In legal research, particularly in international and comparative law, it is often necessary to trace working documents or “travaux préparatoires” to get a clear view of how negotiations have affected the original draft of a document. The status of these documents varies greatly between different countries and organisations: while governments in some countries have long had a culture of openness, others have always preferred secrecy. Reports or articles may often refer to documents to which the author has had privileged access: often the sources are not indicated and this can be very frustrating for researchers.

Some academics have published collections of such documents independently, while many international organisations, like the Council of Europe, have recognised their importance for research and made selected documents publicly available (for example the Travaux préparatoires for the European Convention of Human Rights at http://www.echr.coe.int/Library/COLENTravauxprep.html).

The situation in the European Union is further complicated because some of the working documents involved originate in the European institutions, while others come from individuals or governments in the member states. In the formative years of the European Communities, which later evolved into the European Union, documents had a relatively informal status. Although many documents relating to the early treaties have been deposited in the official archives, they are not generally available in any other form. Because the proceedings of the institutions and of legislative or treaty negotiations have always been multi-lingual many documents will only be available in French or German, although official documents were often translated into English even before the United Kingdom joined the European Economic Community in 1973.

Success in tracing working papers depends to a great extent on how complete a reference has been given and whether a document has ever had an official status. Many papers presented at conferences or meetings will have been circulated previously, but the discussions will generally only be summarised at a later date and are unlikely to be publicly available. As working papers generally relate either to the legislative process or to policy development they will frequently be allocated multiple references depending on the context and this can cause confusion.

The EU has pioneered the use of electronic media in providing information and many official documents are now available online through the EU web server, Europa (http://europa.eu/) and its legal service Eur-Lex (http://eur-lex.europa.eu/). However, administrative processes and translation can often cause considerable delays in access, while some documents are never made public.

This article aims to clarify some of the distinctions between different categories of working document and provides details of some of the databases and collections which are essential for research into the workings of the European Union.
Inter-governmental conferences (IGCs)

The European Union is a unique creation, as it is not an international organisation but a partnership between separate member states. The three Communities which were the forerunner of the European Union were created by treaties, which form the basis of all European Community law and policy. The negotiation of each treaty has been preceded by an inter-governmental conference (IGC) involving parliamentary representatives, civil servants and heads of government from each country involved.

Contributions to these conferences fall into several categories: official statements from the governments of the member states; opinions from individual negotiators and final statements accompanying the final report.

The first IGC, the 1950-1951 Intergovernmental Conference, was held under the chairmanship of Jean Monnet and involved six countries: Belgium, France, Germany, Italy, Luxembourg and the Netherlands. Negotiations were based on Robert Schuman’s plan to organise Franco-German coal and steel production and led to the establishment of the European Coal and Steel Community in 1951.

The next conference took place at Messina in Sicily in 1955 between the foreign ministers of the Six under the chairmanship of Paul-Henri Spaak, although observers from other countries, including the United Kingdom, were also present. The Spaak report (Rapport des chefs de délégation aux Ministres des Affaires étrangères: Comité intergouvernemental créé par la Conférence de Messine. Brussels: The Secretariat, 1956) recommended both the creation of a common market for goods and services and a union in the field of nuclear energy. This resulted in the treaties of Rome of 1957, which created both the European Atomic Energy Community and the European Economic Community.
Although some public statements from these conferences are available no comprehensive collection of documents exists except for the originals deposited in the official archives.

The next major change to the treaty, the Single European Act of 1987, did not involve an inter-governmental conference but was the subject of wide debate throughout Europe. A 4-volume compilation of all official documents produced within the member states was published in 1993 by the Library of the Court of Justice to help researchers study the historical background of this process.


The Treaty on European Union (Maastricht Treaty 1992) aroused even more debate at the time. A 15-volume compilation collecting official responses from all member states in the original languages was published in 1996:


The European Commission launched its Europa web server in 1995 and the next IGC, in 1996, which culminated in the Treaty of Amsterdam, was the first to make use of online services. A retrospective database of all important contributions to the debate, including the draft treaty presented by the Irish Presidency (“The European Union today and tomorrow”), is available as an online archive on the Council’s Consilium website (http://www.consilium.europa.eu/) in the section on the Treaty of Lisbon. This also includes documents from the IGCs of 2000 and 2004.

A meeting of the European Council held in Cologne in June 1999 called for an IGC to suggest changes necessary to prepare to welcome countries from the former Communist bloc into the European Union, as well as Cyprus and Malta. The Treaty of Nice, which resulted from the 2000 IGC, made only limited progress towards this goal. Documents are archived online at http://ec.europa.eu/comm/nice_treaty/index_en.htm

At the same time a “Convention” composed of representatives of the governments and parliaments of the member states, as well as representatives of the European institutions and invited experts was set up to establish a Charter of Fundamental Rights, which was intended to become part of the Treaty. Its aim was to restate the rights implicit in decisions of the Court of Justice, European legislation and other statements. All information relating to the Charter is online at http://ec.europa.eu/justice_home/unit/charte/index_en.html

The European Parliament’s commentary on the Charter (at http://www.europarl.europa.eu/charter/docs/default_en.htm) cross-refers to relevant national and international law, particularly the European Convention on Human Rights. It was soon realised that the Nice Treaty had not achieved the desired reforms to the Community institutions. Instead of an IGC, a second Convention met between February 2002 and July 2003, and finally submitted its recommendations as a Draft Constitutional Treaty. A multilingual website (http://european-convention.eu.int/) archives all contributions to the debate, including the draft text.

Public referenda were held on the Constitutional Treaty in all member states; as a majority of citizens in France and the Netherlands rejected it a new text was prepared, signed in Lisbon in 2007. The Lisbon Treaty has not yet been ratified by all member states and its rejection in a referendum held in Ireland in 2008 has caused an impasse in the process. While officially known as the Lisbon Treaty, it is also referred to as the Reform Treaty. An online archive of key documents is available on the Europe website at http://europa.eu/lisbon_treaty/library/index_en.htm

Although the Secretariat General has maintained an archive of documents from the IGCs for decades, access has always been limited to internal users. In 2008 a new venture was announced to digitise the contents of this archive. This will eventually be available as a public database to be called DORIE, an acronym for DOcumentation et Recherche sur les questions Institutionnelles Européennes (Documentation and Research on European Institutional Issues). (MEMO/08/682 dated 07/11/2008)
The European institutions

The European Union is administered by three main institutions: the European Commission, the European Parliament and the Council of the European Union. In addition, two consultative bodies – the European Economic and Social Committee and the Committee of the Regions – are involved in the legislative process. Working documents are produced by all these institutions and are widely available. It is important to know how these institutions interact to identify where the documents may have originated and how they fit into the legal or administrative system. A useful online guide, How the European Union works is provided on Europa (http://europa.eu/institutions/index_en.htm)

Working documents of the Commission

The Commission of the European Communities, now usually called the European Commission, is the civil service of the European Union. It is the only institution which can propose legislation in European Community law and a large proportion of its documents relate to the legislative process. Proposals in European Union law (relating to foreign and security policy or to judicial and police cooperation) normally originate either in the member states or in the Council of the European Union. The Commission also administers the Community programmes and budget.

The documents which are most straightforward to identify, if not to trace, are those which appear in numbered series.

The Commission issues large numbers of working documents every year with the reference COM (year) in numerical sequence. Some documents may have a reference C or SEC (Secretariat-General). These are internal documents of the Commission, many of which are not publicly available, although some may be found on the websites of individual Directorates-General.

Commission working documents (COM docs)

The types of documents issued as COM documents include:

Draft legislation
Proposals for legislation (Decisions, Directives or Regulations) are equivalent to bills in the UK. References are normally given as: COM(year) [number] final; only the finalised version of each draft is released publicly after a period of consultation.

Policy documents
In 1983, the Commission decided to adopt the terms Green and White papers from UK parliamentary practice, where they refer to the colour of paper used for these publications. In other language versions these are translated as green and white books, although the term is unfamiliar in other countries.

Green Papers concern specific policy areas and are generally used to launch a consultation process with interested individuals and organisations.

White Papers are documents containing proposals for Community action and are generally used for consultation before specific proposals for legislation are made. This format has become increasingly popular in the EU as a way of increasing public involvement in the creation of legislation. A full set of Green and White papers from 1983 to 2001 with associated documents is available online in the Archive of European integration (http://aei.pitt.edu/view/euseries/)

Communications and reports
Communications are statements of EU policy on given subjects. Any research or action programmes financed from the EU budget are legally required to present an official
report to the institutions after the end of the financial term of the programme, while progress and mid-term reports are becoming more common.

Since 2001 COM documents have only been published online in the Preparatory acts section of the Eur-Lex site (http://eur-lex.europa.eu/en/prep/index.htm). Because the European institutions have now moved increasingly to electronic publishing, the production of many official documents has been rationalised. Many reports were also issued as separate documents by the Office for Official Publications (EUR-OP), such as annual reports on employment policy. These annual reports now generally appear as straightforward serial publications, with ISSN (International Standard Serial Number) identification as well as individual catalogue numbers.

Although COM documents are essential research material no comprehensive official listing is available for the early years. An annual catalogue of COM documents published in English was issued from 1983-84 by EUR-OP with parallel versions for the other official languages. In 1987 a more comprehensive catalogue with the title Documents was inaugurated [ISSN 0256-0976]. Published as a monthly series cumulated in annual volumes, this indexed the COM series, the reports of the European Parliament (EP A2-), the Opinions and Reports of the Economic & Social Committee (CES) and later of the Committee of the Regions (CdR) in a classified sequence with an alphabetical index. This catalogue ceased publication in 2000.

2. Staff working documents (SEC docs)

SEC documents (Secretariat-General) are internal documents of the Commission, which are not always publicly available. The allocation of documents to the SEC rather than the COM series appears to the outsider to be largely random: some series of annual reports have appeared as COM documents in some years and as SEC documents in others.

In 2001 the European Council decided that assessments should be made of the economic, social and environmental effects of all new legislation proposed by the Commission. As these assessments are normally published in the SEC series they were often hard to track down, which contradicts the EU’s public commitment to openness and transparency. In an attempt to remedy this situation the Secretariat General of the Commission launched a comprehensive website (http://ec.europa.eu/governance/impact/practice_en.htm) containing all the background documents since 2002 and listing each proposal alongside its assessment. This has also led to a standardisation of practice in the production of impact assessments.

New guidelines issued in 2004 aimed to reduce the length of COM documents, both to improve readability and to minimise translating costs (see press release IP/04/679, available on the RAPID database at http://europa.eu/rapid/). As a result much of the statistical and other background information is now published separately as Commission staff working documents, or SEC documents, which are normally only available in English, French and German.

3. Other documents of the Commission

Č documents are often preliminary versions of COM documents, which have not been subsequently issued in final versions, but this category includes other non-standard documents, such as guidelines to legislation.

Each Directorate-General also issues documents, which vary from short pamphlets and periodicals to detailed research reports. Many are only circulated internally or on request and are generally identified by the acronym for the DG (e.g. ECFIN) or, for documents issued before the reorganisation of the Commission in 1999, by DG number I-XXIII.

Documents of the European Parliament
As the only directly elected body in the European Union the European Parliament (EP) has a crucial role in providing a democratic balance to the legislative and policy-making processes.

Most documents from the EP relate to the legislative process, either as reports and studies or as debates. All draft legislation is first presented to the EP, where it is scrutinised by the appropriate Committee. At this point a Member of the European Parliament (MEP) from that Committee is appointed as "rapporteur", or spokesman. These reports are now only published online.

The Parliament is elected for a five-year term and is currently coming to the end of its sixth term. The next European election will take place in 2009. References to documents produced within Parliament normally include a reference to the parliamentary term, followed by a running number, eg A5-0273/2001. All European Parliament documents are also given an identifying number starting PE.

All documents from 1979 to 1989 were published in print; from 1989-1999 they were published on microfiche. The EP recognised early on the importance of the internet as a means of direct communication with its electorate and launched its own server, Europarl (http://www.europarl.europa.eu/) shortly after Europa. Since 1999 these documents have only been available online via Europarl.

Documents of the European Council and Council of the European Union

The Council of the European Union is the EU's principal decision-making body. It is generally referred to as the Council of Ministers and should not be confused with the Council of Europe, which is not an institution of the European Union. Very few public documents are issued by the Council, except for statements regarding foreign policy. Although the Council holds a crucial role in the creation of legislation, virtually no documents are released except for summaries of the discussions. Where lengthy negotiations are required before a final text is prepared, a “Common position” is published which sets out what the legislation will include. This is sometimes accompanied by a statement of the Council’s position where it disagrees with amendments proposed by the European Parliament.

Proposals for action or legislation under Titles IV and V of the EU Treaty (often referred to as the “second and third pillars”) are the prerogative of the member states and are not published as Commission documents. These include foreign and security policy as well as police cooperation and migration.

Separate from the Council of Ministers, which exists in a number of configurations depending on the topic under discussion, is the European Council. This is the quarterly summit of the heads of government of the member states, which draws up general political guidelines for the Union under each six-monthly Presidency. The conclusions of each Presidency are published in the June and December issues of the Bulletin of the European Community/Union (see Official publications section). The conclusions are also available online as follows, generally in PDF format:

Councils from 1975-1994 on the Archive of European integration site (http://aei.pitt.edu/)
Conclusions of each Presidency since 1993 are on the Council’s website, Consilium (http://www.consilium.europa.eu/) A useful report on The Conclusions of the European Council and the Council of Ministers (HC 86) was published by the House of Commons European Scrutiny Committee in 2008. It provides a valuable inside view of how the meetings are conducted. The report is available online at http://www.publications.parliament.uk/pa/cm200708/cmselect/cmeuleg/86/86.pdf
The Official Journal

All official publications of the European institutions and agencies are published by the Office for Official Publications of the European Communities (now Union), often abbreviated to EUR-OP.

Documents which are part of the legislative or administrative process are normally published in the **Official Journal of the European Union** (OJ), which appears on weekdays in all official languages of the EU (currently 23). The OJ is published in two sequences:

**The L (Legislation series)** contains the official text of all EU secondary legislation, which fall into three main categories: Regulations, Directives and Decisions.

**The C (Information and notices) series** (C from the French title Communications et Informations) originally included all proposals for legislation in addition to reports and statements from the European institutions and the proceedings of the European Parliament.

Each issue is divided into three sections:

- **Information** about current activities of the institutions; questions and answers in the European Parliament and the minutes of its monthly sessions were published here until 1999, when they were transferred to the electronic version (see below). This section also includes some annual reports and the rules of procedure of the main European institutions.

- **Preparatory Acts** originally contained draft legislation, although it omitted the explanatory memorandum published with the COM documents. It also included opinions of the Economic and Social Committee and the Committee of the Regions. Draft legislation moved to the electronic version of the OJ (see below) in 1999.

- **Notices** carries announcements about the European institutions and agencies, including vacancies and details of new action programmes.

**OJ C E (Electronic series)**

In 1999 it was decided to reduce the size of the printed version by transferring the bulk of the documentation in the C series to an electronic version, which is available online, via Eur-Lex ([http://eur-lex.europa.eu/en/index.htm](http://eur-lex.europa.eu/en/index.htm)). Draft legislation moved to the digital versions of the OJ in 1999; in 2003 it was decided that since COM documents were already available electronically there was no need for duplicate publication in this form. From 2002 onwards both the minutes of the sessions of the European Parliament and the written questions and answers have also been transferred to this format, as have the Council’s Common positions on legislation. Other categories of document, including draft texts of treaties, have only appeared in the Official Journal in recent years, although a selection of important documents was published either in the monthly **Bulletin of the European Communities** or as supplements to it.

**Official archives**

Any documents published officially, either as separate volumes, in the Official Journal or as COM documents, will normally be held in the network of European Documentation Centres (EDCS) first established by the European Commission in the 1960s. EDCs are normally based in the libraries of universities with a special interest in European law and policy and serve all the member states. In 2003 they officially became part of a new public information network called Europe Direct. Depository libraries, which are generally
based in national or state libraries, have more comprehensive collections and make primary research possible outside Europe.

Documents from the inter-governmental conferences have not been published in full but many are stored in the Historical Archives of the European Communities administered by the European University Institute in Florence. The core collection consists of papers from the European institutions held under the 30-year deposit rule but also includes the papers of individuals and societies active in the promotion of European integration. The holdings of the collection are fully searchable through the Eurhistar database on the Archives website (http://www.iue.it/ECArchives/EN/)

The Historical Archives of the European Commission in Brussels store archives of files from the administrative services of the Commission held under the 30-year rule. These are searchable online via the database Archisplus on the official website (http://ec.europa.eu/historical_archives/index_en.htm)

Inventories of their holdings published so far are:
Luxembourg: Office for official publications of the European Communities, 1985-7

Luxembourg: Office for official publications of the European Communities, 1997-2002

Online databases

A large number of official documents are now available online through the European Union’s web server, Europa (http://europa.eu/), which was first launched in 1995. Although it was initially seen as a useful tool for publicising the EU, Europa soon became established as an essential vehicle for communication with the European citizens which allowed almost instant access to a wide range of documents. Like most online sources, however, it is not yet reliable as a permanent archive.

Europa was originally seen as a server for the European Commission and because of internal rivalry between the institutions separate servers were quickly set up by the European Parliament (Europarl http://www.europarl.europa.eu/), by the Council (Consilium http://www.consilium.europa.eu/) and by most other institutions. In 2004 it was decided to re-launch Europa as the European Union’s server and to ensure that cross-linking signposted different sources of information. Simultaneously all official websites were brought into line with URLs indicating their connection with Europa and making use of the .eu web domain introduced at that time.

As most Commission documents originate in an individual Directorate-General, it is often worth checking out the web pages listed under the appropriate heading in the Activities menu of Europa. This is also a quick way of accessing the home pages of relevant Committees in the European Parliament and the European Council.

Several databases are essential for tracing documents relating to the legislative process. The most important is the EU’s legal service, Eur-Lex (http://eur-lex.europa.eu/). This database was first launched in 1998 but has now absorbed the content of the original legal service, Celex, much of which dates back to the 1970s. Since 2004 public access has been free and is available in all official languages, although some material is not provided in all languages. Eur-Lex has the full text of all language versions of the Official Journal since 1998 and includes all COM documents since 2001, together with a selection since 1999. In 2008 SEC documents, mainly impact assessments, were added to this collection, although at the moment only a small number have been made available.

A similar database, **Pre-Lex** (Monitoring the decision-making process) ([http://ec.europa.eu/prelex/apnet.cfm](http://ec.europa.eu/prelex/apnet.cfm)) was set up by the Secretariat General of the European Commission. Although it has less commentary it gives a far more comprehensive set of references, including details of opinions from the Committee of Regions and the European Economic and Social Committee (EESC). Earlier documents are not available in full text online, but bibliographic references are given to official publications, including the **Official Journal, Bulletin of the European Union** and the **General report on the activities of the European Union**.

### Access to documents and institutional registers

Appended to the Treaty of European Union (Maastricht Treaty, 1997) was a Declaration (no.17) on the right of access to information, which stated that:

"The Conference considers that transparency of the decision-making process strengthens the democratic nature of the institutions and the public's confidence in the administration. The Conference accordingly recommends that the Commission submits to the Council no later than 1993 a report on measures designed to improve public access to the information available to the institutions."

In 1993 the Council published **Decision 93/731/EC of 20 December 1993 on public access to Council documents** as a first attempt to permit access, but the legislation and code of conduct accompanying it were widely criticised. Several reports and constant pressure from parliaments and campaigners at national and European level led to **Regulation 1049/2001 regarding public access to European Parliament, Council and Commission documents**. This lays down the rules for access; Article 11 states that:

"In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions. The institutions should be entitled to protect their internal consultations and deliberations where necessary to safeguard their ability to carry out their tasks."

The legislation also gave the institutions notice that public registers should be established by 2002. A public consultation on this Regulation was initiated with a Green paper in 2007. All contributions and documents are available online ([http://ec.europa.eu/transparency/revision/index_en.htm](http://ec.europa.eu/transparency/revision/index_en.htm)).

Each of the institutions now has a public register, although they vary in usefulness. All are accessible from Europa ([http://europa.eu/documents/registers/index_en.htm](http://europa.eu/documents/registers/index_en.htm)).

**The European Parliament register** has the most flexible search facilities and provides links to related documents as well as full text in most cases. **The European Commission register** is probably the most heavily used but is the least user-friendly. While it allows searches using free text and document number, the register only provides direct access to electronic texts in the COM collection, which are better catered for in Eur-Lex. **The Council of the European Union documents register** is perhaps the easiest source of C, COM or SEC documents which are in the public domain. The full text of all SEC documents released for public scrutiny is available in PDF format. The register also includes agendas of meetings, draft conclusions of Council meetings and a wide range of
other documents, but a large proportion of these are not available in full text because of rules on secrecy. Searching can be problematic as all documents are given a new reference when added to the register.

Citizens can apply for access to documents which are not publicly available, although this can take a long time and still be unsuccessful. Several civil rights organisations, notably Statewatch (http://www.statewatch.org/) have regularly challenged the unnecessary restrictions placed on access to many documents. The Statewatch archive, much of which is freely available, is a valuable source of commentary and documentation in all areas related to civil liberties around the world.

**Online collections**

Because of the complexity of the Europa databases and the absence of digitised texts pre-dating the internet many projects have attempted to create electronic archives which are more closely related to research needs.

COM documents since 1999 are available in full text on Eur-Lex, together with the versions published in the C series of the Official Journal from 1998 to 2002. Bibliographic details are available for all documents published in the Official Journal since 1958, although earlier documents are not available in English. To search, choose **Simple search** and select the file category **Preparatory acts**. COM documents normally appear on Eur-Lex within two or three days of their adoption by the Commission.

It has been suggested that the Office for Official Publications will itself embark on a major project to digitise official documents retrospectively, although this has not been confirmed publicly.

Pittsburgh University's European Union Center established the **Archive of European Integration** (AEI) (http://aei.pitt.edu/) as an online archive for research materials on the topic of European integration. Thanks to the input of the European Commission’s Office in Washington it has digitised a large number of official European Union documents, primarily historic documents which are not easily accessible or online elsewhere, like the Spaak report.

The European Documentation Centre of Mannheim University in Germany has for many years led the field in providing help with online sources of European information. Its Virtual Fulltext Library (http://www.ub.uni-mannheim.de/879.html) has compiled searchable lists of available documents in various categories which make searching far more straightforward.

**Further sources of information**

Because the European Union is constantly evolving it is essential for researchers to become familiar with the Europa website and its many subsets. The EU has for many years expressed its concern at the lack of public awareness and involvement in its activities and has established a wide range of information networks designed to remedy the situation. For details of these networks look at Europe in your country on Europa (http://europa.eu/euinyourcountry/index_en.htm) where clickable maps give access to the information sources available in the EU and around the world. The European Information Association (http://www.eia.org.uk/) also exists as an international focus for expertise in European research.