35%.[140]

The policy's price controls and market interventions led to considerable overproduction, resulting in so-called *butter mountains* and *wine lakes*. These were intervention stores of produce bought up by the Community to maintain minimum price levels. In order to dispose of surplus stores, they were often sold on the world market at prices considerably below Community guaranteed prices, or farmers were offered subsidies (amounting to the difference between the Community and world prices) to export their produce outside the Community. This system has been criticised for under-cutting farmers in the developing world.[142]

The overproduction has also been criticised for encouraging environmentally unfriendly intensive farming methods.[142] Supporters of CAP say that the economic support which it gives to farmers provides them with a reasonable standard of living, in what would otherwise be an economically unviable way of

life. However, the EU's small farmers receive only 8% of CAP's available subsidies.[142]
Since the beginning of the 1990s, the CAP has been subject to a series of reforms. Initially these reforms included the introduction of set-aside in 1988, where a proportion of farm land was deliberately withdrawn from production, milk quotas (by the McSharry reforms in 1992) and, more recently, the 'de-coupling' (or disassociation) of the money farmers receive from the EU and the amount they produce (by the Fischler reforms in 2004). Agriculture expenditure will move away from subsidy payments linked to specific produce, toward direct payments based on farm size. This is intended to allow the market to dictate production levels, while maintaining agricultural income levels.[140] One of these reforms entailed the abolition of the EU's sugar regime, which previously divided the sugar market between member states and certain African-Caribbean nations with a privileged relationship with the EU.[143]

Energy
In 2006, the 27 member states of the EU had a gross inland energy consumption of 1,825 million tonnes of oil equivalent (toe).[145] Around 46% of the energy consumed was produced within the member states while 54% was imported.[145] In these statistics, nuclear energy is treated as primary energy produced in the EU, regardless of the source of the uranium, of which less than 3% is produced in the EU.[146]
The EU has had legislative power in the area of energy policy for most of its existence; this has its roots in the original European Coal and Steel Community. The introduction of a mandatory and comprehensive European energy policy was approved at the meeting of the European Council in October 2005, and the first draft policy was published in January 2007.[147]
The Commission has five key points in its energy policy: increase competition in the internal market, encourage investment and boost interconnections between electricity grids; diversify energy resources with better systems to respond to a crisis; establish a new treaty framework for energy co-operation with Russia while improving relations with energy-rich states in Central Asia[148] and North Africa; use existing energy supplies more efficiently while increasing use of renewable energy; and finally increase funding for new energy technologies.[147]
The EU currently imports 82% of its oil, 57% of its gas[149] and 97.48% of its uranium[146] demands. There are concerns that Europe's dependence on Russian energy is endangering the Union and its member countries. The EU is attempting to diversify its energy supply.[150]

Infrastructure
The EU is working to improve cross-border infrastructure within the EU, for example through the Trans-European Networks (TEN). Projects under TEN include the Channel Tunnel, LGV Est, the Fréjus Rail Tunnel, the Öresund Bridge and the Brenner Base Tunnel. In 2001 it was estimated that by 2010 the network would cover: 75,200 kilometres (46,700 mi) of roads;

78,000 kilometres (48,000 mi) of railways; 330 airports; 270 maritime harbours; and 210 internal harbours.[151][152]
The developing European transport policies will increase the pressure on the environment in many regions by the increased transport network. In the pre-2004 EU members, the major problem in transport deals with congestion and pollution. After the recent enlargement, the new states that joined since 2004 added the problem of solving accessibility to the transport agenda.[153] The Polish road network in particular was in poor condition: at Poland's accession to the EU, 4,600 roads needed to be upgraded to EU standards, demanding approximately €17 billion.[154]
Another infrastructure project is the Galileo positioning system. Galileo is a proposed Global Navigation Satellite System, to be built by the EU and launched by the European Space Agency (ESA), and is to be operational by 2010. The Galileo project was launched partly to reduce the EU's dependency on the US-operated Global Positioning System, but also to give more complete global coverage and allow for far greater accuracy, given the aged nature of the GPS system.[155] It has been criticised by some due to costs, delays, and their perception of redundancy given the existence of the GPS system.[156]

Regional development
There are substantial economical disparities across the EU. Even corrected for purchasing power, the difference between the richest and poorest regions (NUTS-2 and NUTS-3 of the Nomenclature of Territorial Units for Statistics) is about a factor of ten. On the high end Frankfurt has €71,476 PPP per capita, Paris €68,989, and Inner London €67,798, while the three poorest NUTS, all in Romania, are Vaslui County with €3,690 PPP per capita, Botoşani County with €4,115, and Giurgiu County with €4,277.[157] Compared to the EU average, the United States GDP per capita is 35% higher and the Japanese GDP per capita is approximately 15% higher.[158]
There are a number of Structural Funds and Cohesion Funds to support development of underdeveloped regions of the EU. Such regions are primarily located in the new member states of East-Central Europe.[159] Several funds provide emergency aid, support for candidate members to transform their country to conform to the EU's standard (Phare, ISPA, and SAPARD), and support to the former USSR Commonwealth of Independent States (TACIS). TACIS has now become part of the worldwide EuropeAid programme. The EU Seventh Framework Programme (FP7) sponsors research conducted by consortia from all EU members to work towards a single European Research Area.[160]
Environment
The first environmental policy of the European Community was launched in 1972. Since then it has addressed issues such as acid rain, the thinning of the ozone layer, air quality, noise pollution, waste and water pollution. The Water Framework Directive is an example of a water policy, aiming for rivers, lakes, ground and coastal waters to be of "good quality" by 2015. Wildlife is protected through the Natura 2000 programme and covers 30,000 sites throughout

Europe.[161] In 2007, the Polish government sought to build a motorway through the Rospuda valley, but the Commission has been blocking construction as the valley is a wildlife area covered by the programme.[162]
The REACH regulation was a piece of EU legislation designed to ensure that 30,000 chemicals in daily use are tested for their safety.[163] In 2006, toxic waste spill off the coast of Côte d'Ivoire, from a European ship, prompted the Commission to look into legislation regarding toxic waste. With members such as Spain now having criminal laws against shipping toxic waste, the Commission proposed to create criminal sentences for "ecological crimes". Although the Commission's right to propose criminal law was contested, it was confirmed in this case by the Court of Justice.[164]
In 2007, member states agreed that the EU is to use 20% renewable energy in the future and that is has to reduce carbon dioxide emissions in 2020 by at least 20% compared to 1990 levels.[165] This includes measures that in 2020, one-tenth of all cars and trucks in EU 27 should be running on biofuels. This is considered to be one of the most ambitious moves of an important industrialised region to fight global warming.[166]
At the 2007 United Nations Climate Change Conference, dealing with the successor to the Kyoto Protocol, the EU has proposed at 50% cut in greenhouse gases by 2050.[167] The EU's attempts to cut its carbon footprint appear to have also been aided by an expansion of Europe's forests which, between 1990 and 2005, grew 10% in western Europe and 15% in Eastern Europe. During this period they soaked up 126 million metric tons of carbon dioxide, equivalent to 11% of EU emissions from human activities.[168]

Education and research
Education and science are areas where the EU's role is limited to supporting national governments. In education, the policy was mainly developed in the 1980s in programmes supporting exchanges and mobility. The most visible of these has been the ERASMUS programme, a university exchange programme which began in 1987. In its first 20 years it has supported international exchange opportunities for well over 1.5 million university and college students and has become a symbol of European student life.[169]
There are now similar programmes for school pupils and teachers, for trainees in vocational education and training, and for adult learners in the Lifelong Learning Programme 2007–2013. These programmes are designed to encourage a wider knowledge of other countries and to spread good practices in the education and training fields across the EU.[170] Through its support of the Bologna process the EU is supporting comparable standards and compatible degrees across Europe.
Scientific development is facilitated through the EU's Framework Programmes, the first of which started in 1984. The aims of EU policy in this area are to co-ordinate and stimulate research. The independent European Research Council allocates EU funds to European or national research projects.[171] The Seventh Framework Programme (FP7) deals in a number of areas, for example energy

where it aims to develop a diverse mix of renewable energy for the environment and to reduce dependence on imported fuels.[172]
Since January 2000 the European Commission has set its sights on a more ambitious objective, known as the European Research Area, and has extensively funded research in a few key areas. This has the support of all member states, and extends the existing financing structure of the frameworks. It aims to focus on co-ordination, sharing knowledge, ensuring mobility of researchers around Europe, improving conditions for researchers and encouraging links with business and industry as well as removing any legal and administrative barriers.[173]
The EU is involved with six other countries to develop ITER, a fusion reactor which will be built in the EU at Cadarache. ITER builds on the previous project, Joint European Torus, which is currently the largest nuclear fusion reactor in the world.[174] The Commission foresees this technology to be generating energy in the EU by 2050.[147] It has observer status within CERN, there are various agreements with ESA and there is collaboration with ESO.[175] These organisations are not under the framework of the EU, but membership heavily overlaps between them.

Demographics

Population of the 5 largest cities in the EU[176]

City	City limits (2006)	Density /km² (city limits)	Density /sq mi (city limits)	Urban area (2005)	LUZ (2004)
Berlin	3,410,000	3,815	9,880	3,761,000	4,971,331
London	7,512,400	4,761	12,330	9,332,000	11,917,000
Madrid	3,228,359	5,198	13,460	4,990,000	5,804,829
Paris	2,153,600	24,672	63,900	9,928,000	11,089,124
Rome	2,708,395	2,105	5,450	2,867,000	3,457,690

The combined population of all 27 member states has been estimated at 501,259,840 as of January 2010[10][177].
The EU's population is 7.3% of the world total, yet the EU covers just 3% of the Earth's land, amounting to a population density of 113 km² (44 sq mi) making the EU one of the most densely populated regions of the world. One third of EU citizens live in cities of over a million people, rising to 80% living in urban areas generally.[178] The EU is home to more global cities than any other region in the world.[179] It contains 16 cities with populations of over one million.
Besides many large cities, the EU also includes several densely populated regions that have no single core but have emerged from the connection of several cites and now encompass large metropolitan areas. The largest are Rhine-Ruhr having approximately 11.5 million inhabitants (Cologne, Dortmund, Düsseldorf et al.), Randstad approx. 7 million (Amsterdam, Rotterdam, The Hague, Utrecht et al.), Frankfurt/Rhine-Main approx.

5.8 million (Frankfurt, Wiesbaden et al.), the Flemish diamond approx. 5.5 million (urban area in between Antwerp, Brussels, Leuven and Ghent), the Upper Silesian Industrial Region approx. 3.5 million (Katowice, Sosnowiec et al.), and the Öresund Region approx. 2.5 million (Copenhagen, Denmark and Malmö, Sweden).[180]

Languages

European official languages report (EU-25)

Language	Native Speakers	Total
English	13%	**51%**
German	**18%**	32%
French	12%	26%
Italian	13%	16%
Spanish	9%	15%
Polish	9%	10%
Dutch	5%	6%
Greek	3%	3%
Czech	2%	3%
Swedish	2%	3%
Hungarian	2%	2%
Portuguese	2%	2%
Catalan	1%	2%
Slovak	1%	2%
Danish	1%	1%
Finnish	1%	1%
Lithuanian	1%	1%
Slovene	1%	1%

Published in 2006, before the accession of Bulgaria and Romania.
Native: Native language[181]
Total: EU citizens able to hold a conversation in this language[182]

Among the many languages and dialects used in the EU, it has 23 official and working languages: Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Irish, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, and Swedish.[183][184] Important documents, such as legislation, are translated into every official language. The European Parliament provides translation into all languages for documents and its plenary sessions.[185] Some institutions use only a handful of languages as internal working languages.[186] Language policy

is the responsibility of member states, but EU institutions promote the learning of other languages.[187][188]
German is the most widely spoken mother tongue (about 88.7 million people as of 2006), followed by English, Italian and French. English is by far the most spoken foreign language at over half (51%) of the population, with German and French following. 56% of European citizens are able to engage in a conversation in a language other than their mother tongue.[189] Most official languages of the EU belong to the Indo-European language family, except Estonian, Finnish, and Hungarian, which belong to the Uralic language family, and Maltese, which is an Afroasiatic language. Most EU official languages are written in the Latin alphabet except Bulgarian, written in Cyrillic, and Greek, written in the Greek alphabet.[190]
Besides the 23 official languages, there are about 150 regional and minority languages, spoken by up to 50 million people.[190] Of these, only the Spanish regional languages (Catalan/Valencian, Galician, and the non-Indo-European Basque), Scottish Gaelic and Welsh [191] can be used by citizens in communication with the main European institutions.[192] Although EU programmes can support regional and minority languages, the protection of linguistic rights is a matter for the individual member states. Though the population of Romani speakers is triple[193] that of Welsh speakers (despite the Porajmos) and the history of Romani people in Europe is seven centuries long, their language is not official in any EU state.
Besides the many regional languages, a broad variety of languages from other parts of the world are spoken by immigrant communities in the member states: Turkish, Maghrebi Arabic, Russian, Urdu, Bengali, Hindi, Tamil, Ukrainian, Punjabi and Balkan languages are spoken in many parts of the EU. Many older immigrant communities are bilingual, being fluent in both the local (EU) language and in that of their ancestral community. Migrant languages have no formal status or recognition in the EU or in the EU countries, although from 2007 they are eligible for support from the language teaching section of the EU's Lifelong Learning Programme 2007–2013.[190]

Religion

Percentage of Europeans in each member state who believe in "a God"[194]
The EU is a secular body with no formal connections to any religion and no mention of religion in any current or proposed treaty.[141] Discussion over the draft texts of the European Constitution and later the Treaty of Lisbon included proposals to mention Christianity or God, or both, in the preamble of the text, but the idea faced opposition and was dropped.[195] This emphasis on Christianity stems from it being by far the largest religion in Europe. Other significant religions present in EU countries are Islam, Buddhism, Sikhism and Hinduism.
Christians in the EU are divided among followers of Roman Catholicism, numerous Protestant denominations (especially in northern Europe) and Eastern Orthodox and Eastern Catholic (in south eastern Europe). Other religions, such as Islam and Judaism, are also represented in the EU

population. As of 2009, the EU had an estimated Muslim population of 13 million,[196] and an estimated Jewish population of over a million.[197]
Eurostat's Eurobarometer opinion polls show that in 2005 the majority of EU citizens (52%) believed in god, and that a majority had some form of belief system, with 21% seeing it as important. Many countries have experienced falling church attendance and membership in recent years.[198] The 2005 Eurobarometer showed that of the European citizens (of the 25 members at that time), 52% believed in a god, 27% in *some sort of spirit or life force* and 18% had no form of belief. The countries where the fewest people reported a religious belief were the Czech Republic (19%) and Estonia (16%).[199]
The most religious countries are Malta (95%; predominantly Roman Catholic), and Cyprus and Romania both with about 90% of citizens believing in God (both predominantly Eastern Orthodox). Across the EU, belief was higher among women, increased with age, those with religious upbringing, those who left school at 15 with a basic education, and those "positioning themselves on the right of the political scale (57%)."[199]

Culture and sport
Policies affecting cultural matters are mainly set by individual member states. Cultural co-operation between member states has been a concern of the EU since its inclusion as a community competency in the Maastricht Treaty.[200] Actions taken in the cultural area by the EU include the Culture 2000 7-year programme,[200] the European Cultural Month event,[201] the Media Plus programme,[202] orchestras such as the European Union Youth Orchestra[203] and the European Capital of Culture programme – where one or more cities in the EU are selected for one year to assist the cultural development of that city.[204]
In addition, the EU gives grants to cultural projects (totalling 233 in 2004) and has launched a Web portal dedicated to Europe and culture, responding to the European Council's expressed desire to see the Commission and the member states "promote the networking of cultural information to enable all citizens to access European cultural content by the most advanced technological means".[205]
Sport is mainly the responsibility of individual member states or other international organisations rather than that of the EU. However, some EU policies have had an impact on sport, such as the free movement of workers which was at the core of the Bosman ruling, which prohibited national football leagues from imposing quotas on foreign players with European citizenship.[206] Under the Treaty of Lisbon sports were given a special status which exempted this sector from many of the EU's economic rules. This followed lobbying by governing organisations such as the International Olympic Committee and FIFA, due to objections over the applications of free market principles to sport which led to an increasing gap between rich and poor clubs.[207]

East African Community

The **East African Community** (**EAC**) is an intergovernmental organisation comprising the five east African countries Burundi, Kenya, Rwanda, Tanzania, and Uganda.[1] While generally, the member nations are largely in favor of the East African Federation,[*citation needed*] informal polls indicate that most Tanzanians (80% of its population) have an unfavorable view.[2] Tanzania has more land than the other EAC nations combined, and some Tanzanians fear landgrabs by the current residents of the other EAC member nations.[3][4][5] Land scarcity is a recurring issue in East Africa, particularly in Kenya, where clashes on the Kenyan side of Mount Elgon in 2007 left more than 150 dead and forced at least 60,000 away from their homes.[6]

The first major step in establishing the East African Federation is the customs union in East Africa signed in March 2004 which commenced on 1 January 2005. Under the terms of the treaty, Kenya, the region's largest exporter, will continue to pay duties on its goods entering the other four countries until 2010, based on a declining scale. A common system of tariffs will apply to goods imported from third-party countries.

The EAC was originally founded in 1967, but collapsed in 1977, causing celebrations and wine-toasting in Kenya.[7] It was officially revived on 7 July 2000.[8] EAC is one of the pillars of the African Economic Community. In 2008, the EAC, after negotiations with the Southern Africa Development Community (SADC), and the Common Market for Eastern and Southern Africa (COMESA) agreed to an expanded free trade area including the member states of all three.

The East African region covers an area of 1.8 million square kilometres with a combined population of about 100 million (July 2005 est.) and has significant natural resources. Tanzania has had a relatively peaceful history since achieving independence, in contrast to the wars and civil strife that have occurred in Kenya, Rwanda, Burundi, and Uganda. Today East Africa seeks to maintain stability and prosperity in the midst of ongoing conflicts in the D.R. Congo, the Horn of Africa, and southern Sudan. The most prevalent languages of East Africa are Swahili , English, Kirundi and Kinyarwanda, although French is also common.[*citation needed*]

History

Kenya, Tanzania and Uganda have had a history of co-operation dating back to the early 20th century, including the Customs Union between Kenya and Uganda in 1917, which the then Tanganyika joined in 1927, the East African High Commission (1948-1961), the East African Common Services Organisation (1961-1967) and the East African Community (1967-1977).[9]

Inter-territorial co-operation between the Kenya Colony, the Uganda Protectorate and the Tanganyika Territory was first formalised in 1948 by the East African High Commission. This provided a customs union, a common external tariff, currency and postage; and also dealt with common services in transport and communications, research and education. Following independence, these integrated activities were reconstituted and the High Commission was replaced by the East African Common Services Organisation, which many observers thought would lead to a political federation between the

three territories. The new organisation ran into difficulties because of the lack of joint planning and fiscal policy, separate political policies and Kenya's dominant economic position. In 1967 the East African Common Services Organisation was superseded by the East African Community. This body aimed to strengthen the ties between the members through a common market, a common customs tariff and a range of public services so as to achieve balanced economic growth within the region.[10]

In 1977, the East African Community collapsed after ten years due to demands by Kenya to have more seats than Uganda and Tanzania in decision-making organs,[11] amid disagreements caused by dictatorship under Idi Amin in Uganda, socialism in Tanzania, and capitalism in Kenya,[12] and the three member states lost over sixty years of co-operation and the benefits of economies of scale. Each of the former member states had to embark, at great expense and at lower efficiency, upon the establishment of services and industries that had previously been provided at the Community level.

Later, Presidents Moi of Kenya, Mwinyi of Tanzania, and Museveni of Uganda signed the Treaty for East African Co-operation in Arusha, Tanzania, on 30 November 1993, and established a Tri-partite Commission for Co-operation. A process of re-integration was embarked on involving tripartite programmes of co-operation in political, economic, social and cultural fields, research and technology, defence, security, legal and judicial affairs.

The East African Community was finally revived on 30 November 1999, when the Treaty for its re-establishment was signed. It came into force on 7 July 2000, twenty-three years after the total collapse of the defunct erstwhile Community and its organs.

Future plans

The new treaty may be fast tracked, with plans drawn up in 2004 to introduce a monetary union with a common currency, the East African shilling, sometime between 2011 and 2015. There are also plans for a common market and a political union, the East African Federation, with a common President (initially on a rotation basis) and a common parliament by 2010. However, some experts like those based out of the public think tank Kenya Institute of Public Policy Research and Analysis (KIPPRA), have noted that the plans are too ambitious to be met by 2010 because a number of political, social and economic challenges are yet to be addressed. The fast tracking is currently the subject of National Consultative discussions, and a final decision will be taken by the EAC Heads of State in mid-2007.[13]

It had been hoped that an East African Single Tourist Visa may have been ready for November 2006, if it was approved by the relevant sectoral authorities under the EAC's integration programme. If approved the visa will be valid for all three current member states of the EAC (Kenya, Tanzania and Uganda). Under the proposal for the visa, any new East African single visa can be issued by any member state's embassy. The visa proposal followed an appeal by the tourist boards of the partner states for a common visa to accelerate promotion of the region as a single tourist destination and the EAC Secretariat wanted it

approved before November's World Travel Fair (or World Travel Market) in London.[14] When approved by the East African council of ministers, tourists could apply for one country's entry visa which would then be applicable in all regional member states as a single entry requirement initiative.[15]

East African Court of Justice

The East African Court of Justice is the judicial arm of the Community. The court has original jurisdiction over the interpretation and application of the 1999 Treaty that re-established the EAC and in the future may have other original, appellate, human rights or other jurisdiction upon conclusion of a protocol to realise such extended jurisdiction. It is temporarily based in Arusha, Tanzania.

East African Legislative Assembly

The East African Legislative Assembly (EALA) is the legislative arm of the Community. The EALA has 27 members who are all elected by the National Assemblies of the member states of the Community. The EALA has oversight functions on all matters that fall within the Community's work and its functions include debating and approving the budget of the Community, discussing all matters pertaining to the Community and making recommendations to the Council as it may deem necessary for the implementation of the Treaty, liasing with National Assemblies on matters petaining to the Community and establishing committees for such purposes as it deems necessary. Since being inaugurated in 2001, the EALA has had several sittings as a plenum in Arusha, Kampala and Nairobi.

East African passport

The East African passport was officially launched on 1 April 1999.[16] The East African passport has been introduced as a travel document to ease border crossing for East Africans.[17][18] It is valid for travel within the EAC countries only and will entitle the holder to a multi entry stay of renewable six months' validity in any of the countries.[17] The passport is issued in all three EAC member states (Kenya, Uganda and Tanzania). The passports are available at the Headquarters of the respective Immigration Departments in Nairobi, Kampala and Dar es Salaam. Only East African nationals may apply to be issued with the passports.[17][18] The passport costs US$10 or the equivalent in EAC currencies.[18] Processing of applications for the passports will normally take two to three weeks. Although the passport is only valid within the EAC, modalities of internationalizing the East African passport were being discussed with the aim towards having a common travel document for East Africans by 2006.[17]

Other measures meant to ease border crossing for East Africans include the issuance of interstate passes (which commenced on 1 July 2003), a single immigration Departure/Entry card (adopted by the all 3 member states), the finalization of harmonized procedures of work permits and the classification

process, and the compilation of studies on the Harmonization of Labour Laws and Employment Policies (now in its final stages).[17]

Internet in East Africa

Internet use in East Africa is still very low compared to developed nations. East Africa is a solid economic block with over 120 million combined population. It is estimated that 10 % of East Africans - 12 million, actively use Internet. The EAC strategy emphasizes economic co-operation and development with a strong focus on social dimension. Most East Africans use internet to check news, read email and for social networking. More recently, there is a number of emerging EAC online platforms that amalgamates East Africa. Internet speed is also low in East Africa compared to developed nations. This is perhaps one of the main hindrance for online growth in East Africa.

There are ambitions to make the East African Community, consisting of Kenya, Tanzania, Uganda, Burundi and Rwanda, a political federation with its own form of binding supranational law by 2010.

Union of South American Nations

The Union of South American Nations is an organisation on the South American continent. It intends to establish a framework akin to the European Union by the end of 2019. It is envisaged to have its own passport and currency, and limit barriers to trade.

Andean Community of Nations

The Andean Community of Nations is the first attempt the countries around the Andes Mountains in South America. It started with the Cartagena Agreement of 26 May 1969, and nowadays consists in four countries: Bolivia, Colombia, Ecuador and Peru. It does have a supranational law, called Agreements, which are mandatory for these countries.

Public international law

Public international law concerns the structure and conduct of sovereign states, analogous entities, such as the Holy See, and intergovernmental organizations. To a lesser degree, international law also may affect multinational corporations and individuals, an impact increasingly evolving beyond domestic legal interpretation and enforcement. Public international law has increased in use and importance vastly over the twentieth century, due to the increase in global trade, armed conflict[*citation needed*], environmental deterioration on a worldwide scale, awareness of human rights violations, rapid and vast increases in international transportation and a boom in global communications.

The field of study combines two main branches: the **law of nations** (*jus gentium*) and **international agreements and conventions** (*jus inter gentes*), which have different theoretical foundations and should not be confused.
Public international law should not be confused with "*private international law*", which is concerned with the resolution of conflict of laws. In its most general sense, international law "consists of rules and principles of general application dealing with the conduct of states and of intergovernmental organizations and with their relations *inter se*, as well as with some of their relations with persons, whether natural or juridical."[1]

Scope
Public international law establishes the framework and the criteria for identifying states as the principal actors in the international legal system. As the existence of a state presupposes control and jurisdiction over territory, international law deals with the acquisition of territory, state immunity and the legal responsibility of states in their conduct with each other. International law is similarly concerned with the treatment of individuals within state boundaries. There is thus a comprehensive regime dealing with group rights, the treatment of aliens, the rights of refugees, international crimes, nationality problems, and human rights generally. It further includes the important functions of the maintenance of international peace and security, arms control, the pacific settlement of disputes and the regulation of the use of force in international relations. Even when the law is not able to stop the outbreak of war, it has developed principles to govern the conduct of hostilities and the treatment of prisoners. International law is also used to govern issues relating to the global environment, the global commons such as international waters and outer space, global communications, and world trade.
Whilst municipal law is hierarchical or vertical in its structure (meaning that a legislature enacts binding legislation), international law is horizontal in nature. This means that all states are sovereign and theoretically equal. As a result of the notion of sovereignty, the value and authority of international law is dependent upon the voluntary participation of states in its formulation, observance, and enforcement. Although there may be exceptions, it is thought by many international academics that most states enter into legal commitments with other states out of enlightened self-interest rather than adherence to a body of law that is higher than their own. As D. W. Greig notes, "international law cannot exist in isolation from the political factors operating in the sphere of international relations".[2]
Breaches of international law raise difficult questions for lawyers. Since international law has no established compulsory judicial system for the settlement of disputes or a coercive penal system, it is not as straightforward as managing breaches within a domestic legal system. However, there are means by which breaches are brought to the attention of the international community and some means for resolution. For example, there are judicial or quasi-judicial tribunals in international law in certain areas such as trade and

human rights. The formation of the United Nations, for example, created a means for the world community to enforce international law upon members that violate its charter through the Security Council.
Traditionally, sovereign states and the Holy See were the sole subjects of international law. With the proliferation of international organizations over the last century, they have in some cases been recognized as relevant parties as well. Recent interpretations of international human rights law, international humanitarian law, and international trade law (e.g., North American Free Trade Agreement (NAFTA) Chapter 11 actions) have been inclusive of corporations, and even of certain individuals.

History
The earliest known treatises on international law was the *Introduction to the Law of Nations* written at the end of the 8th century by Muhammad al-Shaybani[3] (d. 804), a jurist of the Hanafi school of Islamic law and jurisprudence,[4] and other Islamic jurists soon followed with a number of treatises written on international law (*Siyar* in Arabic).[3] These early Islamic legal treatises covered the application of Islamic ethics, Islamic economic jurisprudence and Islamic military jurisprudence to international law,[4] and were concerned with a number of international law topics, including the law of treaties; the treatment of diplomats, hostages, refugees and prisoners of war; the right of asylum; conduct on the battlefield; protection of women, children and non-combatant civilians; contracts across the lines of battle; the use of poisonous weapons; and devastation of enemy territory.[3] The first European treatises on international law was later written by Francisco de Vitoria in the 16th century in Salamanca; Hugo Grotius, in the early 17th century, developed the subject further. He and other European legal scholars may have been influenced by early Islamic international law.[3][5]
Beginning with the Peace of Westphalia in 1648, the 17th, 18th and 19th centuries saw the growth of the concept of the sovereign "nation-state", which consisted of a nation controlled by a centralized system of government. The concept of nationalism became increasingly important as people began to see themselves as citizens of a particular nation with a distinct national identity. Until the mid-19th century, relations between nation-states were dictated by treaty, agreements to behave in a certain way towards another state, unenforceable except by force, and not binding except as matters of honor and faithfulness. But treaties alone became increasingly toothless and wars became increasingly destructive, most markedly towards civilians, and civilized peoples decried their horrors, leading to calls for regulation of the acts of states, especially in times of war.
Perhaps the first instrument of modern public international law was the Lieber Code, passed in 1863 by the Congress of the United States, to govern the conduct of US forces during the United States Civil War and considered to be the first written recitation of the rules and articles of war, adhered to by all civilized nations, the precursor of public international law. Part of the Code follows:

"Military necessity, as understood by modern civilized nations, consists in the necessity of those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war. Military necessity admits of all direct destruction of life or limb of armed enemies, and of other persons whose destruction is incidentally unavoidable in the armed contests of the war; it allows of the capturing of every armed enemy, and every enemy of importance to the hostile government, or of peculiar danger to the captor; it allows of all destruction of property, and obstruction of the ways and channels of traffic, travel, or communication, and of all withholding of sustenance or means of life from the enemy; of the appropriation of whatever an enemy's country affords necessary for the subsistence and safety of the Army, and of such deception as does not involve the breaking of good faith either positively pledged, regarding agreements entered into during the war, or supposed by the modern law of war to exist. (...But...) Men who take up arms against one another in public war do not cease on this account to be moral beings, responsible to one another and to God. Military necessity does not admit of cruelty—that is, the infliction of suffering for the sake of suffering or for revenge, nor of maiming or wounding except in fight, nor of torture to extort confessions. It does not admit of the use of poison in any way, nor of the wanton devastation of a district. It admits of deception, but disclaims acts of perfidy; and, in general, military necessity does not include any act of hostility which makes the return to peace unnecessarily difficult."

This first statement of the previously uncodified rules and articles of war led to the first prosecution for war crimes—in the case of United States prisoners of war held in cruel and depraved conditions at Andersonville, Georgia, in which the Confederate commandant of that camp was tried and hanged, the only Confederate soldier to be punished by death in the aftermath of the entire Civil War.

In the years that followed, other states subscribed to limitations of their conduct, and numerous other treaties and bodies were created to regulate the conduct of states towards one another in terms of these treaties, including, but not limited to, the Permanent Court of Arbitration in 1899; the Hague and Geneva Conventions, the first of which was passed in 1907; the International Court of Justice in 1921; the Genocide Convention; and the International Criminal Court, in the late 1990s. Because international law is a relatively new area of law its development and propriety in applicable areas are often subject to dispute.

Conflicts between public international law and national sovereignty

The conflict between international law and national sovereignty is subject to vigorous debate and dispute in academia, diplomacy, and politics. Certainly, there is a growing trend toward judging a state's domestic actions in the light of international law and standards. Numerous people now view the nation-state as the primary unit of international affairs, and believe that only states may choose to voluntarily enter into commitments under international law, and that they have the right to follow their own counsel when it comes to interpretation

of their commitments. Certain scholars and political leaders feel that these modern developments endanger nation states by taking power away from state governments and ceding it to international bodies such as the U.N. and the World Bank, argue that international law has evolved to a point where it exists separately from the mere consent of states, and discern a legislative and judicial process to international law that parallels such processes within domestic law. This especially occurs when states violate or deviate from the expected standards of conduct adhered to by all civilized nations.

A number of states support very narrow interpretations of international law, including the People's Republic of China, the military junta currently holding power in Burma, and the Russian Federation. These states maintain that sovereignty—and thus what some view as the basis of sovereignty, the ultima ratio regum, or last argument of kings (force and coercion, by military or other means)—is the only true international law; thus seeing states as having free rein over their own affairs and their affairs in the larger world. Other states oppose this view. One group of opponents of this point of view, including many European nations, maintain that all civilized nations have certain norms of conduct expected of them, including the prohibition of genocide, slavery and the slave trade, wars of aggression, torture, and piracy, and that violation of these universal norms represents a crime, not only against the individual victims, but against humanity as a whole. States and individuals who subscribe to this view opine that, in the case of the individual responsible for violation of international law, he "is become, like the pirate and the slave trader before him, hostis humani generis, an enemy of all mankind"[6], and thus subject to prosecution in a fair trial before any fundamentally just tribunal, through the exercise of universal jurisdiction. Another group believes that states only commit to international law with express consent, whether through treaty or customary law, and have the right to make their own interpretations of its meaning; and that international courts only function with the consent of states.

Though the European democracies tend to support broad, universalistic interpretations of international law, many other democracies have differing views on international law. Several democracies, including India, Israel and the United States, take a flexible, eclectic approach, recognizing aspects of public international law such as territorial rights as universal, regarding other aspects as arising from treaty or custom, and viewing certain aspects as not being subjects of public international law at all. Democracies in the developing world, due to their past colonial histories, often insist on non-interference in their internal affairs, particularly regarding human rights standards or their peculiar institutions, but often strongly support international law at the bilateral and multilateral levels, such as in the United Nations, and especially regarding the use of force, disarmament obligations, and the terms of the UN Charter.

Sources

Public international law has four primary sources: international treaties, custom, general principles of law and judicial decisions and teachings.[7]

International treaty law comprises obligations states expressly and voluntarily accept between themselves in treaties. Customary international law is derived from the consistent practice of States accompanied by *opinio juris*, i.e. the conviction of States that the consistent practice is required by a legal obligation. Judgments of international tribunals as well as scholarly works have traditionally been looked to as persuasive sources for custom in addition to direct evidence of state behavior (and they are also explicitly mentioned as such in Art. 38 of the Statute of the International Court of Justice, as subsidiary means for the determination of rules of law). Attempts to codify customary international law picked up momentum after the Second World War with the formation of the International Law Commission (ILC), under the aegis of the United Nations. Codified customary law is made the binding interpretation of the underlying custom by agreement through treaty. For states not party to such treaties, the work of the ILC may still be accepted as custom applying to those states. General principles of law are those commonly recognized by the major legal systems of the world. Certain norms of international law achieve the binding force of peremptory norms (*jus cogens*) as to include all states with no permissible derogations.

Interpretation

Where there are disputes about the exact meaning and application of national laws, it is the responsibility of the courts to decide what the law means. In international law interpretation is within the domain of the protagonists, but may also be conferred on judicial bodies such as the International Court of Justice, by the terms of the treaties or by consent of the parties. It is generally the responsibility of states to interpret the law for themselves, but the processes of diplomacy and availability of supra-national judicial organs operate routinely to provide assistance to that end. Insofar as treaties are concerned, the Vienna Convention on the Law of Treaties writes on the topic of interpretation that:

> "A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose." (article 31(1))

This is actually a compromise between three different theories of interpretation:

- The textual approach, a restrictive interpretation, which bases itself on the "ordinary meaning" of the text; that approach assigns considerable weight to the actual text.
- The subjective approach, which takes into consideration i. the idea behind the treaty, ii. treaties "in their context", and iii. what the writers intended when they wrote the text.
- A third approach, which bases itself on interpretation "in the light of its object and purpose", i.e. the interpretation that best suits the goal of the treaty, also called "effective interpretation".

These are general rules of interpretation; specific rules might exist in specific areas of international law.

Enforcement

Since international law exists in a legal environment without an overarching "sovereign" (i.e., an external power able and willing to compel compliance with international norms), "enforcement" of international law is very different than in the domestic context. In many cases, enforcement takes on Coasian characteristics, where the norm is self-enforcing. In other cases, defection from the norm can pose a real risk, particularly if the international environment is changing. When this happens, and if enough states (or enough powerful states) continually ignore a particular aspect of international law, the norm may actually change according to concepts of customary international law. For example, prior to World War I, unrestricted submarine warfare was considered a violation of international law and ostensibly the casus belli for the United States' declaration of war against Germany. By World War II, however, the practice was so widespread that during the Nuremberg trials, the charges against German Admiral Karl Dönitz for ordering unrestricted submarine warfare were dropped, notwithstanding that the activity constituted a clear violation of the Second London Naval Treaty of 1936.

Enforcement by states

Apart from a state's natural inclination to uphold certain norms, the force of international law comes from the pressure that states put upon one another to behave consistently and to honor their obligations. As with any system of law, many violations of international law obligations are overlooked. If addressed, it is almost always purely through diplomacy and the consequences upon an offending state's reputation. Though violations may be common in fact, states try to avoid the appearance of having disregarded international obligations. States may also unilaterally adopt sanctions against one another such as the severance of economic or diplomatic ties, or through reciprocal action. In some cases, domestic courts may render judgment against a foreign state (the realm of private international law) for an injury, though this is a complicated area of law where international law intersects with domestic law.

It is implicit in the Westphalian system of nation-states, and explicitly recognized under Article 51 of the Charter of the United Nations, that all states have the inherent right to individual and collective self-defense if an armed attack occurs against them. Article 51 of the UN Charter guarantees the right of states to defend themselves until (and unless) the Security Council takes measures to keep the peace.

Enforcement by international bodies

Violations of the UN Charter by members of the United Nations may be raised by the aggrieved state in the General Assembly for debate. The General Assembly cannot make binding resolutions, only 'recommendations', but through its adoption of the "Uniting for Peace" resolution (A/RES/377 A), of 3 November 1950, the Assembly declared that it has the power to authorize the use of force, under the terms of the UN Charter, in cases of breaches of the peace or acts of aggression, provided that the Security Council, owing to the

negative vote of a permanent member, fails to act to address the situation. The Assembly also declared, by its adoption of resolution 377 A, that it could call for other collective measures—such as economic and diplomatic sanctions—in situations constituting the milder "threat to the Peace".

The Uniting for Peace resolution was initiated by the United States in 1950, shortly after the outbreak of the Korean War, as a means of circumventing possible future Soviet vetoes in the Security Council. The legal significance of the resolution is unclear, given that the General Assembly cannot issue binding resolutions. However, it was never argued by the "Joint Seven-Powers" that put forward the draft resolution,[8] during the corresponding discussions, that it in any way afforded the Assembly new powers. Instead, they argued that the resolution simply declared what the Assembly's powers already were, according to the UN Charter, in the case of a dead-locked Security Council.[9][10][11][12] The Soviet Union was the only permanent member of the Security Council to vote against the Charter interpretations that were made law by the Assembly's adoption of resolution 377 A.

Alleged violations of the Charter can also be raised by states in the Security Council. The Security Council could subsequently pass resolutions under Chapter VI of the UN Charter to recommend the "Pacific Resolution of Disputes." Such resolutions are not binding under international law, though they usually are expressive of the Council's convictions. In rare cases, the Security Council can adopt resolutions under Chapter VII of the UN Charter, related to "threats to Peace, Breaches of the Peace and Acts of Aggression," which are legally binding under international law, and can be followed up with economic sanctions, military action, and similar uses of force through the auspices of the United Nations.

It has been argued that resolutions passed outside of Chapter VII can also be binding; the legal basis for that is the Council's broad powers under Article 24(2), which states that "in discharging these duties (exercise of primary responsibility in international peace and security), it shall act in accordance with the Purposes and Principles of the United Nations". The mandatory nature of such resolutions was upheld by the International Court of Justice (ICJ) in its advisory opinion on Namibia. The binding nature of such resolutions can be deduced from an interpretation of their language and intent.

States can also, upon mutual consent, submit disputes for arbitration by the International Court of Justice, located in The Hague, Netherlands. The judgments given by the Court in these cases are binding, although it possesses no means to enforce its rulings. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. Some of the advisory cases brought before the court have been controversial with respect to the court's competence and jurisdiction.

Often enormously complicated matters, ICJ cases (of which there have been less than 150 since the court was created from the Permanent Court of International Justice in 1945) can stretch on for years and generally involve thousands of pages of pleadings, evidence, and the world's leading specialist

public international lawyers. As of June 2009, there are 15 cases pending at the ICJ. Decisions made through other means of arbitration may be binding or non-binding depending on the nature of the arbitration agreement, whereas decisions resulting from contentious cases argued before the ICJ are always binding on the involved states.
Though states (or increasingly, international organizations) are usually the only ones with standing to address a violation of international law, some treaties, such as the International Covenant on Civil and Political Rights have an optional protocol that allows individuals who have had their rights violated by member states to petition the international Human Rights Committee.

International legal theory
International legal theory comprises a variety of theoretical and methodological approaches used to explain and analyse the content, formation and efectiveness of public international law and institutions and to suggest improvements. Some approaches center on the question of compliance: why states follow international norms in the absence of a cohercitive power that ensures compliance. Other approches focus on the problem of the formation of international rules: why states voluntarily adopt international law norms, that limit their freedom of action, in the absence of a world legislature; while other perspectives are policy oriented: they elaborate theoretical frameworks and instruments to critize the existing norms and to make suggestions on how to improve them. Some of these approaches are based on domestic legal theory, some are interdisciplinary, and others have been developed expressly to analyse international law. Classical approaches to International legal theory are the Natural law, the Eclectic and the Legal positivism schools of thought.

Natural law
The natural law approach argues that international norms should be based on axiomatic truths. 16th century natural law writer, Francisco de Vitoria, a professor of theology at the University of Salamanca, examined the questions of the just war, the Spanish authority in the Americas, and the rights of the Native american peoples.

Eclectic or Grotian school
In 1625 Hugo Grotius argued that nations as well as persons ought to be governed by universal principle based on morality and divine justice while the relations among polities ought to be governed by the law of peoples, the *jus gentium*, established by the consent of the community of nations on the basis of the principle of *pacta sunt servanda*, that is, on the basis of the observance of commitments. On his part, Emmerich de Vattel argued instead for the equality of states as articulated by 18th century natural law and suggested that the law of nations was composed of custom and law on the one hand, and natural law on the other. During the 17th century, the basic tenents of the Grotian or eclectic school, especially the doctrines of legal equality, territorial sovereignty, and independence of states, became the fundamental principles of

the European political and legal system and were enshirned in the 1648 Peace of Westphalia.

Legal positivism

The early positivist school emphasized the importance of custom and treaties as sources of international law. 16th century Alberico Gentili used historical examples to posit that positive law (*jus voluntarium*) was determined by general consent. Cornelius van Bynkershoek asserted that the bases of international law were customs and treaties commonly consented to by various states, while John Jacob Moser emphasized the importance of state practice in international law. The positivism school narrowed the range of international practice that might qualify as law, favouring rationality over morality and ethics. The 1815 Congress of Vienna marked the formal recognition of the political and international legal system based on the conditions of Europe.

Modern legal positivists consider international law as a unified system of rules that emanates from the states' will. International law, as it is, is an "objective" reality that needs to be distinguished from law "as it should be." Classic positivism demands rigorous tests for legal validityand it deems irrelevant all extralegal arguments.[13]

Conflict of laws

Conflict of laws is an institution of international law and intranational interstate law that regulates all lawsuits involving a "foreign" law element where different judgments will result depending on which jurisdiction's laws are applied as the *lex causae*.

In *civil law systems*, private international law is a branch of the internal legal system dealing with the determination of which state law is applicable to situations crossing over the borders of one particular state and involving a "foreign element" (*élément d'extranéité*), (collisions of law, conflict of laws). *Lato sensu* (at large) it also includes international civil procedure and international commercial arbitration (collisions of jurisdiction, conflict of jurisdictions), as well as citizenship law (which strictly speaking is part of public law).

In *common law systems*, conflict of laws, firstly, is concerned with determining whether the proposed forum has jurisdiction to adjudicate and is the appropriate venue for dealing with the dispute, and, secondly, with determining which of the competing state's laws are to be applied to resolve the dispute. It also deals with the enforcement of foreign judgments.

There are two major streams of legal thought on the nature of conflict of laws. One group of researchers regard Conflict of Laws as a part of international law, claiming that its norms are uniform, universal and obligatory for all states. This stream of legal thought in Conflict of Laws is called "universalism". Other researchers maintain the view that each State creates its own unique norms of Conflict of Laws pursuing its own policy. This theory is called "particularism" in Conflict of Laws.

Private international law is divided on two major areas:

- Private international law "sensu stricto" (narrow sense) comprising conflict of laws rules which determine the law of which country (state) is applicable to specific relations.
- Private international law "sensu lato" (broader sense) which comprises private international law "sensu stricto" (conflict of laws rules) and material legal norms which have direct extraterritorial character and are imperatively applied (material norms of law crossing the borders of State) - usually regulations on real property, consumer law, currency control regulations, insurance and banking regulations.

Terminology

Its three different names – *conflict of laws*, *private international law*, and *international private law* – are generally interchangeable, although none of them is wholly accurate or properly descriptive. The term *conflict of laws* is primarily used in jurisdictions of the Common Law legal tradition, such as in the United States, England, Canada, and Australia. *Private international law* (*droit international privé*) is used in France, as well as in Italy, Greece, and the Spanish and Portuguese speaking countries. *International private law* (*internationales Privatrecht*) is used in Germany and other German-speaking countries.

Within the federal systems where legal conflicts among federal states require resolution, as in the United States, the term *conflict of laws* is preferred simply because such cases do not involve an international issue. Hence, *conflict of laws* is a general term to refer to disparities among laws, regardless of whether the relevant legal systems are international or inter-state. The term, however, can be misleading when it refers to *resolution of conflicts* between competing systems rather than "conflict" itself. The term *conflict of laws* is usually used by common law countries, while for civil law countries the term *private international law* is more appropriate. The term *private international law* was coined by American lawyer and judge Joseph Story, but was abandoned subsequently by common law scholars and embraced by civil law lawyers.

History

The first instances of conflict of laws in the Western legal tradition can be traced to Greek law. Ancient Greeks dealt straightforwardly with multistate problems, and did not create choice-of-law rules. Leading solutions varied between the creation of courts for international cases, or application of local law, on the grounds that it was equally available to citizens of all states.[1].

More significant developments can be traced to Roman law. Roman civil law (*jus civile*) being inapplicable to non-citizens, special tribunals had jurisdiction to deal with multistate cases. The officers of these specialized tribunals were known as the praetor peregrini. The Praetor peregrini did not select a jurisdiction whose rules of law should apply. Instead, they "applied" the "jus gentium." The jus gentium was a flexible and loosely-defined body of law based on international norms. Thus the praetor peregrini essentially created new

substantive law for each case.[2] Today, this is called a "substantive" solution to the choice-of-law issue.

An early private international law was established in classical Islamic law and jurisprudence as a result of the vast Muslim conquests and maritime explorations during the early Middle Ages giving rise to various conflicts of laws. A will, for example, was "not enforced even if its provisions accorded with Islamic law if it violated the law of the testator." Islamic jurists also developed elaborate rules for private international law regarding issues such as contracts and property, family relations and child custody, legal procedure and jurisdiction, religious conversion, and the return of aliens to an enemy country from the Muslim world. The religious laws and courts of other religions, including Christianity, Judaism and Hinduism, were also usually accommodated in classical Islamic law, as exemplified in Islamic Spain, Islamic India, and the Ottoman Empire.[3]

The modern conflict of laws is generally considered to have begun in Northern Italy during the late Middle Ages and in particular at trading cities such as Genoa, Pisa and Venice. The need to adjudicate issues involving commercial transactions between traders belonging to different cities led to the development of the theory of *statuta*, whereby certain city laws would be considered as *statuta personalia* "following" the person whereby it may act, and other city laws would be considered as *statuta realia*, resulting in application of the law of the city where e.g. the *res* would be located (cf. *lex rei sitae*).

Maritime law was also a great driver of international legal rules; providing for the enforcement of contracts, the protection of shipwrecked sailors and property, and the maintaining of harbours.[4]

The modern field of conflicts emerged in the United States during the 19th century with the publishing of Joseph Story's treatise on the Conflict of Laws in 1834. Story's work had a great influence on the subsequent development of the field in England such as those written by A.V. Dicey. Much of the English law then became the basis for conflict of laws for most commonwealth countries.

However, in the U.S., Story's work fell out of fashion in the mid-20th century. Traditional conflict of law rules were widely perceived as too rigid and unresponsive to the needs of a highly mobile society undergoing the Second Industrial Revolution. They were replaced with a number of approaches, of which the most important is the governmental interests analysis pioneered by law professor Brainerd Currie in a landmark series of essays. As a result of Currie's work, the rules for conflict of laws in the United States have diverged significantly from the rules in use at the international level.

The stages in a conflict case

1. The court must first decide whether it has jurisdiction and, if so, whether it is the appropriate venue given the problem of forum shopping.
2. The next step is the characterisation of the cause of action into its component legal categories which may sometimes involve an incidental question (also note the distinction between procedural and substantive laws).

3. Each legal category has one or more choice of law rules to determine which of the competing laws should be applied to each issue. A key element in this may be the rules on renvoi.
4. Once the applicable law is decided, that law must be proved before the forum court and applied to reach a judgment.
5. The successful party must then enforce the judgment which will first involve the task of securing cross-border recognition of the judgment.

In those states with an underdeveloped set of Conflict rules, decisions on jurisdiction tend to be made on an *ad hoc* basis, with such choice of law rules as have been developed embedded into each subject area of private law and tending to favour the application of the *lex fori* or local law. In states with a more mature system, the set of Conflict rules stands apart from the local private civil law and adopts a more international point of view both in its terminology and concepts. For example, in the European Union, all major jurisdictional matters are regulated under the Brussels Regime, e.g. the rule of *lis alibi pendens* from Brussels 1 Regulation applies in the Member States and its interpretation is controlled by the European Court of Justice rather than by local courts. That and other elements of the Conflict rules are produced supranationally and implemented by treaty or convention. Because these rules are directly connected with aspects of sovereignty and the extraterritorial application of laws in the courts of the signatory states, they take on a flavour of public rather than private law because each state is compromising the usual expectations of their own citizens that they will have access to their local courts, and that local laws will apply in those local courts. Such aspects of public policy have direct constitutional significance whether applied in the European context or in federated nations such as the United States, Canada, and Australia where the courts have to contend not only with jurisdiction and law conflicts between the constituent states or territories, but also as between state and federal courts, and as between constituent states and relevant laws from other states outside the federation.

Choice of law rules

Courts faced with a choice of law issue have a two-stage process:

1. the court will apply the law of the forum (*lex fori*) to all procedural matters (including, self-evidently, the choice of law rules); and
2. it counts the factors that connect or link the legal issues to the laws of potentially relevant states and applies the laws that have the greatest connection, e.g. the law of nationality (*lex patriae*) or domicile (*lex domicilii*) will define legal status and capacity, the law of the state in which land is situated (*lex situs*) will be applied to determine all questions of title, the law of the place where a transaction physically takes place or of the occurrence that gave rise to the litigation (*lex loci actus*) will often be the controlling law selected when the matter is substantive, but the proper law has become a more common choice.

For example, suppose that Alexandre who has a French nationality and residence in Germany, corresponds with Bob who has American nationality, domicile in Arizona, and residence in Austria, over the internet. They agree to the joint purchase of land in Switzerland, currently owned by Heidi who is a Swiss national, but they never physically meet, executing initial contract documents by using fax machines, followed by a postal exchange of hard copies. Alexandre pays his share of the deposit but, before the transaction is completed, Bob admits that although he has capacity to buy land under his *lex domicilii* and the law of his residence, he is too young to own land under Swiss law. The rules to determine which courts would have jurisdiction and which laws would be applied to each aspect of the case are defined in each state's laws so, in theory, no matter which court in which country actually accepts the case, the outcome will be the same (albeit that the measure of damages might differ from country to country which is why forum shopping is such a problem). In reality, however, moves to harmonise the conflictual system have not reached the point where standardisation of outcome can be guaranteed.

Conflict of law rules in matrimonial cases

In divorce cases, when a court is attempting to distribute marital property, if the divorcing couple is local and the property is local, then the court applies its domestic law lex fori. The case becomes much more complicated if foreign elements are thrown into the mix, such as when the place of marriage is different from the territory where divorce was filed; when the parties' nationalities and residences do not match; when there is property in a foreign jurisdiction; or when the parties have changed residence several times during the marriage. Each time a spouse invokes the application of foreign law, the process of divorce slows down, as the parties are directed to brief the issue of conflict of laws and provide translations of the foreign laws.

Different jurisdictions follow different sets of rules. Before embarking on a conflict of law analysis, the court must determine whether a property agreement governs the relationship between the parties. The property agreement must satisfy all formalities required in the country where enforcement is sought.

Whereas commercial agreements or prenuptial agreements generally do not require legal formalities to be observed, when married couples enter a property agreement, stringent requirements are imposed, including notarization, witnesses, special acknowledgment forms. In some countries, these must be filed (or docketed) with a domestic court, and the terms must be “so ordered” by a judge. This is done in order to ensure that no undue influence or oppression has been exerted by one spouse against the other. Upon presenting a property agreement between spouses to a court of divorce, that court will generally assure itself of the following factors: signatures, legal formalities, intent, later intent, free will, lack of oppression, reasonableness and fairness, consideration, performance, reliance, later repudiation in writing or by conduct, and whichever other concepts of contractual bargaining apply in the context.

In the absence of a valid and enforceable agreement, here's how the conflict of law rules work:

- Movable v. Real Estate - In general, applicable matrimonial law depends on the nature of the property. Lex situs is applied to immovable property (i.e., real estate), and the law of matrimonial domicile applies to movable property, provided there has been no subsequent change in the spouses' domicile.
- Full Mutability Doctrine - property relations between spouses are governed by their latest domicile, whether acquired before or after the marriage.[5] This is also the norm in England, except for a few cases where severe injustice results from a harsh application. In those cases, the court also examines whether newly acquired property can be traced back to property owned before the change.
- Immutability Doctrine - the original personal law of the parties at the time of marriage continues to govern all property including subsequently acquired property, regardless of a later change in domicile or nationality. This is the Continental approach in France, Germany and Belgium. Also, with certain reservations, see Art. 7 of the 1976 Hague Convention on Marriage and Matrimonial Property Regimes. Also in Israel: "property relations between spouses shall be governed by the law of their domicile at the time of the solemnisation of the marriage, provided that they may by agreement determine and vary such relations in accordance with the law of their domicile at the time of making the agreement".[6] Note that the Israeli application of the Immutability Doctrine does not distinguish between personal and real property. Both are subject to the law of domicile at marriage.
- Partial Mutability or Mutability of New Acquisition - this is the American approach to conflicts of law in matrimonial property division cases. All movable property acquired during the marriage is subject to the parties' domicile law at the time of acquisition, and not that of the original or intermediate domicile. What was acquired before the marriage is governed by the law of the parties' domicile at the time of marriage. Thus, if rights vested in a property when and where it was purchased, it would not be adversely affected by a later change of domicile.
- Lex Fori - In many cases, courts simply avoid this complicated and expensive analysis by applying their local law to the parties' entire property, even if there is a foreign element. This is based on the assumption that laws around the world are basically similar in their treatment of marriage as a co-partnership. Since the partnership can be placed in the forum, the forum's law applies to all its aspects.

Note that Lex Fori also applies to all procedural relief (as opposed to substantive relief). Thus, issues such as the ability to grant pre-trial relief, procedure and form, as well as statutes of limitations are classified as "procedure" and are always subject to domestic law where the divorce case is pending.

Pre-dispute provisions

Many contracts and other forms of legally binding agreement include a jurisdiction or arbitration clause specifying the parties' choice of venue for any litigation (called a forum selection clause). Then, choice of law clauses may specify which laws the court or tribunal should apply to each aspect of the dispute. This matches the substantive policy of freedom of contract. Judges have accepted that the principle of party autonomy allows the parties to select the law most appropriate to their transaction. Obviously, this judicial acceptance of subjective intent excludes the traditional reliance on objective connecting factors, but it does work well in practice.

The status of foreign law

Generally, when the court is to apply a foreign law, it must be proved by foreign law experts. It cannot merely be pleaded, as the court has no expertise in the laws of foreign countries nor in how they might be applied in a foreign court. Such foreign law may be considered no more than evidence, rather than law because of the issue of sovereignty. If the local court is actually giving extraterritorial effect to a foreign law, it is less than sovereign and so acting in a way that is potentially unconstitutional. The theoretical responses to this issue are:

- (a) that each court has an inherent jurisdiction to apply the laws of another country where it is necessary to achieving a just outcome; or
- (b) that the local court creates a right in its own laws to match that available under the foreign law. This explanation is sustainable because, even in states which apply a system of binding legal precedents, any precedent emerging from a conflicts case can only apply to future conflicts cases. There will be no ratio decidendi that binds future litigants in entirely local cases.
- (c) that the national court, when applying a foreign law, does not give an extraterritorial effect but recognizes, through its own "conflict of laws rule", that the situation at hand falls under the scope of application of the foreign rule. In order to understand this argument one must first define the notion of extraterritorial application of a rule. This notion is susceptible to two distinct meanings:

On the one hand, this notion is used to describe the situation where a local court applies a rule other than the *Lex fori* (local law).

On the other hand, it could mean that the rule is being applied to a factual situation that occurred beyond the territory of its state of origin. As an example of this situation, one can think of an American court applying British tort statutes and case law to a car accident that took place in London where both the driver and the victim are British citizens but the lawsuit was brought in before the American courts because the driver's insurer is American. One can then argue that since the factual situation is within the British territory, where an American judge applies the English Law, he does not give an extraterritorial application to the foreign rule. In fact, one can also argue that the American judge, had he applied American Law, would be doing so in an extraterritorial fashion.

Once the *lex causae* has been selected, it will be respected except when it appears to contravene an overriding mandatory rule of the *lex fori*. Each judge is the guardian of his own principles of *ordre public* (public order) and the parties cannot, by their own act, oust the fundamental principles of the local municipal law which generally underpin areas such as labour law, insurance, competition regulation, agency rules, embargoes, import-export regulations, and securities exchange regulations. Furthermore, the *lex fori* will prevail in cases where an application of the *lex causae* would otherwise result in a fundamentally immoral outcome, or give extraterritorial effect to confiscatory or other territorially limited laws.

In some countries, there is occasional evidence of parochialism when courts have determined that if the foreign law cannot be proved to a "satisfactory standard", then local law may be applied. In the United Kingdom, in the absence of evidence being led, the foreign law is presumed to be the same as the *lex fori*. Similarly, judges might assume in default of express evidence to the contrary that the place where the cause of action arose would provide certain basic protections, e.g. that the foreign court would provide a remedy to someone who was injured due to the negligence of another. Finally, some American courts have held that local law will be applied if the injury occurred in an "uncivilized place that has no law or legal system."[7]

If the case has been submitted to arbitration rather than a national court, say because of a forum selection clause, an arbitrator may decide not to apply local mandatory policies in the face of a choice of law by the parties if this would defeat their commercial objectives. However, the arbitral award may be challenged in the country where it was made or where enforcement is sought by one of the parties on the ground that the relevant *ordre public* should have been applied. If the *lex loci arbitri* has been ignored, but there was no real and substantial connection between the place of arbitration and the agreement made by the parties, a court in which enforcement is sought may well accept the tribunal's decision. But if the appeal is to the courts in the state where the arbitration was held, the judge cannot ignore the mandatory provisions of the *lex fori*.

Harmonisation

To apply one national legal system as against another may never be an entirely satisfactory approach. The parties' interests may always be better protected by applying a law conceived with international realities in mind. The Hague Conference on Private International Law is a treaty organisation that oversees conventions designed to develop a uniform system. The deliberations of the conference have recently been the subject of controversy over the extent of cross-border jurisdiction on electronic commerce and defamation issues. There is a general recognition that there is a need for an international law of contracts: for example, many nations have ratified the *Vienna Convention on the International Sale of Goods*, the *Rome Convention on the Law Applicable to Contractual Obligations* offers less specialised uniformity, and there is support

for the *UNIDROIT Principles of International Commercial Contracts*, a private restatement, all of which represent continuing efforts to produce international standards as the internet and other technologies encourage ever more interstate commerce. But other branches of the law are less well served and the dominant trend remains the role of the forum law rather than a supranational system for Conflict purposes. Even the EU, which has institutions capable of creating uniform rules with direct effect, has failed to produce a universal system for the common market. Nevertheless, the Treaty of Amsterdam does confer authority on the Community's institutions to legislate by Council Regulation in this area with supranational effect. Article 177 would give the Court of Justice jurisdiction to interpret and apply their principles so, if the political will arises, uniformity may gradually emerge in letter. Whether the domestic courts of the Member States would be consistent in applying those letters is speculative.

Supranational law

Supranational law is a form of international law, based on the limitation of the rights of sovereign nations between one another. It is distinguished from public international law, which involves the United Nations, the Geneva conventions, or the Law of the Sea, because in supranational law, nations explicitly submit their right to make judicial decisions to a set of common institutions.

Supranational theory

Supranationalism can be contrasted to intergovernmentalism as a form of decision making, and is worthy of study. Speaking in relation to Europe, Joseph H. H. Weiler, in his seminal work "The Dual Character of Supranationalism" states that there are two main concerns to European supranationalism. These are:

- Normative Supranationalism: The Relationships and hierarchy which exist between Community policies and legal measures on one hand and the competing policies and legal measures of the Member states on the other. (The Executive Dimension)
- Decisional Supranationalism: The institutional framework and decision making by which such measures are initiated, debated, formulated, promulgated and finally executed. (The Legislative-Judicial Dimension)

In many ways the split sees the separation of powers confined to merely two branches.

European Union law

European Community law' is the first and only example of a supranational legal framework. In the EC, sovereign nations have pooled their authority through a system of courts and political institutions. They have the ability to enforce legal norms against and for member states and citizens, in a way that public

international law does not. According to the European Court of Justice in the early case, 26/62, of *NW Algemene Transporten Expeditie Onderneming van Gend en Loos v Nederlandse Admniistratie der Belastingen* [1963] ECR 1, (often known as just *Van Gend en Loos*) it constitutes "a new legal order of international law":
"The Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only member states but also their nationals. Independently of the legislation of member states, community law therefore not only imposes obligations on individuals but is also intended to confer upon them rights which become part of their legal heritage. These rights arise not only where they are expressly granted by the treaty, but also by reason of obligations which the treaty imposes in a clearly defined way upon individuals as well as upon the member states and upon the institutions of the community."[1]

International community

The **international community** is a vague term used in international relations to refer to all the governments of the world or to a group of them. The term is used to imply the existence of common duties and obligations between them, frequently in the context of calls for the respect of human rights and for action to be taken against repressive regimes.
States may sometimes refer to "the will of the international community" to strengthen their own point of view. It is sometimes claimed that powerful countries and groups of countries use the term to describe organisations in which they play a predominant role, regardless of the opinion of other nations. For example, the Kosovo War was described as an action of the "international community"[*citation needed*] even though it was undertaken by NATO[*citation needed*], which represented under ten percent of the world's population during the Kosovo War.
For example, the term is used by some Western leaders when criticising Iran for its nuclear ambitions by saying that "Iran is defying the will of the international community by continuing uranium enrichment". The league of non-aligned nations (122 countries out of 193 states recognised by the United Nations) has in fact backed Iran's right to enrich uranium
From a **broader view**, an individual anywhere in the world, who is interested in international issues could be considered a member of International Community (IC)

You may do a private study As you prepare for the lectures

1. International Courts And tribunals
2. Customary international law and the law of the sea
3. Treaties in international law (with extended treatment of human rights treaties)
4. National Courts and international law – national jurisdiction
5. Immunity and Act of State in national courts and Use of force

NB; remember to read the constitution of your respective countries and the Acts because this is where most of the questions will come from.

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