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European Integration: Reflections on its Limits and Effects

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One of the principal goals of this journal is to evaluate the impact of the globalization of law, politics, and markets. This article focuses on the economic integration of markets in Europe, where one aspect of the “globalization” process—the process by which laws, national economies, and political systems are becoming ever more entwined and interdependent—has occurred to the greatest extent, albeit at a regional level. I will first give an overview of this process and consider the factors that the European experience in “regionalization” suggests may limit economic and other forms of integration at the global level. I will then speculate on how the integration of markets in Europe will change European trade policies and on how those changes might affect the United States.

I. THE INTEGRATION OF EUROPEAN MARKETS

The twelve countries of the European Community (EC) have gone further in integrating their national economies than the nations of any other region.¹ As a consequence, Europe has already encountered problems

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1. There are actually three communities: the European Coal and Steel Community, established by the Treaty Establishing the European Coal and Steel Community (sometimes referred to as the Treaty of Paris) on April 18, 1951; the European Economic Community, established by the Treaty Establishing the European Economic Community (EEC Treaty), which is sometimes referred to as the Treaty of Rome, on March 25, 1957; and the European Atomic Energy Community, established by the Treaty Establishing the European Atomic Energy Community on March 25, 1957. The three communities are commonly called the European Community or the EC. This title would be made official by the Treaty on European Union (TEU), signed February 7, 1992, at Maastricht, the Netherlands, which would change the name of the EEC Treaty to the EC Treaty when it comes into effect. Ratification was expected to occur in 1992, but in a June 1992 referendum, Danish voters narrowly rejected the TEU. A year later, however, they approved it by a 57%-43% margin. Alan Riding, *Unity for Europe Survives Key Test as the Danes Vote*, N.Y. TIMES, May 19, 1993, at A1. Two days later, the U.K. House of Commons voted to ratify the TEU. John Darnton, *British Lawmakers Approve Pact Forging Greater European Unity*, N.Y. TIMES, May 21, 1993, at A1. As of September 1993, the only remaining step for ratification was resolution of a court challenge to the TEU in Germany. The controversy over the ratification of the TEU highlights how a community of interests and views is necessary for integration to proceed. See *infra* text accompanying notes 91-99. The current text of the EEC Treaty and the relevant provisions of the TEU

related to integration that other regions and the world as a whole will have to confront in the not-so-distant future. Indeed, the European experience, with its various groupings of countries, provides a textbook example of the types of ever closer integration that are possible and the problems that arise at the various stages of integration. It is therefore instructive to examine that experience to see to what extent and how these problems may be confronted and overcome.

The integration process in Europe can be usefully conceptualized as a system of concentric circles.² The most important circle is that represented by the European Community, but there are concentric circles both within and without that circle. For example, within the European Community circle are such smaller circles as those representing the eleven EC member states that have agreed to proceed on the harmonization of social policy (all but the United Kingdom),³ the ten that have agreed in principle on monetary union (all but the United Kingdom and Denmark)⁴ and the nine that have agreed on eliminating border controls amongst themselves (all but the U.K., Denmark, and Ireland).⁵

Outside the EC circle, circles can be drawn to represent the various relationships that the EC has with other European countries and the rest of the world. The closest outer circle would represent its proposed relationship with the European Free Trade Association (EFTA) countries (except Switzerland)⁶ under the European Economic Area (EEA) agreement.⁷ The

can be found in GEORGE A. BERMANN, ET AL., *EUROPEAN COMMUNITY LAW: SELECTED DOCUMENTS* (1993).

2. For a more theoretical discussion of the forms of integration, see BELA BALASSA, *THE THEORY OF ECONOMIC INTEGRATION* 1-3 (1961). Balassa's categories resemble, but do not match exactly, the forms of integration now existing in Europe.

3. TREATY ON EUROPEAN UNION [TEU], Feb. 7, 1992, Protocol on Social Policy, in BERMANN, ET AL., *supra* note 1.

4. TEU, pt. III, tit. VI, *supra* note 3; Protocol on Certain Provisions Relating to the United Kingdom of Great Britain and Northern Ireland, *reprinted in* BERMANN, ET AL., *supra* note 1, at 191-93; Decision of the Heads of State and Government, Meeting Within the European Council, Concerning Certain Problems Raised by Denmark on the Treaty on European Union, § B, 1992 O.J. (C 348) 2.

5. The nine other countries have acted pursuant to the so-called Schengen Agreement, which is not part of the EC legal framework. EC Commission, *Opening Up the Internal Market*, EUROPEAN DOCUMENTATION, 1991, at 30.

6. EFTA is the European Free Trade Association. It was formed in 1960 by most of the countries of Western Europe that were not in the EC. The text of the convention establishing EFTA can be found in EFTA SECRETARIAT, *THE EUROPEAN FREE TRADE ASSOCIATION* 118-38 (3rd ed. 1987). The current members of EFTA are Austria, Finland, Iceland, Liechtenstein, Norway, Sweden, and Switzerland. BERMANN, ET AL., *supra* note 1, at 929.

7. The EEA agreement is discussed *infra* in the text accompanying notes 51-62.

next would represent the EC's free trade agreements, including the EC-Swiss Free Trade Agreement, which has already been implemented,⁸ and the proposed Europe Agreements with various countries of Eastern Europe, which will be implemented over the next decade.⁹ After that there would be a circle containing the countries who have entered into various association agreements with the EC, which typically provide preferential access to Community markets.¹⁰ Finally, the last circle would include the rest of the EC's trading relationships, including those that are based on the General Agreement on Tariffs and Trade (GATT).¹¹

In this part of the article, I will examine briefly the nature of the EC itself and the different relationships it has with the rest of Europe, in particular with respect to trade issues. The focal point of my examination will be an analysis of the extent to which each relationship results in the formation of a single market, but I will examine first the institutions, if any, that govern the relationship. I will also consider the extent to which the relationships affect certain trade-related matters, such as (i) the reallocation of resources among member states pursuant to a specific plan, (ii) control on individual state subsidies and promotion of joint subsidization, and (iii) significant integration of economic policymaking. One of the more interesting questions raised by this conceptualization of the globalization process in Europe is the extent to which there can be a natural progression to the inner circles by those in the outer circles. I conclude with an analysis of the limits that may exist on this progression.

8. On the entry of Denmark, Ireland, and the U.K. (all of whom had been EFTA members) into the EC in 1973, the EC entered into a network of free trade agreements with the remaining members of EFTA. The EEC-Swiss Free Trade Agreement is discussed *infra* in the text accompanying notes 63-74.

9. These agreements are described *infra* in the text accompanying notes 64-75.

10. The EC has entered into a wide range of associations or similar arrangements, particularly with most of the countries surrounding the Mediterranean Sea and Eastern Europe. GEORGE A. BERMANN ET AL., CASES AND MATERIALS ON EUROPEAN COMMUNITY LAW 946-48 (1993). The Lomé Convention, pursuant to which the EC extends preferential trade treatment and aid to about 70 former colonies and others, can also be viewed as an association agreement. *Id.* at 948-50. The text of the fourth and current Lomé Convention appears at 1993 O.J. (L 229) 3. The EC also extends preferential tariff treatment to other developing countries under its GSP (Generalized System of Preferences) regime. BERMANN ET AL., *supra*, at 950.

11. Included in this group would be the U.S., Canada, Japan, Australia, and New Zealand. General Agreement on Tariffs and Trade [GATT], Oct. 30, 1947, 55 U.N.T.S. 194.

A. *The European Community*

The genesis of the European Community was the European Coal and Steel Community (ECSC),¹² which created a single market for trade in coal and steel. The ECSC came into force in 1952 between Belgium, France, West Germany, Italy, Luxembourg, and the Netherlands. Those same six countries later formed the European Economic Community and the European Atomic Energy Community, which came into effect on January 1, 1958.¹³ The United Kingdom, Ireland, and Denmark joined the EC in 1973, Greece joined in 1981, and Spain and Portugal joined in 1986.¹⁴ In this section, I will sketch the institutional framework of the Community, describe the internal market that the EC has created and examine several important trade-related aspects of the internal market.

1. *EC Institutions*

There are five important EC institutions: the Commission, the Council of Ministers, the Parliament, the Court of Justice, and the European Council.¹⁵ The Commission, which consists of seventeen individuals appointed by the twelve member states, but not beholden to them, is essentially the executive branch of the EC. It is charged with the enforcement of Community law,¹⁶ including the conduct of the Community's Common Commercial Policy towards third countries,¹⁷ and plays an important role in the Community legislative process as the proposer of most legislation.¹⁸ The Council of Ministers, which consists of a

12. See TREATY ESTABLISHING THE EUROPEAN COAL AND STEEL COMMUNITY, Apr. 18, 1951, 261 U.N.T.S. 140 (the Treaty of Paris).

13. See TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY, Mar. 25, 1957, 98 U.N.T.S. 167.

14. Act Concerning the Conditions of Accession and the Adjustments to the Treaties—Accession to the European Communities of the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland, 1972 O.J. SPEC. ED. (L 73) 1; Documents Concerning the Accession of the Hellenic Republic to the European Communities, 1972 O.J. (L 291) 1; Act Concerning the Accession of the Kingdom of Spain and the Portuguese Republic to the European Communities, 1985 O.J. (L 302) 1 [hereinafter Act of Accession (Spain & Portugal)].

15. These institutions as they exist now and as they would be modified by the TEU, *supra* note 3, are described in BERMAN ET AL., *supra* note 10, at 50-74.

16. TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY [EEC TREATY], Mar. 25, 1957, art. 155, 298 U.N.T.S. 11 (the Treaty of Rome).

17. *Id.* arts. 110-16.

18. See, e.g., *id.* art. 149.

representative of each member state,¹⁹ has traditionally been the legislative branch of the Community.²⁰ In recent years, it has had to share some legislative power with the Parliament,²¹ which is popularly elected by the citizens of the various member states.²² Questions of interpretation of Community law are dealt with by the Court of Justice,²³ which has emerged over the years as a significant force in integrating the Community by giving an expansive reading to the Treaty's grant of powers to the Community and by its willingness to rule that member state actions violate Community law and must be modified.²⁴ Finally, the European Council, which consists of the heads of state or government of the member states, meets from time to time to give direction to the Community institutions and particularly the Council of Ministers.²⁵ It is where compromises are typically negotiated on the difficult issues facing the Community.

The existence of these institutions is important. As I will discuss below,²⁶ the Commission and the Court have, by and large, been the prime movers in pushing European integration (with support from Parliament), while the member states acting in the Council of Ministers have often taken a go-slow approach. It is not clear that integration can realistically proceed in the absence of permanent institutions actively promoting and overseeing the process.

19. Treaty Establishing a Single Council and a Single Commission of the European Communities, art. 2, 1967 O.J. (L 152) 4. Although the treaty refers only to the "Council," the body is commonly called the Council of Ministers.

20. EEC TREATY, *supra* note 16, arts. 145, 149.

21. *Id.* art. 149; *id.* arts. 189(a)-(c) (as amended by TEU).

22. Act Concerning the Election of the Representatives of the Assembly by Direct Universal Suffrage, 1976 O.J. (L 278) 5.

23. EEC TREATY, *supra* note 16, arts. 164-78.

24. *See, e.g.*, Case 26/62, Van Gend en Loos v. Nederlandse Administratie der Belastingen [Van Gend en Loos], 1963 E.C.R. 1, 2 ("[T]he Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights . . . [A]ccording to the spirit, the general scheme and the wording of the Treaty, Article 12 [which prohibited increases in duty rates during the period in which intra-Community duties were being phased out] must be interpreted as producing direct effects and creating individual rights which national courts must protect."). The importance of the Court's role is examined in more detail *infra* in the text accompanying notes 84-90.

25. The European Council is not mentioned in the EEC Treaty, *supra* note 16, but it is institutionalized in the Single European Act, art. 2, 1987 O.J. (L 169) 1, 2 [hereinafter SEA] and the TEU, *supra* note 1, art. D.

26. *See infra* text accompanying notes 77-90.

2. *The EC's Internal Market*

The EC has largely succeeded in creating a true internal market in goods, labor, services, and capital.²⁷ By 1968, duties on trade in goods between the member states had been eliminated. Since then the Community has taken great strides to remove other barriers to free movement and to harmonize laws to promote cross-border commerce.²⁸ Its march toward the creation of an internal market has not been a steady one, however. For much of the late 1970s and early 1980s, relatively little progress was made at the legislative level because of the inability of the Council to reach consensus on many Commission proposals. Indeed, during this period it was largely through expansive Court of Justice decisions that continued progress was made towards realizing the internal market goal.²⁹ The Court ruled, for example, that normally a good lawfully marketed in one member state could be marketed in the others, notwithstanding local restrictions that purported to limit such marketing possibilities.³⁰ While this ruling could be used by individuals to challenge many indirect member state restrictions on intra-Community trade,³¹ it was not a panacea for the creation of the internal market. By its nature, the Court's role was limited to striking down member state barriers to trade. It could not force adoption of positive legislation needed to complete the internal market.

In 1985, inspired by a Commission White Paper on the completion of the internal market, the member states agreed upon amendments to the basic treaties in the Single European Act, which came into force in 1987.³² The Single European Act set December 31, 1992, as a goal for completion of the internal market.³³ The Act helped make that goal realistic by amending the

27. See generally BERMANN ET AL., *supra* note 10, at 315-625.

28. The history of this process is sketched briefly in *id.* at 432-47.

29. See generally Martin Shapiro, *The European Court of Justice*, in *EUROPOLITICS: INSTITUTIONS AND POLICYMAKING IN THE "NEW" EUROPEAN COMMUNITY* 123 (Alberta M. Sbragia ed., 1992).

30. Case 120/78, *Rewe-Zentrale AG v. Bundesmonopolverwaltung für Branntwein* [*Cassis de Dijon*], 1979 E.C.R. 649, 664.

31. The *Cassis de Dijon* case, *id.*, involved French cassis barred from Germany because its alcoholic content was too low. Other cases successfully challenged German restrictions on beer imports not conforming to the German beer purity law, Case 178/64, *Commission v. Federal Republic of Germany* [German Beer], 1987 E.C.R. 1227, and Italian rules on the composition of pasta, Case 407/85, *3 Glocken GmbH v. U.S.L. Centro-Sud*, 1988 E.C.R. 4233.

32. BERMANN ET AL., *supra* note 10, at 432-36; see SEA, *supra* note 25.

33. *Id.* art. 8(a).

legislative process so that a form of super ("qualified") majority voting, instead of unanimity, was made the rule for most measures necessary to complete the internal market.³⁴ Spurred on by studies showing the great economic costs imposed on the EC by the lack of an internal market,³⁵ the vast majority of the 1992 internal market program was agreed to on schedule.³⁶

As a result, the EC has come close to creating a completely free and open internal market amongst its member states. Goods move freely, and so do workers. Where professional qualifications are an issue, there are rules on recognition of diplomas.³⁷ Services can be provided freely throughout the Community. Where they are regulated (such as insurance and banking), there are Community rules indicating which member state is allowed to regulate which service providers, and on what types of services substantive regulations may be imposed.³⁸ As importantly, where divergent member state laws could impede the flow of goods from one member to another (e.g., different rules on labeling), the Community has often required the member states to adopt a single, community-wide rule.³⁹ From the outset, the treaty established rules on competition, which are enforced by the Commission.⁴⁰

34. EEC TREATY, *supra* note 16, art. 100(a). Under this so-called "qualified majority" voting system, the various member states cast votes in rough proportion to their populations and a measure is adopted if it receives 54 out of a total of 76 votes. *Id.* art. 148(2). Effectively, this means that more than two member states must oppose a proposal for it to be defeated since the largest four member states (France, Germany, Italy, and the United Kingdom) have only 10 votes each.

35. See generally PAOLA CECCHINI ET AL., *THE EUROPEAN CHALLENGE 1992: THE BENEFITS OF A SINGLE MARKET* (John Robinson trans., 1988).

36. As of December 1992, 95% of the measures identified for completion of the internal market had been adopted at the Community level, while the implementation rate at the member state level was 80%. *Violations of EC Single Market Laws Said Not to be Prosecuted for Now*, 10 INT'L TRADE REP. (BNA) 137, (Jan. 27, 1993).

37. Council Directive 89/48 of 21 December 1988 on a General System for the Recognition of Higher-Education Diplomas Awarded on Completion of Professional Education and Training of at Least Three Years' Duration, 1989 O.J. (L 19) 16.

38. See, e.g., Second Council Directive 89/646 of 15 December 1989 on the Coordination of Laws, Regulations and Administrative Provisions Relating to the Taking Up and Pursuit of the Business of Credit Institutions and Amending Directive 77/780/EEC, 1989 O.J. (L 386) 1.

39. See, e.g., Council Directive 79/831 of 18 September 1979 Amending for the Sixth Time Directive 67/548 on the Approximation of the Laws, Regulations and Administrative Provisions Relating to the Classification, Packaging and Labelling of Dangerous Substances, 1979 O.J. (L 259) 10; Council Directive 85/374 of 25 July 1985 on the Approximation of the Laws, Regulations and Administrative Provisions of the Member States Concerning Liability for Defective Products, 1985 O.J. (L 210) 29.

40. EEC TREATY, *supra* note 16, arts. 85-86, 89. See generally BERMANN ET AL., *supra* note 10, at 630-888.

Consequently, the European Community epitomizes the globalization process in respect of trade at the regional level.⁴¹ While there may be other actions it could take that might increase trade even more, it is probably near the limits of market integration. There is more to globalization than trade issues, however, and there is much more to the Community as well. In this paper, however, I will consider only a few other trade-related aspects of EC integration.⁴²

3. *Additional Trade-Related Aspects of EC Integration*

In addition to removing trade barriers, there are several other significant trade-related aspects of Community integration. First, market integration sharply highlights disparities in regional wealth and the trade-related consequences that may result therefrom.⁴³ Richer countries will be concerned about possible job losses to poorer regions where wage rates are lower and environmental rules less strictly enforced;⁴⁴ poorer countries will feel entitled to assistance in implementing common policies proposed by richer countries or may simply insist on such help as a price for supporting new Community initiatives.⁴⁵ Accordingly, the Community has adopted mechanisms to reduce these disparities by transferring wealth from the richer member states to the poorer ones.⁴⁶ In some ways, this aid simply reflects

41. In some of the areas described in this article, the EC has integrated its markets beyond U.S. practice. For example, the U.S. rules on recognition of professional diplomas (see Council Directive 89/48, *supra* note 37), banking (see Council Directive 89/646, *supra* note 38), and products liability (see Council Directive 85/374, *supra* note 39) vary on a state by state basis, and consequently are not as uniform as the analogous rules will be in the EC.

42. The TEU, for example, has provisions on a common foreign and security policy, TEU, *supra* note 3, at tit. V, and provisions on cooperation in the fields of justice and home affairs, *id.*, tit. VI.

43. In the case of the EC, for example, the per capita GDP of Greece, Ireland, and Portugal is less than 75% of the EC average. EC Commission, *Helping Europe's Regions*, EUROPEAN FILE, 1992, no. 5(a).

44. As this paper is written, a proposal by the Hoover company to close a plant in France and open one in Scotland is receiving much attention in the European press. *Europe's Single Market: Labour Pains*, THE ECONOMIST, Feb. 6, 1993, at 71; *France & Britain: In Love, Really*, THE ECONOMIST, Mar. 6, 1993, at 59.

45. At the December 1992 Edinburgh European Council meeting, it appeared that Spanish agreement on various issues was predicated on acceptance by the richer member states of a significant increase in the structural funds, which are designed to aid poorer regions. *Claymores at the Ready*, THE ECONOMIST, Dec. 5, 1992, at 56; *European Community: Cheery Faces*, THE ECONOMIST, Dec. 19, 1992, at 48. See generally Gary Marks, *Structural Policy in the European Community*, in *EUROPOLITICS*, *supra* note 29, at 191.

46. The poorer countries of the EC have pushed very strongly for expansion of intra-Community

the traditions behind general foreign aid programs. What is interesting, however, is the extent to which this assistance, which goes from rich countries to near rich countries, may divert aid from poor countries.⁴⁷

Second, market integration necessitates that joint policies be adopted with respect to subsidization of industry. These policies include (i) limits on the rights of individual member states to subsidize local producers, which would distort trade patterns in the internal market and lead to wasteful competitive subsidization,⁴⁸ and (ii) adoption of common strategies of increasing overall community wealth through government action, whether this be coordinated infrastructure developments or joint aid to specific industries.⁴⁹ The Community over time has become more and more active in pursuing such policies.

Third, as economies become more closely intertwined, economic conditions in one country inevitably have more of an effect in the others that are most closely connected to it. Economic policy decisions taken by one government affect others, sometimes in fundamental ways. Consequently, market integration increases pressures for coordination of economic policies. To date, the extent of such economic policy coordination in the EC has been rather limited, but under the Maastricht Treaty, ten of the member states (all but Denmark and the U.K.) have committed themselves to move toward a common currency and a European central bank. If that occurs, then those member states' economies will clearly be closely intertwined on other economic policy matters as well (particularly fiscal policy and budget deficits).⁵⁰

aid funds. At the December 1992 Edinburgh European Council meeting, it was agreed to increase the so-called structural funds from 21 billion ECU in 1993 to 30 billion in 1999. *European Council in Edinburgh—11-12 December 1992—Conclusions of the Presidency*, EUROPE, Dec. 13, 1992, at 5, 12 (no. 5878, spec. ed.).

47. See *infra* text accompanying notes 138-42.

48. The EC controls so-called state aids by prohibiting some and regulating others. EEC TREATY, *supra* note 16, arts. 90-92. See BERMANN ET AL., *supra* note 10, at 884-87. Interestingly, the United States does not attempt to limit competition among states for industry, although state subsidization of foreign investment has been controversial. William E. Schmidt, *What the States are Doing for Industry*, N.Y. TIMES, Feb. 5, 1989, at E2.

49. See EEC TREATY, *supra* note 16, arts. 129(a)-30, 130(f)-(p) (as amended by TEU). The EC's research program, which is designed to make EC industry more competitive vis-à-vis the United States and Japan, has been budgeted at 5.7 billion ECU for the 1990-94 period. EC Commission, *The European Community 1992 and Beyond*, EUROPEAN DOCUMENTATION, 1991, at 11.

50. EEC TREATY, *supra* note 16, pt. III, tit. VI (as amended by TEU). See BERMANN ET AL., *supra* note 10, at 1193-1205.

The internal market of the EC is largely integrated and that has led to integration on other levels as well. The intensity or depth of EC integration can be compared with what will become the next most "intense" trading arrangement in Europe—the proposed European Economic Area.

B. The European Economic Area

The European Economic Area (EEA) is expected to come into existence in 1993 between the EC and the EFTA countries (except Switzerland, where a referendum rejected EEA membership).⁵¹ It is, in some senses, a halfway house between the former free trade area arrangements between the EC and the individual EFTA members, and full EC membership. In fact, negotiations on EC membership began in 1993 between the EC and Austria, Finland, Norway, and Sweden.⁵² A brief examination of the EEA Agreement is instructive because it demonstrates a somewhat less intensive level of integration than found in the EC itself.

1. EEA Institutions

At the institutional level, the EEA differs fundamentally from the EC in that it does not have institutions with general decision-making or enforcement authority.⁵³ Decisionmaking is generally done by a joint committee, in which each of the two sides—the EC and the EFTA states—has one vote, which means that consensus is required. Decisions on whether new or revised EC legislation will be incorporated into the EEA Agreement will be made by consensus.⁵⁴ Consequently, there will be less institutional pressure toward market integration than there is in the EC.

51. The text of the EEA agreement can be found in *Draft Treaty on a European Economic Area* [EEA Agreement] 63 C.M.L.R. 921 (1992).

52. *European Council in Edinburgh*, *supra* note 46, at 2, 5-6.

53. Sven Norberg, *The Agreement on a European Economic Area*, 29 COMMON MKT. L. REV. 1171, 1180 (1992). The EEA Agreement does create an enforcement institution in the area of competition law, but it essentially will be concerned with competition law matters in the EFTA states. It does not have general EEA-wide authority. EEA Agreement, *supra* note 51, arts. 55-57, 108-10.

54. EEA Agreement, *supra* note 51, arts. 93(2), 98, 103. The two parties that must reach consensus are the EC and the EFTA states speaking with one voice.

2. *Internal Market*

The EEA Agreement essentially provides for the same degree of free movement of goods, workers, services, and capital that is provided for in the EEC Treaty, with only a few exceptions.⁵⁵ The principal exception is with respect to agricultural and fisheries products.⁵⁶ In addition to provisions directly related to free movement, the EEA Agreement provides that the EFTA countries will harmonize their internal laws with a wide range of EC legislation.⁵⁷ Thus, on the level of the internal market, the EEA arrangement is not much different than the EC and the language used in the EEA Agreement is often taken directly from the EEC Treaty.⁵⁸ As noted above, the level of harmonization agreed upon was that then existing within the EC. The EEA countries must agree to be bound by new or revised EC rules, which means that the scope of the EEA internal market will diverge from that of the EC internal market in the absence of such agreement. I would anticipate that such divergences will occur because I believe that the EEA countries will not always be able to agree, especially since there is no institution that is charged with promoting EEA-EC integration.

3. *Trade-Related Aspects of the EEA*

A comparison of the trade-related aspects of the EEA with the analogous EC arrangements reveals some significant similarities and differences with respect to aid and economic coordination. The EEA Agreement does not establish a mechanism for funding aid transfers within the EEA. It does, however, obligate the EFTA countries to make substantial contributions to a "cohesion fund" that will be used to aid the poorer EC members.⁵⁹ With respect to subsidization, the EEA Agreement imposes limits on state aids similar to those in the EEC Treaty.⁶⁰ Furthermore, it requires EEA members to engage in EC projects to subsidize certain target industries.⁶¹

55. See *id.* arts. 8-16, 28-45.

56. *Id.* arts. 17-20. There are also special provisions on steel and coal, and transportation. *Id.* arts. 27, 47-52.

57. *Id.* pts. V, VI.

58. Compare EEC TREATY, *supra* note 16, art. 30, with EEA Agreement, *supra* note 51, art. 11.

59. EEA Agreement, *supra* note 51, arts. 115-17.

60. Compare *id.* arts. 61-64, with EEC TREATY, *supra* note 16, arts. 90-92.

61. EEA Agreement, *supra* note 51, pt. VI.

Finally, with respect to economic and monetary coordination, the EEA Agreement provides only for the exchange of views and information on the conduct of economic and monetary policy.⁶²

C. *The Free Trade Agreements*

The EC has entered into free trade agreements with most of Europe. The twenty-year-old agreements with the EFTA countries will be replaced by the EEA Agreement (except for Switzerland)⁶³ while the recently negotiated free trade agreements with Bulgaria, the Czech Republic, Hungary, Poland, Romania, and Slovakia (the so-called Europe Agreements), when ratified, will be implemented over the next ten years.⁶⁴ These agreements provide for relatively little market integration, particularly in comparison with the EEA. Indeed, the Europe Agreements are seen as a temporary stage in the relationship between the EC and the countries of Eastern Europe—one that will last only until they are ready to enter the EEA (or an analogous relationship), with full membership in the EC perhaps possible after the turn of the century.⁶⁵ There are no significant institutions created by these Agreements, although there are provisions for regular meetings of the parties.

62. *Id.* art. 46.

63. The EEC-Swiss Free Trade Agreement can be found in Council Regulation 2840/72, 1972 O.J. SPEC. ED. 190, 194 [hereinafter EC-Swiss FTA].

64. The provisions of the Europe Agreements that are of interest for this analysis are essentially the same in each of the agreements. I will refer to the Europe Agreement between the EC and Hungary for illustration purposes. EC Commission, EC-Hungary Interim Agreement (June 12, 1991) (unpublished treaty, on file with the INDIANA JOURNAL OF GLOBAL LEGAL STUDIES) [hereinafter EC-Hungary Agreement]. The EC has entered into Interim Agreements, which essentially implement the trade aspects of the Europe Agreements, pending ratification of the Europe Agreements themselves. Council Decision 92/228/EEC, 1992 O.J. (L 114) 1 (Poland); Council Decision 92/229/EEC, 1992 O.J. (L 115) 1 (Czech and Slovak Federal Republic); Council Decision 92/230/EEC, 1992 O.J. (L 116) 1 (Hungary); Council Decision 93/186/EEC, 1993 O.J. (L 81) 1 (Romania).

65. In a report prepared for the December 1992 Edinburgh European Council meeting, the Commission urged the Council to confirm that it has accepted the goal of eventual membership for the countries of Eastern and Central Europe, but noted that establishing a timetable would be premature. EC Commission, *Towards a Closer Association with the Countries of Central and Eastern Europe*, reprinted in EUR. DOCUMENTS, Dec. 9, 1992, at 1, 3 (no. 1814).

1. *Internal Market*

The Europe Agreements establish free movement of goods in principle,⁶⁶ but for the moment there are significant exceptions. Not only agricultural products, but also steel and textile products, are subject to limitations on import into the EC.⁶⁷ Indeed, John Fleming, chief economist at the European Bank for Reconstruction and Development, estimates that fully one-third to one-half of the items in which these former members of the Soviet bloc have a significant export interest are controlled.⁶⁸

With respect to the other freedoms found in the EEC Treaty and the EEA Agreement—free movement of workers, services, and capital—the Europe Agreements have less far reaching provisions. While there are provisions on the protection of workers already working in the EC, there is no right granted for the free movement of workers to the EC.⁶⁹ The Agreements do call for significant free movement in services and for the right of establishment,⁷⁰ but free movement of capital is limited to current payments and direct investments.⁷¹

The Agreements do not generally require harmonization of laws, although they encourage it, with the Commission suggesting that the first areas considered should be competition, customs, and intellectual property rules.⁷² It should be noted, however, that to the extent that these countries wish to join the EC (and they do), it is likely that they will engage in their own harmonization programs, regardless of whether required by any agreement, so as to ease their eventual accession negotiations.

66. See, e.g., EC-Hungary Agreement, *supra* note 64, art. 7; EC-Swiss FTA, *supra* note 63, arts. 3-14.

67. EC-Hungary Agreement, *supra* note 64, art. 15.

68. Richard W. Stevenson, *East Europeans Complain About Trade Barriers*, N.Y. TIMES, Jan. 25, 1992, at A1, A5.

69. EC-Hungary Agreement, *supra* note 64, art. 37. See EC-Swiss FTA, *supra* note 63, Declaration Concerning Workers, at 281.

70. EC-Hungary Agreement, *supra* note 64, arts. 44, 55. There are no comparable provisions in the EC-Swiss FTA, *supra* note 63, although the EC does have other agreements with Switzerland that deal with some of these issues. See, e.g., Council Decision 91/370, 1991 O.J. (L 205) 2 (concerning an agreement with Switzerland on direct insurance (other than life insurance)).

71. EC-Hungary Agreement, *supra* note 64, arts. 59-60. See also EC-Swiss FTA, *supra* note 63, art. 19 (current payments).

72. EC-Hungary Agreement, *supra* note 64, arts. 67-68; see EC Commission, *supra* note 65.

2. *Other Trade-Related Aspects of Europe Agreements*

The Europe Agreements have no provisions on subsidization (except for some limits on state aids)⁷³ and have only very general clauses on economic coordination.⁷⁴ They do, however, provide for aid from the EC.⁷⁵

D. *Other Trade Arrangements*

The EC has a number of so-called association agreements with European and Mediterranean countries and has a preferential trading arrangement—the Lomé Convention—with many of its member states' former colonies. Although the terms of these agreements vary, they do not provide for any significant market integration and are, accordingly, not of particular interest to the analysis in this article.⁷⁶

E. *Lessons from European Economic Integration*

The recent history of Europe presents a textbook study of how economic integration proceeds. In particular, it suggests (i) that there are certain criteria that must be met before it is possible to move from one level of economic integration to the next, and (ii) that there may be basic sociopolitical factors that limit the economic integration process.

1. *Requirements for Integration*

The experience of the EC suggests that there are at least two basic requirements for successful market integration to occur. First, there must be institutions with meaningful powers that have integration as one of their fundamental goals. To achieve this, there needs to be both an institution

73. EC-Hungary Agreement, *supra* note 64, art. 62; EC-Swiss FTA, *supra* note 63, art. 25 (limiting certain state aids).

74. EC-Hungary Agreement, *supra* note 64, arts. 70-96. The EC-Swiss agreement does not call for any economic policy coordination. See EC-Swiss FTA, *supra* note 63.

75. EC-Hungary Agreement, *supra* note 64, arts. 98-103. The current aid programs for Eastern Europe are described in *XXVIth General Report on the Activities of the European Communities 1992*, Commission of the European Communities, at 255-57 (1993).

76. See generally BERMANN ET AL., *supra* note 10, at 946-64.

that affirmatively promotes market integration and one that effectively enforces the integrating rules that are adopted. Second, there must be some minimum degree of commonality of interests (for example, economic, environmental, and social) among the countries that are attempting to integrate their markets. In the case of the EC, both of these requirements have been met.

Much of the success of the EC can be attributed to the existence of formal institutions at the European level that have pressed the case for further integration and that have taken steps to encourage and enforce integration. In particular, the Commission has served throughout most of the EC's history as a pro-market-integration force.⁷⁷ Even when progress toward the single market was slow, the Commission continued to push for it. The actions of the Commission must be compared to the actions of the member states, acting individually or through the Council. By and large, the member states have often opposed expansive interpretations of the EEC Treaty, and in particular the powers of the Community and the supremacy of Community law.⁷⁸ They also tend to reflect parochial national interests in decisionmaking.⁷⁹ This has not been true of all member states all of the time, but even the member states that, on a general level, have endorsed a strong and expanding Community have often opposed strength in the Community in specific cases when issues of particular concern to them were at stake.⁸⁰ Thus, the existence of an institution like the Commission that has integration as a primary goal would seem to be a virtual prerequisite to market integration.⁸¹ Without such an institution, the natural tendencies of nations to resist incursions on their sovereignty (or detriments to groups in their populations) will greatly retard progress toward integration. This conclusion is underlined by the EC-EFTA experience, where the lack of

77. B. Guy Peters, *Bureaucratic Politics and the Institutions of the European Community*, in *EUROPOLITICS*, *supra* note 29, at 75, 85.

78. For example, member state governments filed briefs opposed to giving the EEC Treaty direct effect in the *Van Gend en Loos* case, *supra* note 24. More recently, at least some of the member states have tended to oppose broad readings of the Community's powers (*see, e.g.*, Opinion 1/78, International Agreement on Rubber, 1979 E.C.R. 2871) and have tended to support Treaty interpretations that restrict the availability of nonunanimous voting. *See, e.g.*, Case 45/86, *Commission v. Council*, 1987 E.C.R. 1493 (generalized tariff preferences); *BERMANN ET AL.*, *supra* note 10, at 88-89.

79. Peters, *supra* note 77, at 78-79.

80. *See, e.g.*, *German Beer*, *supra* note 31.

81. Peters notes, however, that institutions are not sufficient by themselves to ensure integration. He cites the importance of effective leaders, among other factors. Peters, *supra* note 77, at 121-22.

meaningful institutions was viewed as a hindrance to integration.⁸² The EEA Agreement represents an improvement over the cooperation based on the EC-EFTA free trade agreements, but it does not provide for the transfer of any sovereign powers to EEA institutions and does not limit the power of decision of the parties.⁸³ Intensification of integration in simple free trade areas may be expected to proceed slowly.

As important as effective institutions are as a driving force for integration, there is also a need for an institution to ensure that the rules providing for integration are enforced.⁸⁴ In the case of the EC, the European Court of Justice (ECJ) has played a critical role in that regard. From its early decisions that established the right of individuals to invoke Community law in national courts,⁸⁵ and the supremacy of Community rules over national rules,⁸⁶ to far-reaching decisions striking down disguised barriers to trade,⁸⁷ the ECJ has played a critical role in the integration process. It seems clear that integration would have proceeded at a much slower pace, but for the ECJ.⁸⁸ In most of its path-breaking decisions, the member states (or some of them) were opposed to the position taken by the ECJ.⁸⁹ Yet, they ultimately accepted the decision, suggesting that their opposition was not fundamental but that some institutional mechanism to overcome it was required. The ECJ has proved to be effective in that role.⁹⁰

The second requirement for market integration is a certain degree of commonality between participants in the market.⁹¹ This is not to say that

82. Norberg, *supra* note 53, at 1197 (Experience in the EC-EFTA relationship demonstrated that "creation of a dynamic and homogenous EEA would require . . . a strong institutional framework[,] especially with regard to legal institutions[,] be created . . ."). See also David O'Keeffe, *The Agreement on the European Economic Area*, 1 LEGAL ISSUES OF EUROPEAN INTEGRATION 1, 3 (1992).

83. Armando T. Laredo, *The EEA Agreement: An Overall View*, 29 COMMON MKT. L. REV. 1199, 1204 (1992).

84. For a general discussion of the importance of having a dispute settlement system that enforces agreed upon trading rules, see William J. Davey, *Dispute Settlement in GATT*, 11 FORDHAM INT'L L.J. 51, 65-81 (1987).

85. see Van Gend en Loos, *supra* note 24.

86. Case 106/77, *Amministrazione delle Finanze dello Stato v. Simmenthal S.p.A.*, 1978 E.C.R. 629.

87. See *Cassis de Dijon*, *supra* note 30.

88. Shapiro, *supra* note 29, at 123.

89. See *supra* text accompanying notes 78-80.

90. Shapiro, *supra* note 29, at 154-56. On the subject of the role of the ECJ and law in the integration process, see generally COURTS AND FREE MARKETS, TERRANCE SANDALOW & ERIC STEIN EDS. (1982); MAURO CAPPELLETTI ET AL., INTEGRATION THROUGH LAW (1986).

91. ERNST-ÜLRICH PETERSMANN, CONSTITUTIONAL FUNCTIONS AND CONSTITUTIONAL PROBLEMS

countries have to be at identical levels of economic development with similar views on economic, environmental, and social issues generally. But there is a need to have some degree of congruence. In the case of the EC, there is variance in the levels of development of the various member states which has caused problems. But, as noted above, they have been reduced through the provision of substantial aid from the richer countries to the poorer ones.⁹² Without such a process, one can wonder whether the Community would have integrated to the extent that it has, since there probably would have been more serious disputes over many issues. In particular, the use of mutual recognition as a market unifying principle, both by the Court and in Community legislation, would have been much more restricted if the member states varied too widely in their approaches to regulating markets.⁹³ As important, the free movement of workers, which is a fundamental part of an integrated market, is unlikely to be accepted if there are significant variations in the wealth of the constituent members, since such variation will likely lead to significant, and potentially socially destabilizing, migration.⁹⁴

2. *The Limitations on Integration*

The EC is already having to confront the question of whether there are natural limits on economic or market integration. In essence, these potential limits seem to stem from a lack of a commonly accepted agreement between the various member states as to what policies need to be integrated in order to achieve an optimal level of market integration, while respecting national

OF INTERNATIONAL ECONOMIC LAW 71-72 (1991).

92. See *supra* text accompanying notes 43-47.

93. Following the *Cassis de Dijon* decision in 1979 (see *supra* text accompanying note 30), the Commission issued a communication in which it highlighted what it viewed as the Court's acceptance of what has been called the "mutual trust" principle, which is that "if one State's rules allow a product to be marketed, all other States should have confidence in the first State's judgment and likewise allow the product to be marketed." BERMANN, ET AL., *supra* note 10, at 357. This concept is regarded as a "key to attaining an integrated internal market." *Id.* Obviously, if there are significant differences between states, this principle may be viewed as unacceptable and market integration as a consequence will be much more difficult to achieve.

94. Although Spain and Portugal joined the EC in 1986, the rules on free movement of workers became applicable only in 1993 (1995 in respect to Luxembourg). Act of Accession (Spain & Portugal), *supra* note 14, art. 56. As noted earlier, the EC's agreements with the countries of Eastern Europe do not provide for free movement of workers (see *supra* text accompanying note 69), although the EEA agreement does. See *supra* text accompanying note 55.

sovereignty. The lack of agreement appears at two levels: disagreements over the need to harmonize certain policies at all; and disagreements about what is the proper balance between harmonization and the rights of individual member states (or subdivisions thereof) to make their own, independent decisions on matters directly affecting them.

An example of a basic policy disagreement over the need for integration of a specific policy would be the U.K. decision to eschew monetary union and the social policy provisions to which others agreed at Maastricht.⁹⁵ As the number of member states expands, such differences may be expected to occur more often.⁹⁶ Fear of such a result has animated those who argue that the current Community should be “deepened” before it is “widened.”⁹⁷ In light of the decision to open accession negotiations with Austria, Finland, Norway, and Sweden, it seems that the forces in favor of widening the Community first have won. Time will tell whether in fact a widened Community will be a less integrated one.

The second type of disagreement presents more fundamental problems and may arise even if there is fairly broad agreement on the general outlines of all major policies among the member states. This type of disagreement stems from the desire of local communities to have some say over matters that affect their quality of life directly. It is not about the desirability of eliminating “red tape” at borders or standardizing essentially mechanical details, such as the characteristics of basic products, but rather about such topics as the appropriate level of environmental protection. For example, all member states may agree on the need to regulate air pollution, but one or more may feel that it wants stricter standards than the ones to which the others are willing to agree. The current debate over “subsidiarity” highlights this problem.⁹⁸ As discussed below,⁹⁹ drawing the line between what

95. See *supra* text accompanying notes 3-5.

96. In particular, it seems likely that there will be differences over the extent to which the Common Foreign and Security Policy should be expanded, since several of the prospective member states have traditions of neutrality (e.g., Austria and Sweden). *European Community: A Strange New Pattern of Stars*, THE ECONOMIST, Feb. 6, 1993, at 56.

97. France has traditionally favored deepening (further integrating) the Community before widening (increasing the number of countries) it, while the U.K. has favored the opposite approach, in part because of an apparent belief that a wider Community will not be as deep, which is at least the goal of the current Conservative government. For a description of the evolution of this debate, see *Survival of the Fattest*, THE ECONOMIST, April 11, 1992, at 54; *A Final Fling*, THE ECONOMIST, May 23, 1992, at 52; *If a Non Comes Next*, THE ECONOMIST, Sept. 19, 1992, at 60; *The Mandarins' Moment*, THE ECONOMIST, Dec. 19, 1992, at 16.

98. In an attempt to address this problem, the TEU would amend the EEC Treaty by adding a

should be regulated at the Community level and what may be done at the local level will probably preoccupy the Community in the coming years and will serve as a limit on further integration.

The process of European integration is instructive for those thinking about the future of the globalization process in the world at large, both economically and otherwise. Much of the globalization process is driven by factors beyond the control of governments, but the European experience suggests that such factors alone are not enough to maintain momentum toward a truly integrated global economy. It suggests, in particular, that the process needs institutions to push it forward and that even with relatively strong institutions, there are fundamental limits on the process imposed by desires for local autonomy over certain issues. On a practical level, it suggests that further integration of the world economy of the sort epitomized by GATT's Uruguay Round agenda may only be practical if combined with stronger institutions for rulemaking and improved dispute settlement procedures for rule enforcement.¹⁰⁰ But such changes are precisely those that are strenuously opposed by groups seeking local autonomy.¹⁰¹ These factors suggest that the process of globalization may proceed more slowly in the near future than it has in the recent past.

II. THE IMPACT OF EUROPEAN INTEGRATION ON THE UNITED STATES

The continuing economic integration of Europe will significantly affect the United States in many ways. In this part, I highlight some of those

new Article 3b, which would provide in part:

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

BERMANN ET AL., *supra* note 1, at 109. While much has been written about this principle, it is not clear how it will be implemented in practice. An October 27, 1992, communication from the Commission to the Council and Parliament on the subsidiarity principle is reproduced at *The Subsidiarity Principle*, BULL. EC 10-1992, at 116-26.

99. See *infra* text accompanying notes 116-17.

100. See JOHN H. JACKSON, *RESTRUCTURING THE GATT SYSTEM* (1990); Davey, *supra* note 84.

101. In the United States, opposition to the Uruguay Round agreements and the proposal to establish a Multilateral Trade Organization has come from environmental groups worried about the rights of countries to adopt trade restricting environmental measures without penalty. See, e.g., WASH. POST, April 22, 1992, at A18 (advertisement sponsored by, inter alia, Public Citizen and the Sierra Club, decrying "sneak attack on democracy" under guise of free trade).

effects. I start by explaining why I expect the EC to become more independent and more self-centered in the coming years. Then I explore how those two changes will likely affect EC relations with the United States. Finally, I conclude with a brief evaluation of how completion of the 1992 internal market program will affect U.S.-EC trade.

A. General Changes in European Attitudes

In the near term, I think that two general changes will take place in European attitudes. First, with the decline of the Communist threat and the increased economic strength of a unified internal market, Europe will become more independent and less concerned with maintaining close relations with the United States. Second, as the EC integration process continues, as it adds member states, and as power balances shift within it, the EC nations will become more preoccupied with their own problems and less concerned with non-European matters generally.

1. Greater European Independence

Europe as a whole is likely to feel and to act more independently than it has in the past for a number of reasons: the reduced threat of Communism, increased EC economic strength, and less willingness to negotiate internationally on compromises reached at the EC level (an EC version of, or reaction to, the U.S. unilateralism that it detests). Consequently, the United States is likely to find that the EC and its member states will be more difficult to deal with in the coming years.

First, the end of the Cold War and of the threat from the East greatly reduces Europe's need to rely on the United States militarily.¹⁰² This is not to say, of course, that there will be no military problems in Europe, or that the EC and its member states will be particularly effective in dealing with them. Yugoslavia proves the contrary, and there are other potentially explosive tinderboxes as well.¹⁰³ But even if U.S. help is desired to

102. This reduced need is demonstrated by the planned reduction in U.S. force levels in Europe (from 340,000 in 1988 to 100,000 in 1996). Peter T. Kilbourn, *Gorbachev Plan Seen Helping Deficit*, N.Y. TIMES, Dec. 9, 1988, at A20; *Military Plan for Cutting Services Falls Far Short of Clinton's Vision*, N.Y. TIMES, Feb. 13, 1993, at 9.

103. As of this writing, EC intervention in the fighting in the former Yugoslavia has been viewed as relatively ineffective. *Air Drop on Bosnia: America's Risk, Europe's Failure*, THE ECONOMIST, Feb.

provide otherwise difficult-to-organize air and logistical support, the United States will probably be allowed to play only a much reduced role in European security affairs.¹⁰⁴ Indeed, there is some doubt about whether the United States will be willing to play much of a role in any event.¹⁰⁵ In trade and economic matters, this reduced U.S. role will simply mean that for the United States, the EC will likely be more difficult to deal with. Neither the United States nor the EC will any longer have the impetus of maintaining unity for purposes of the Cold War to push them toward resolving their economic differences.

Second, European independence will also be enhanced by the EC's increased economic strength. While signs of a new cycle of "Europessimism" are already starting to emerge in Europe,¹⁰⁶ I think that the integration of the EC's internal market and the expansion of that market to include the EFTA countries (minus Switzerland) will ultimately strengthen the European economy, as its supporters have always claimed.¹⁰⁷ This will likely make the EC more assertive in economic matters.

Finally, European desires to act independently will be boosted because more and more decisions made at the European level will involve so many difficult compromises within the EC, that the EC will be less able or willing to change those policies in negotiations with the United States and other affected trading partners.¹⁰⁸ This, combined with a long simmering

27, 1993, at 16. The political uncertainty in Russia provides an example of a potential future problem. Thomas L. Friedman, *Bush Cites Limits on Aid to Russia*, N.Y. TIMES, Feb. 12, 1992, at A1.

104. See *Why NATO?*, THE ECONOMIST, May 23, 1992, at 15.

105. See *supra* note 102.

106. See Hans-Peter Frohlich & Martin Wolf, *Survey of the European Single Market*, FIN. TIMES, Jan. 19, 1993, at IV; Angelo M. Codevilla, *The Euromess*, COMMENTARY, Feb. 1993, at 37.

107. See *supra* text accompanying note 35.

108. Thomas R. Howell et al., *European Community*, in CONFLICT AMONG NATIONS: TRADE POLICIES IN THE 1990S 389, 402 (Thomas R. Howell et al. eds., 1992) [hereinafter CONFLICT AMONG NATIONS]. This problem arose in the U.S.-EC negotiations over agriculture in late 1992, where the Commission apparently did not have the authority to negotiate an agreement with the U.S. that changed the internal EC agreement on agricultural reform reached in May 1992. There has been considerable controversy in the EC over whether the Commission in fact stayed within those limits in reaching an agreement with the United States. *The Uruguay Round: Coupe de Grace, Coupe de Foudre*, THE ECONOMIST, Nov. 28, 1992, at 70. Since nonmembers had no role in the internal EC negotiations, the refusal to allow international negotiations to change the result of the internal negotiations is effectively a refusal to negotiate internationally.

On a more general level, there is room for debate over whether the existence of an organization like the EC, which speaks for 12 member states, makes international trade negotiations easier or more difficult. On the one hand, the objecting voice of one member state may be voted down by the others

European resentment of U.S. unilateralism in trade and other matters,¹⁰⁹ will result in a much more independent minded Europe in the years ahead.

These factors leading to increased European independence in economic and other matters must be considered in conjunction with other factors that will cause the EC to be more inward-looking in the years ahead.

2. *An Inward-Looking Europe*

In the next decade, I believe that Europe will be preoccupied with its own problems and less concerned with problems outside of Europe. There will likely be a multitude of critical internal problems that EC members will have to face, particularly with respect to how an expanded EC will function.

First, there will be the issue of how to incorporate the EFTA countries into the EC. I suspect that the negotiations will not be all that difficult, but in some areas there may be some problems.¹¹⁰ While those problems should be solved by the mid-1990s, a new problem of what to do with the advanced East European countries (the Czech Republic, Hungary, and Poland) will then have to be faced.¹¹¹ This new problem will be more difficult. It will, however, be followed by ever more difficult accession issues, as more and more of the countries of Eastern Europe and the former Soviet Union seek admission or special status with the EC. These problems will persist for years, and they will inevitably demand considerable time and attention from the Community leaders responsible for dealing with foreign affairs and commercial policy. One consequence will be less time and energy to spend on solving economic problems with the non-European world. Indeed, some blame the slow progress in the Uruguay Round of

in the EC's internal deliberations, while such a country on its own could prevent the necessary consensus from being formed in GATT negotiations. See Frederick M. Abbott, *Integration Without Institutions: The NAFTA Mutation of the EC Model and the Future of the GATT Regime*, 40 AM. J. COMP. L. 917 (1992). On the other hand, as noted above, once an organization like the EC reaches a compromise position internally, its negotiators may be denied any room to maneuver in the negotiations.

109. See, e.g., EC Commission, REPORT ON UNITED STATES TRADE AND INVESTMENT BARRIERS, 1992 (issued annually by the EC in response to a similar U.S. report criticizing U.S. trading partners, including the EC).

110. Among the difficult issues in the accession negotiations will be agricultural and fisheries issues, institutional structure, and the extent to which the newcomers will join in the new common policies under the TEU (monetary union, defense). *European Community: A Strange New Pattern of Stars*, THE ECONOMIST, Feb. 6, 1993, at 56.

111. See EC Commission, *Towards a Closer Association with the Countries of Central and Eastern Europe*, *supra* note 65.

GATT negotiations in part on EC preoccupation with the Maastricht Treaty and the German preoccupation with former East Germany.¹¹²

Second, considerable attention by EC leaders will have to be given to the extent to which the EC is going to become Europe à la carte.¹¹³ This process, sometimes called two-speed Europe, has already started to occur. The U.K. did not join the Maastricht agreement on social policy; the U.K. and Denmark have, to an extent, opted out of the proposed monetary union; the U.K., Denmark, and Ireland have not yet joined the Schengen Agreement group on elimination of internal border controls.¹¹⁴ I think that this trend will continue; some of the accession candidates have already expressed interest in negotiating terms similar to what Denmark and the U.K. have obtained.¹¹⁵ While these problems can and will be solved, it will again, I think, require a lot of time and attention from Community leaders.

Third, the problem of subsidiarity is going to preoccupy the EC in the coming years.¹¹⁶ This is related to the Europe à la carte problem, but it is more pervasive. Since in virtually all areas of Community activity, arguments will be made that, under the subsidiarity principle, more discretion should be given to national or local governments. The extent of this problem can be seen in the Commission's first reaction to it. In its list of directives to be abandoned is a proposed directive on compulsory indication of nutritional values on the packaging of foodstuffs.¹¹⁷ It strikes me that, unless it is replaced with a directive on minimum acceptable standards, this is precisely the sort of subject on which a Community-wide rule is needed, in order to promote the internal market. In any event, it seems likely that there will be lengthy disputes over how this principle should be applied.

112. Thomas R. Howell & Gregory I. Hume, *Germany*, in CONFLICT AMONG NATIONS, *supra* note 108, at 145, 201-02; *GATT: Close to the Edge*, THE ECONOMIST, Oct. 19, 1991, at 76; *The Uruguay Round: Death by Procrastination*, THE ECONOMIST, July 18, 1992, at 68.

113. *See generally Two-Speed Europe?*, THE ECONOMIST, Oct. 3, 1992, at 14.

114. *See supra* text accompanying notes 3-5.

115. *European Community: A Strange New Pattern of Stars*, *supra* note 110, at 56.

116. *See generally supra* note 98 and accompanying text.

117. *Edinburgh European Council: Conclusions of the Presidency: Subsidiarity—Examples of the Review of Pending Proposals and Existing Legislation*, pt. A, annex 2, BULL. EC 12-1992, at 16, 17. *But see* Council Resolution 93/C of 5 April 1993 on Future Action on the Labelling of Products in the Interest of the Consumer, 1993 O.J. (C 110) 1 (general support for harmonized labelling requirements).

Finally, there is a more subtle internal problem that will overshadow the foregoing, and at least indirectly, occupy Community decisionmakers. That problem is dealing with the consequences of what will inevitably be a larger Community whose dominant member is Germany, where most new member states will have more in common with Germany or at least Northern Europe, than with Southern Europe.¹¹⁸ All of this is likely to result in the marginalization of France. The Community has gone as far as it can go in admitting Latin countries; consequently, the influence of France, Italy, Spain, and Portugal cannot expand. With the addition of Norway, Sweden, Finland, and Austria, the influence of the Northern European countries will clearly increase. Future additions from Eastern Europe will likely have the same tilt.

The effect of these changes will be to reduce the influence of France in the Community. Since the French role in the Community has been paramount from the beginning, the reduction of French influence will have profound, if unpredictable, results. I do not mean to suggest that France or the southern bloc will suddenly lose all of their influence in the Community; after all, three of the five largest EC members are in that bloc. Nonetheless, much of that bloc is inherently in a weak position because of its desire for aid from the rest of the Community.¹¹⁹ Indeed, the French role in that bloc might well be diminished because of a desire by the other four Southern European states to receive increased aid, even if at the expense of cuts in Community spending on the common agricultural policy, a priority of France.

The effect of this evolution—the increase in German and northern influence and the reduction in French influence—is hard to predict, but it seems clear that decisionmaking in the Community will probably become infinitely more complicated and difficult because of the changing Franco-German relationship. An inevitable consequence will be a more inward-looking Community.

Thus, I would conclude that the decade ahead will see a stronger and more independent EC, but also one which is more preoccupied with its internal problems and those of Europe, and less interested in the rest of the world and its problems.

118. Howell, *supra* note 108, at 395.

119. See *supra* note 45.

B. The Effect on the U.S. of Increased European Independence and An Inward-Looking Europe

I see three major effects on the United States of increased European independence and an inward-looking Europe. First, I believe that the EC will increasingly object to U.S. unilateralism, which ultimately may affect the way in which the United States goes about adopting trade statutes and other laws with extraterritorial effects. Second, I think that the EC will become more protectionist, with consequent impacts on the U.S. and world economies. Third, I think that the EC will play less of a role in bringing the countries of the third world into the modern world economy, leading to increased pressures on the United States to play a more active role in this regard.

1. EC Challenges to U.S. Unilateralism

As Europe becomes stronger and more united economically, it is likely to be more aggressive in challenging U.S. attempts to impose U.S. views internationally on trade and environmental issues. The United States in recent years, in both areas (as well as others), has exhibited a tendency to insist that all other countries comply with U.S. expectations or suffer "punishment" by the United States.¹²⁰ A stronger, more independent minded EC is likely to be more willing to engage in confrontational activities, thereby worsening relations and making trade and other agreements more difficult to reach.

In the trade area, the U.S. tendency toward unilateralism has been exemplified by use of so-called Section 301, a provision of U.S. law that authorizes the U.S. president to take punitive action against trade practices of other nations that he determines to be objectionable.¹²¹ The Clinton administration will be pressured to "strengthen" that provision in a way that makes it even more confrontational, and there are indications that it will do so.¹²²

120. See generally AGGRESSIVE UNILATERALISM: AMERICA'S 301 TRADE POLICY AND THE WORLD TRADING SYSTEM (Jagdish Bhagwati & Hugh T. Patrick eds., 1990).

121. 19 U.S.C. §§ 2411-20.

122. *Baucus Introduces Super 301 and Trade Compliance Bills*, 10 INT'L TRADE REP. (BNA), at 195 (Feb. 3, 1993).

A recent example of this type of U.S.-EC dispute arose in February, when the United States threatened to retaliate against Europe because of a three percent "Buy European" preference required to be imposed by member states, in an EC directive on government procurement in the telecommunications and certain other sectors.¹²³ This instance is a classic example of the type of U.S. unilateralism that the EC detests.¹²⁴ There is a GATT agreement on government procurement, negotiated mainly among the EC, the United States, and Japan during GATT's Tokyo Round of multilateral trade negotiations, but it does not cover the sectors dealt with in the directive.¹²⁵ The U.S. view is that since the U.S. telecommunications equipment market is open because it is privately owned, the EC ought to open its market as well, even though it is largely nonprivate, even though the United States did not succeed in negotiating such market access in the Tokyo Round, and even though U.S. firms are better off under the directive than they were before. The United States argues essentially that it is unfair not to do things the U.S. way and that if the Europeans do not, then the United States will retaliate. This attitude causes great resentment in Europe, and one of the goals of the EC in the Uruguay Round has been to get the United States to agree to limits on the use of Section 301.¹²⁶ This particular EC-U.S. dispute was partially settled when the EC agreed to remove the three percent preference in respect of utility procurement, but the United States still imposed some retaliatory measures.¹²⁷

In the environmental area, the United States has sometimes taken a similar tack, with the Marine Mammal Protection Act being one of the more

123. Office of the United States Trade Representative, Notice of Proposed Action, 58 Fed. Reg. 7163 (Feb. 4, 1993). The contested EC directive is Council Directive 90/531 of 17 Sept. 1990 on the Procurement Procedures of Entities Operating in the Water, Energy, Transport and Telecommunications Sectors, 1990 O.J. (L 297) 1. Article 29(2) permits a member state to reject a bid (a "nonCommunity bid") if products originating in third countries exceed 50% of the total value of the products constituting the bid. Article 29(3) requires that Community bids be favored over nonCommunity bids if the price difference between them does not exceed 3%.

124. EC Commissioner for External Economic Affairs, Sir Leon Brittan, referred to the U.S. action as "unilateral bullying." *USTR Kantor Sets Plan to Sanction EC over 'Intolerable' Procurement Law*, 10 INT'L TRADE REP. (BNA), at 174 (Feb. 3, 1993).

125. See Agreement on Government Procurement, GATT, BISD 26th Supp. 33 (1980).

126. *GATT Council Uneasy About U.S. Unilateral Trade Policies*, 9 INT'L TRADE REP. (BNA), at 480 (Mar. 18, 1992).

127. 58 Fed. Reg. 30,391 (1993); *Id.* at 31,136.

controversial examples.¹²⁸ Under that Act, the United States recently barred imports of Mexican tuna because Mexican fisherman did not comply with U.S. rules on avoiding injury to dolphins while tuna fishing.¹²⁹ A GATT panel ruled that the United States had violated GATT by banning the Mexican tuna, essentially because it felt that the United States had no right to impose its idiosyncratic views on dolphin preservation on the rest of the world (dolphins are not generally endangered; the U.S. legislation is concerned more with the immorality of unnecessarily killing dolphins).¹³⁰ After the United States and Mexico reached an agreement to settle the issue between them (by Mexico agreeing to follow U.S. practice), the EC brought an action in GATT challenging the same U.S. practice.¹³¹

The EC's position and the GATT panel's view that these issues should be decided multilaterally and not unilaterally is similar to the position taken by the United Nations Conference on the Environment and Development (UNCED) in its Rio Declaration on Environment and Development, in Principle 12, which provides:

Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing countries should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on international consensus.¹³²

From the viewpoint of the EC, this lends support to its view that U.S. unilateralism should be controlled, and a more independent EC is likely to make stronger efforts to do so.¹³³ Whether the United States will exercise

128. 16 U.S.C. §§ 1361-1407 (1988).

129. Notice of Embargo for Yellowfin Tuna, 56 Fed. Reg. 12,367 (1991).

130. *United States—Restrictions on Imports of Tuna, Report of the Panel*, GATT Doc. DS21/R (Sept. 3, 1991).

131. The settlement is reported in *Pro-Dolphin Accord Made*, N.Y. TIMES, June 16, 1992, at D9. The EC action is noted in GATT FOCUS, July 1992, at 2. No decision on the EC action has yet been reported.

132. 31 I.L.M. 874, 878 (1992).

133. I support unilateralism in some cases. It was useful, for example, to get the Uruguay Round started. But it should be used with discretion. It is one thing to use it to open markets, either those that are closed in violation of GATT rules or those on which there is no agreement and in respect of which the U.S. affords greater market access than the "target" country. It may be objectionable in other cases, especially where it is tantamount to bullying by the United States. *See generally* William J. Davey,

more restraint in following a policy of "aggressive unilateralism" and in enacting extraterritorial laws remains to be seen.

2. *EC Protectionism*

A more independent and self-centered EC is likely to become more protectionist in the coming decade. This result is likely because the enlargement and integration of the EC market is going to place increased competitive pressures on EC industries, and their likely reaction is going to be to demand restrictive measures against imports from other countries. This will be a particular problem because of the pressures to open the EC market to East European countries. The price that likely will be exacted by France and the other countries most negatively affected by this development will be a more aggressive posture toward imports from other regions of the world.¹³⁴

EC protectionism will also occur in the form of continued subsidization of industry, by the EC itself, and by its member states. This, I suspect, will be most controversial in agriculture, where even with the 1992 reforms, EC subsidies will probably remain at significant levels. However, similar problems will also arise elsewhere, since the United States and the EC have fundamentally different views of the appropriateness of government intervention in the economy.¹³⁵ One recent example of this type of controversy is the dispute over the subsidization of Airbus Industrie.¹³⁶

On the U.S. side, a new source of tension in trading relationships with the EC will arise as it becomes more difficult for the United States to export to the soon-to-be-expanding markets of Eastern Europe, because of the preferential trade arrangements already entered into between the EC and

Section 301 and its Effect on the Multilateral Trading System, in TRADE LAWS OF THE EUROPEAN COMMUNITY AND THE UNITED STATES IN A COMPARATIVE PERSPECTIVE 165 (P. Demaret et al. eds., 1989).

134. Howell, *supra* note 108, at 425-27.

135. *Id.* at 446-49.

136. For a description of this dispute, see Howell & Hume, *supra* note 112, at 197-99; Alan Wm. Wolff, *The Failure of American Trade Policy*, in CONFLICT AMONG NATIONS, *supra* note 108, at 469, 508-09. An agreement was reached in the summer of 1992. *U.S., EC Sign Agreement Restricting Subsidies to Civil Aircraft Industry*, 9 INT'L TRADE REP. (BNA), at 1243 (summary), 1273 (text) (July 22, 1992). The Clinton Administration has given conflicting signals as to whether or not it accepts the agreement as settling the matter. *President Clinton Vows Close Monitoring of U.S.-EC Pact on Aircraft Subsidies*, 10 INT'L TRADE REP. (BNA), at 294 (Feb. 24, 1993); *Brittan Says EC has 'Assurances' that U.S. does not Plan to Reopen Airbus Pact*, 10 INT'L TRADE REP. (BNA), at 295 (Feb. 24, 1993).

those countries.¹³⁷ The EC may lock in a lion's share of the markets of the emerging new states of east and central Europe. Since these countries will have preferential access to the EC market, and more importantly, since they will give the EC preferential access to their markets, exporters in the EC countries will have clear advantages in developing trading relationships, even beyond the natural advantage of proximity.

Thus, a likely increase in protectionist policies in the EC, combined with increased U.S.-EC trade friction, will lead to more frequent U.S.-EC confrontations over trade issues.

3. *The EC, the U.S., and North-South Relations*

As the EC becomes more self-centered and protectionist, it is likely to be less interested in the developing world. This is much more than a simple matter of preoccupation. At the moment the EC is relatively generous in giving aid to the third world; it has been less forthcoming in opening its markets to industrial products from those countries.¹³⁸

In the next decade, the EC will be hard pressed to expand its aid to the third world, because of what it will likely view as more pressing needs in Europe. The four poorest EC countries (Greece, Ireland, Portugal, and Spain) will continue to press for aid, as will the countries of Eastern Europe. Germany will continue to be under pressure to finance the rebuilding of the Eastern länder. In addition, to the extent that the EC market is going to be opened to agricultural products or low cost industrial products, I expect the market openings to come first in the case of trade with Eastern Europe, since those countries are rapidly establishing closer formal trading relationships with Europe than exist for developing countries.¹³⁹

The net impact of these trends will be that there will be less EC aid money available for developing countries and fewer trading opportunities for them. This is likely to result in more pressure being placed on the United States to provide aid or serve as a market for the developing world. My expectation is that the United States will do so for the countries of the

137. *U.S. Official Warns EC Not To Discriminate Against U.S. in Dealing with Eastern Europe*, 7 INT'L TRADE REP. (BNA), at 305 (Feb. 28, 1990).

138. *See infra* note 141.

139. As noted earlier, the Europe Agreements provide for more market integration than do the EC's various association agreements. *See supra* text accompanying notes 64-76. There will also be a desire to improve the economies of Eastern Europe so as to forestall migration pressures.

western hemisphere and the Pacific Rim (as far west as Thailand), but that it will not do so particularly for the rest of Asia and Africa.¹⁴⁰ Access to markets is critical, as is so clearly demonstrated by the growth of the Pacific Rim countries, the economic leaders of which (Japan, South Korea, Taiwan, Hong Kong, Singapore, and now China) have benefitted greatly from their significant access to the U.S. market.¹⁴¹

The result will be an intensification of development problems in Africa and areas of Asia, which have traditionally been areas of EC interest because of past colonial ties, which will worsen North-South relations generally. It also suggests that what seems to be the most effective form of assistance to developing countries—access to markets¹⁴²—will not be much offered by the EC.

What will be the result of a more independent and self-centered EC upon the United States and the rest of the world? The result will probably be increased trade friction, as a result of the more confrontational approaches to trade disputes between the United States and the EC predicted above. At the outset, I should admit that I have in the past suggested that a more confrontational approach may be desirable, because the parties will see the folly of their ways when the stakes increase and reach a settlement involving a range of issues.¹⁴³ I still subscribe to that view, but I suspect that in the coming decade, the disputes between the EC and the United States will be more difficult to resolve, which is to say that the stakes will

140. See, e.g., Steven A. Holmes, *Africa, From the Cold War to Cold Shoulders*, N.Y. TIMES, Mar. 7, 1993, at E4 (describing lack of U.S. interest in Africa and cuts in State Department staffing of Africa-oriented positions).

141. Exports of those countries to the United States have been quite large in recent years, especially compared to Europe.

	1991 (Billions of U.S. dollars)	
	U.S.	EC
Japan	91.5	64.2
South Korea	17.0	9.7
Taiwan	23.0	13.8
Hong Kong	9.3	7.9
Singapore	10.0	6.5
China	19.0	18.6
ACP (69 countries)	N/A	23.7

U.S. statistics from 10 INT'L TRADE REP. (BNA), at 348 (Feb. 24, 1993); EC statistics from EUROSTAT: EXTERNAL TRADE & BALANCE OF PAYMENTS, 12-92, at 2. EC statistics reported in ECU converted to U.S. dollars at rate of \$1=.807 ECU.

142. *Schultz Warns That Failure of GATT Will Set Back Trade, Harm Developing Nations*, 10 INT'L TRADE REP. (BNA), at 203 (Feb. 3, 1993).

143. See Davey, *supra* note 84, at 98-103; see also Davey, *supra* note 133.

have to be quite high before they are resolved, which in itself is another way of saying that small trade wars will break out.

The problem will be complicated if the Uruguay Round does not succeed, or if whatever is salvaged from a failed Uruguay Round package does not include a strengthened dispute settlement system.¹⁴⁴ Such a system could probably help cabin some of the excesses that may otherwise be expected to occur in trade disputes between the United States and the EC. However, it will be difficult for the United States to reach global trade agreements with the EC in GATT. The EC was preoccupied with its own internal problems during much of the Uruguay Round, which probably, in part, explains the failure of the Round to conclude as expected.¹⁴⁵ If Europe does, in fact, become more self-centered, as I suggest, it is not likely that the EC will change its focus in the near future. The consequence of this may well be that the United States and the EC will teeter on the edge of trade wars with increasing frequency. This seems particularly likely, given that the Clinton administration may be expected to follow a more aggressive trade policy than did the Bush administration.¹⁴⁶

C. The 1992 Internal Market Program: A Fortress Europe or an Opportunity for Multinationals?

From a more mundane perspective, one can ask simply whether the completion of the EC's 1992 internal market program will lead to a "Fortress Europe" antithetical to the interests of outsiders, or whether it offers them an opportunity. As I have just indicated, there is a real possibility that Europe will become more protectionist in the near future, which obviously means that opportunities to export to Europe may be adversely affected. However, this potential increase in protectionist behavior is not a direct result of the creation of the internal market itself. Indeed, the completion of the internal market, which had led to both increased

144. The reforms to the GATT dispute settlement system, proposed in the GATT Director-General's Draft Final Act for concluding the Uruguay Round (GATT Doc. MTN.TNC/W/FA, § S), are in general reviewed favorably in William J. Davey, *The GATT Dispute Settlement System: Proposals for Reform in the Uruguay Round*, Conference Series No. 21 at Chung-Hua Institution for Economic Research (May 1992), in *WORKSHOP ON THE MULTILATERAL TRADE NEGOTIATIONS OF GATT: ISSUES AND POLICY IMPLICATIONS FOR THE ROC ON TAIWAN*, at 43.

145. See *supra* text accompanying note 112.

146. Keith Bradshen, *U.S. Turns Up Heat on Trade*, N.Y. TIMES, March 13, 1993, at L35.

harmonization and mutual recognition of divergent national standards, makes exporting to Europe easier. Moreover, from the point of view of the United States and other multinationals with manufacturing facilities in Europe, the single market process clearly benefits them. Indeed, to the extent that they already think in European terms, they, in many cases, may benefit more than EC companies. Thus, by itself, economic integration should make it easier to export to Europe, although other developments in Europe (e.g., the trend toward more independence and more introspection) could offset these positive effects of economic integration.¹⁴⁷

There are two caveats to the above conclusion. Both concern the extent to which foreign entities (or foreign controlled entities) may be subject to discrimination. First, in some cases, there have been examples of explicit discrimination against non-EC entities. Examples include the Television Programming Directive, which imposes an obligation of indeterminate force on EC broadcasters to use a minimum level of EC-origin programming.¹⁴⁸ Another example is the Second Banking Directive, which, in its draft form, would have discriminated against U.S. banks, and which, in its adopted form, still raises the possibility of discrimination.¹⁴⁹

There is also the problem of indirect or disguised discrimination. The internal market program has included a decision by the EC that much harmonization can be done outside of the formal framework of EC decisionmaking by standards setting organizations.¹⁵⁰ While this does not necessarily mean that U.S. entities will be discriminated against, there is no doubt that the standards set may favor European industries, since they will have the most effective input into the standards setting process. While the U.S. government has negotiated rights for U.S. entities to have some participation rights, the United States generally does not have a very

147. Timothy J. Hauser, Acting Undersecretary for International Trade, U.S. Dept. of Commerce, *The European Community Single Market and U.S. Trade Relations*, BUSINESS AMERICA, Mar. 8, 1993, at 2.

148. Council Directive 89/552 of 3 October 1989 on the Coordination of Rules Concerning Television Broadcasting Activities, 1989 O.J. (L 298) 23; BERMANN, ET AL., *supra* note 10, at 567-68.

149. Second Council Directive 89/646 on the Coordination of Laws, Regulations and Administrative Provisions Relating to the Taking Up and Pursuit of the Business of Credit Institutions, 1989 O.J. (L 386) 1; BERMANN, ET AL., *supra* note 10, at 622.

150. *Technical Harmonization and Standards: A New Approach*, BULL. EC 1-1985, points 1.31-1.34.

coordinated front on these issues, so that the possibility of discrimination remains.¹⁵¹

Another situation where there is potential for disguised discrimination is a recent proposal for a directive on packaging waste.¹⁵² The directive may require, as a condition of importation, approval of an application for access to a national waste management system, something that an EC based company may be in a much better position to obtain more quickly and easily than a small U.S. based exporter.¹⁵³

As to the effect on the U.S. market of EC integration, that market is so large that I doubt that there will be significant new pressures to harmonize U.S. practices and standards with EC practices and standards, except to the extent that the EC rules become internationally recognized norms.

III. CONCLUSION

This article has reflected on some of the limits and effects of European integration. An examination of the integration or globalization process in Europe suggests that it has proceeded as far and as fast as it has because of a high degree of commonality among its member states, and because of strong institutions pushing integration forward. Nonetheless, even in Europe there seem to be serious constraints on integration, particularly when the integration process impinges on what might be called quality of life issues.

The effects of European integration in the future will be far-reaching. In the medium term, I expect Europe to become more independent and self-absorbed. This will likely lead to more EC-U.S. clashes over U.S. unilateralism, greater protectionism in the EC, and a reduced EC role in helping the countries of the third world. For U.S. companies trading into and operating in Europe, the unification of the European market will generally be beneficial.

151. BERMANN, ET AL., *supra* note 10, at 446-47.

152. Proposal for a Council Directive on Packaging and Packaging Waste, 1992 O.J. (C 263) 1.

153. See Commerce Department, *U.S. Industry Analyze EC's Proposed Packaging Waste Directive*, BUSINESS AMERICA, Jan. 25, 1993, at 20-21.

